

AMENDED AND RESTATED LOAN AGREEMENT

by and between

COLORADO HIGH PERFORMANCE TRANSPORTATION ENTERPRISE
as Issuer

and

PLENARY ROADS DENVER LLC,
as Concessionaire

Dated [●], 2020

Colorado High Performance Transportation Enterprise
U.S. 36 and I-25 Managed Lanes Senior Revenue Bonds
Series 2014

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AMENDED AND RESTATED LOAN AGREEMENT

THIS AMENDED AND RESTATED LOAN AGREEMENT, dated [•], 2020 (this “**Series 2014 Loan Agreement**”), is entered into by and between the COLORADO HIGH PERFORMANCE TRANSPORTATION ENTERPRISE, a government-owned business within the Colorado Department of Transportation and a division of the Colorado Department of Transportation, as Issuer (the “**Issuer**”), and PLENARY ROADS DENVER LLC, a limited liability company organized under the laws of the State of Colorado, as Concessionaire (the “**Concessionaire**”).

WITNESSETH:

WHEREAS, capitalized terms used herein and not otherwise defined in this preamble shall have the respective meanings set forth in the Glossary of Terms attached hereto as Exhibit A; and

WHEREAS, the Issuer is a government-owned business within the Colorado Department of Transportation (“**CDOT**”) and a division of CDOT created by the Funding Advancements for Surface Transportation and Economic Recovery Act of 2009, title 43, article 4, part 8, Colorado Revised Statutes, as amended (“**FASTER**”), for the purpose of financing Surface Transportation Infrastructure Projects (as defined under FASTER); and

WHEREAS, pursuant to FASTER, the business purpose of the Issuer is to pursue public-private partnerships and other innovative and efficient means of completing Surface Transportation Infrastructure Projects; and

WHEREAS, the Colorado High Performance Transportation Enterprise entered into the Amended and Restated Concession Agreement, dated February 25, 2014, as further amended as of the Restatement Effective Date (the “**Concession Agreement**”), with the Concessionaire, pursuant to which the Concessionaire has agreed to, among other things, undertake the Phase 2 Work, a Surface Transportation Infrastructure Project; and

WHEREAS, the Issuer is authorized by FASTER (a) to issue revenue bonds, payable from the Transportation Enterprise Special Fund for the purpose of completing Surface Transportation Infrastructure Projects; and (b) to make and enter into contracts or agreements that are necessary or incidental to the exercise of its powers and performance of its duties, including loan agreements between the Issuer and one or more private entities pursuant to which the Issuer lends certain moneys to the private entities to be used to pay the costs of Surface Transportation Infrastructure Projects; and

WHEREAS, on February 26, 2014, the Issuer issued its \$20,360,000 Colorado High Performance Transportation Enterprise U.S. 36 and I-25 Managed Lanes Senior Revenue Bonds Series 2014 (the “**Series 2014 Bonds**”), pursuant to the Trust Indenture, dated February 26, 2014 (the “**Original Indenture**”), by and between the Issuer and The Bank of New York Mellon Trust Company, N.A., as trustee (the “**Trustee**”); and

WHEREAS, in connection with the issuance of the Series 2014 Bonds, the Issuer, Plenary Roads Finco LP, as Borrower Finco (the “**Borrower Finco**”), Plenary Roads Finco ULC, as Finco 1 (“**Finco 1**”), Plenary Denver Finco, LLC, as Finco 2 (“**Finco 2**”) and Plenary Roads Denver LLC, as Concessionaire (the “**Concessionaire**”) entered into the Loan Agreement, dated February 26, 2014 (the “**Original Series 2014 Loan Agreement**”), pursuant to which the Issuer loaned the proceeds of the Series 2014 Bonds to the Borrower Finco (the “**Series 2014 Loan**”); and

WHEREAS, the Borrower Finco on-lent the proceeds of the Series 2014 Loan to Finco 1 pursuant to the Finco 1 Bond Proceeds Loan Agreement, who on-lent such proceeds to Finco 2 pursuant to the Finco 2 Bond Proceeds Loan Agreement, who on-lent such proceeds to the Concessionaire pursuant to the Concessionaire Bond Proceeds Loan Agreement, who used such proceeds to (a) finance a portion of the costs of the Phase 2 Work, and (b) pay a portion of the Costs of Issuance of the Series 2014 Bonds; and

WHEREAS, the Concessionaire agreed to repay the Concessionaire Bond Proceeds Loan from Project Revenues and other moneys held in certain funds and accounts under the MSA, and Finco 2 agreed to repay the Finco 2 Bond Proceeds Loan from amounts it receives from the Concessionaire pursuant to the Concessionaire Bond Proceeds Loan Agreement and certain distributions and dividends, and Finco 1 agreed to repay the Finco 1 Bond Proceeds Loan from amounts it receives from Finco 2 pursuant to the Finco 2 Bond Proceeds Loan Agreement and certain distributions and dividends, and Borrower Finco agreed to repay the Series 2014 Loan from amounts it receives from Finco 1 pursuant to the Finco 1 Bond Proceeds Loan Agreement; and

WHEREAS, pursuant to the Assignment and Variation Agreement, dated as of [●], 2020 (the “**AVA**”), by and between, amongst others, the Borrower Finco, Finco 1, Finco 2, the Concessionaire, the Issuer, the TIFIA Phase 1 Lender, the TIFIA Phase 2 Lender, the Subordinated Lenders, the Trustee, the Intercreditor Agent and the Security Trustee, Finco 2 has agreed to irrevocably sell, assign and transfer to Finco 1, and Finco 1 has agreed to irrevocably purchase and assume, all of Finco 2’s rights and obligations under the Concessionaire Bond Proceeds Loan Agreement (the “**Finco 2 Transfer**”); and

WHEREAS, pursuant to the AVA, as consideration for the sale, assignment and transfer of the Concessionaire Bond Proceeds Loan Agreement by Finco 2 to Finco 1, Finco 1 will irrevocably and unconditionally release Finco 2 from any and all of its obligations, whether present or future, actual or contingent, under the Finco 2 Bond Proceeds Loan Agreement; and

WHEREAS, pursuant to the AVA, Finco 1 has agreed to irrevocably sell, assign and transfer to Borrower Finco, and Borrower Finco has agreed to irrevocably purchase and assume, all of Finco 1’s rights and obligations under the Concessionaire Bond Proceeds Loan Agreement (the “**Finco 1 Transfer**”); and

WHEREAS, pursuant to the AVA, as consideration for the sale, assignment and transfer of the Concessionaire Bond Proceeds Loan Agreement by Finco 1 to Borrower Finco, Borrower Finco will irrevocably and unconditionally release Finco 1 from any and all of its obligations,

whether present or future, actual or contingent, under the Finco 1 Bond Proceeds Loan Agreement; and

WHEREAS, pursuant to the AVA, Borrower Finco has agreed to irrevocably sell, assign and transfer to Concessionaire, and Concessionaire has agreed to irrevocably purchase and assume, all of Borrower Finco's rights and obligations under the Original Series 2014 Loan Agreement (the "**Borrower Finco Transfer**"); and

WHEREAS, pursuant to the AVA, as consideration for the sale, assignment and transfer of the Original Series 2014 Loan Agreement by Borrower Finco to Concessionaire, Borrower Finco irrevocably and unconditionally releases Concessionaire from any and all of its obligations, whether present or future, actual or contingent, in respect of the Concessionaire Bond Proceeds Loan Agreement; and

WHEREAS, pursuant to the AVA, in connection with the Finco 2 Transfer, the Finco 1 Transfer and the Borrower Finco Transfer, the Issuer and the Trustee have determined that certain amendments are necessary and required to be made to the Original Indenture and the Issuer and the Concessionaire have determined that certain amendments are necessary and required to be made to the Original Series 2014 Loan Agreement;

WHEREAS, pursuant to Section 10.05 of the Original Series 2014 Loan Agreement and Sections 9.02 and 10.02 of the Original Indenture, the Original Series 2014 Loan Agreement may be amended with the consent of the Owners of a majority in aggregate principal amount of the Outstanding Series 2014 Bonds;

WHEREAS, the Original Series 2014 Loan Agreement is amended and restated in its entirety by this Series 2014 Loan Agreement, and the Owners of a majority in aggregate principal amount of the Outstanding Series 2014 Bonds have consented to this amendment and restatement of the Original Series 2014 Loan Agreement; and

WHEREAS, the Concessionaire shall deliver the Series 2014 Note to evidence its obligations to the Issuer under this Series 2014 Loan Agreement; and

WHEREAS, the Concessionaire shall agree to repay any amount due pursuant to this Series 2014 Loan Agreement and the Series 2014 Note in accordance with the terms and provisions hereof and thereof; and

NOW THEREFORE, in consideration of the premises and the mutual covenants herein made, and subject to the conditions herein set forth, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS; INTERPRETATIONS

Section 1.01. Definitions. All capitalized terms used herein shall have the meanings assigned to them in the Glossary of Terms attached hereto as Exhibit A and incorporated herein.

Section 1.02. Interpretation. This Series 2014 Loan Agreement and all terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein to sustain the validity of this Series 2014 Loan Agreement. For purposes of this Series 2014 Loan Agreement, except as otherwise expressly provided or unless the context otherwise requires:

(a) The terms “hereby,” “hereof,” “hereto,” “herein,” “hereunder” and any similar terms, as used in this Series 2014 Loan Agreement, refer to this Series 2014 Loan Agreement, and the term “hereafter” shall mean after, and the term “heretofore” shall mean before, the date of this Series 2014 Loan Agreement;

(b) All references in this Series 2014 Loan Agreement to designated “Articles,” “Sections,” “subsections,” “paragraphs,” “clauses” and other subdivisions are to the designated Articles, Sections, subsections, paragraphs, clauses and other subdivisions of this Series 2014 Loan Agreement;

(c) The singular form of any word, including the terms defined in the Glossary of Terms attached hereto as Exhibit A, includes the plural, and vice versa, and a word of any gender includes all genders;

(d) Words importing persons shall include firms, associations, partnerships (including limited partnerships), trusts, corporations and other legal entities, including public bodies, as well as natural persons;

(e) Any headings preceding the text of the several Articles and Sections of this Series 2014 Loan Agreement, and any index or table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this Series 2014 Loan Agreement, nor shall they affect its meaning, construction or effect;

(f) Whenever in this Series 2014 Loan Agreement the Issuer, the Concessionaire or the Trustee is named or referred to, it shall include, and shall be deemed to include, its respective successors and assigns whether so expressed or not. All of the covenants, stipulations, obligations and agreements by or on behalf of, and other provisions for the benefit of, the Issuer, the Concessionaire or the Trustee contained in this Series 2014 Loan Agreement shall bind and inure to the benefit of such respective successors and assigns and shall bind and inure to the benefit of any officer, board, commission, authority, agency or instrumentality to whom or to which there shall be transferred by or in accordance with law any right, power or duty of the Issuer, the Concessionaire or the Trustee or of its successors or assigns, the possession of which is necessary or appropriate in order to comply with any such covenants, stipulations, obligations, agreements or other provisions of this Series 2014 Loan Agreement;

(g) All accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted accounting principles applicable to governmental entities, subject to statutory exceptions and modifications, as in effect from time to time;

(h) The term “money” includes any cash, check, deposit, investment security or other form in which any of the foregoing are held hereunder;

(i) All notices required to be given by the parties hereto pursuant to the provisions of this Series 2014 Loan Agreement shall be given in writing; and

(j) All references to any contract or agreement in this Series 2014 Loan Agreement or in the Glossary of Terms attached hereto as Exhibit A shall include all amendments, supplements and modifications thereto.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

Section 2.01. Representations and Warranties of the Issuer. The Issuer hereby represents and warrants to the Concessionaire, as of the Restatement Effective Date, that:

(a) The Issuer has been duly created and is validly existing as a government-owned business within CDOT in accordance with FASTER, and has full legal right, power and authority to (i) enter into, deliver and perform its obligations under this Series 2014 Loan Agreement and the Indenture, (ii) assign its rights (other than Reserved Rights) under this Series 2014 Loan Agreement to the Trustee, (iii) enter into and deliver the MSA and perform its obligations under the MSA, if any, and (ii) carry out its activities as now conducted and as proposed to be conducted.

(b) The Issuer has duly authorized the execution and delivery of the Indenture and this Series 2014 Loan Agreement and the performance of its obligations hereunder and thereunder, the assignment of its rights (other than Reserved Rights) under this Series 2014 Loan Agreement to the Trustee (in accordance with the terms of the Indenture), the execution and delivery of the MSA and the performance of its obligations under the MSA, if any, and, simultaneously with, or prior to, the execution and delivery of this Series 2014 Loan Agreement, the Issuer has duly executed and delivered the Indenture and the MSA. No such authority or proceedings have been repealed, revoked, rescinded or amended and all are in full force and effect.

(c) No further approval, consent or withholding of objection on the part of any regulatory body, federal, state or local, is required in connection with the execution or delivery of or compliance by the Issuer with the terms and conditions of this Series 2014 Loan Agreement, the Indenture, the Series 2014 Bonds and the MSA. The consummation by the Issuer of the transactions set forth in the manner and under the terms and conditions as provided herein and in the Indenture will comply with FASTER and all applicable Laws. Notwithstanding the preceding sentences, no representation is expressed as to any action required under federal or state securities or Blue Sky Laws in connection with the sale or distribution of the Series 2014 Bonds.

(d) The Issuer is not, in connection with the Series 2014 Bonds and this Series 2014 Loan Agreement, in violation of FASTER, the Supplemental Securities Act or any existing Law applicable to it.

(e) The Issuer is not in default under any indenture, mortgage, deed of trust, lien, lease, contract, note, order, judgment, decree or other agreement, instrument or restriction of any kind to which any of its assets are subject, and no event has occurred and is continuing under the provisions of any such agreement that with the lapse of time or the giving of notice, or both, would constitute an event of default thereunder, in each case in which such default or event can reasonably be expected to have a Material Adverse Effect.

(f) The execution, and delivery by the Issuer of this Series 2014 Loan Agreement and the Indenture, and the compliance with the terms and conditions thereof and the Series 2014 Bonds will not materially conflict with or result in the material breach of or constitute a default in any respect under any of the above described documents or other restrictions, FASTER or other existing Laws.

(g) No litigation, inquiry or investigation of any kind in or by any judicial or administrative court or agency is pending or, to the best of the Issuer's knowledge, after reasonable inquiry of the Colorado Attorney General's Office, threatened against the Issuer with respect to (i) the organization and existence of the Issuer, (ii) its authority to execute, deliver or issue and perform all of its obligations, as the case may be, under this Series 2014 Loan Agreement, the Indenture, the Series 2014 Bonds or the MSA, (iii) the validity or enforceability of any of such instruments or the transactions contemplated hereby or thereby, (iv) the title of any officer of the Issuer who executed such instruments, or (v) any authority or proceedings related to the execution and delivery of such instruments on behalf of the Issuer. No such authority or proceedings have been repealed, revoked, rescinded or amended and all are in full force and effect.

(h) Each of this Series 2014 Loan Agreement and the Indenture constitutes the legal, valid and binding obligation of the Issuer, enforceable against the Issuer in accordance with the respective terms thereof, except as may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent transfer or other similar Laws or judicial action affecting the enforcement of creditors' rights generally and the application of general principles of equity (regardless of whether enforceability is considered in a proceeding in equity or at law). The execution and delivery of this Series 2014 Loan Agreement and the Indenture, the performance by the Issuer of its obligations hereunder and thereunder and the consummation of the transactions herein and therein contemplated do not and will not conflict with, or constitute a breach or result in a material violation of FASTER, any agreement or other instrument to which the Issuer is a party or by which it is bound or any constitutional or statutory provision or order, rule, regulation, decree or ordinance of any court, government or governmental authority having jurisdiction over the Issuer or its property.

(i) The Series 2014 Bonds were issued on the Closing Date and continue to be Outstanding, and, on the Closing Date, the proceeds of the Series 2014 Bonds were loaned to the Borrower Finco under the terms of the Original Series 2014 Loan Agreement which were then on-lent to Finco 1, which were then on-lent to Finco 2 and which were then on-lent to the Concessionaire for the purpose of financing a portion of the costs of the Phase 2 Work.

Section 2.02. Representations and Warranties of the Concessionaire. The Concessionaire hereby represents and warrants that as of the Restatement Effective Date:

(a) The Concessionaire is a duly organized limited liability company, validly existing and in good standing under the laws of the State of Colorado. The Concessionaire is qualified to do business in every jurisdiction where the character of its properties or the nature of its activities makes such qualification necessary. The Concessionaire has full limited liability company power and authority to conduct its business as now conducted and as proposed to be conducted by it and to execute, deliver and perform its obligations under each of the Series 2014 Loan Documents and each of the other Transaction Documents to which it is a party.

(b) (i) All persons executing this Series 2014 Loan Agreement and any other Transaction Document to which the Concessionaire is a party that have been or will be executed on the Restatement Effective Date, on behalf of the Concessionaire, are duly and properly in office and fully authorized to execute the same; and (ii) all persons executing the other Transaction Documents to which the Concessionaire is a party that have been executed prior to the Restatement Effective Date, on behalf of the Concessionaire, were, as of such date of execution, fully authorized to execute the same.

(c) Each of this Series 2014 Loan Agreement and the other Series 2014 Loan Documents to which the Concessionaire is a party has been duly authorized, executed and delivered by the Concessionaire and constitutes the legal, valid and binding agreement of the Concessionaire enforceable in accordance with its terms, except as such enforceability (i) may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the rights of creditors generally (including fraudulent transfer laws) and (ii) is subject to general principles of equity (regardless of whether enforceability is considered in equity or at law).

(d) The execution and delivery by the Concessionaire of this Series 2014 Loan Agreement and the other Transaction Documents to which it is a party, the consummation of the transactions contemplated herein and in such Transaction Documents and the fulfillment of or compliance with the terms and conditions hereof and thereof do not and will not (i) conflict with the Concessionaire's Organizational Documents or (ii) conflict in any material respect with or constitute a violation or breach of or default (with due notice or the passage of time or both) by the Concessionaire of any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, or any material indenture, mortgage, deed of trust, loan agreement, lease, contract or other material agreement or instrument to which the Concessionaire is a party or by which it or its properties are otherwise subject or bound, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Concessionaire. The Concessionaire is in material compliance with all laws applicable to the Concessionaire or its activities in connection with this Series 2014 Loan Agreement and the other Transaction Documents to which it is a party.

(e) No consent or approval of any trustee, holder of any Indebtedness of the Concessionaire or any other Person, and no consent, permission, authorization, order or license of, or filing or registration with, any Governmental Authority is necessary in connection with the execution and delivery by the Concessionaire of this Series 2014 Loan Agreement, the other Transaction Documents to which it is a party, the consummation of any transaction contemplated herein and in such Transaction Documents to which it is a party, or the fulfillment of or compliance by the Concessionaire with the terms and conditions hereof and in such Transaction Documents to which it is a party, except, in each case, as have been obtained or made and as are in full force and effect, excluding those which are necessary for a later stage of construction of the U.S. 36 Phase 2 Project and/or operation of the U.S. 36 Project, which can reasonably be expected to be obtained or made in the ordinary course on commercially reasonable terms and conditions when needed.

(f) There is no action, suit, proceeding, inquiry or investigation, before or by any court or other Governmental Authority, pending, or to the knowledge of the Concessionaire after reasonable inquiry and investigation, threatened against or affecting the U.S. 36 Project (or any Segment thereof), the Concessionaire or the assets, properties or operations of the Concessionaire or which involves the validity and enforceability of any Transaction Document to which it is a party, which in any case could reasonably be expected to have a Material Adverse Effect. The Concessionaire is not in default (and no event has occurred and is continuing which with the giving of notice or the passage of time or both could constitute a default) with respect to any order or decree of any court or any order, regulation or demand of any other Governmental Authority, which default could reasonably be expected to have a Material Adverse Effect.

(g) Each Transaction Document which has been executed and delivered by the Concessionaire is in full force and effect as against the Concessionaire, and the Concessionaire is not in default under the terms of any Transaction Document to which it is a party, and no event has occurred or condition exists which, with due notice or lapse of time or both, would constitute a Series 2014 Loan Agreement Event of Default or an event of default under any Transaction Document to which the Concessionaire is a party, except to the extent such event or condition could not reasonably be expected to have a Material Adverse Effect.

(h) The MSA creates, in favor of the Security Trustee for the benefit of, inter alia, the Issuer and the Trustee the valid and perfected Liens which it purports to create on the Collateral of the Concessionaire, such Liens are in full force and effect and are not subordinate or junior to any other Liens in respect of the Collateral except for Permitted Liens or to the extent entitled to priority as a matter of law, and the Concessionaire is not in breach of any covenant set forth in this Series 2014 Loan Agreement or the MSA with respect thereto.

(i) The Concessionaire is not an “investment company” within the meaning of the Investment Company Act of 1940, as amended, and is not “controlled” by a company required to register as an “investment company” under the Investment Company Act of 1940, as amended.

(j) After giving effect to the CDPQ Acquisition, (i) the only member of the Concessionaire is the Member, [(ii) Plenary Group (Canada) Holding Ltd. owns, indirectly, 10.1% of the Equity Interests in the Concessionaire, (iii) CDPQ owns, indirectly, 89.9% of the Equity Interests in the Concessionaire] and (iv) all of the Equity Interests in the Concessionaire are beneficially owned and controlled, directly or indirectly, by the Sponsor and have been duly and validly authorized and issued, and there are no outstanding options, warrants, calls or other rights to subscribe for or otherwise acquire any of such Equity Interests.

(k) The representations, warranties and certifications of the Concessionaire set forth in this Series 2014 Loan Agreement and in each other Transaction Document to which it is a party (other than the representations and warranties set forth in Section 3.2(h) of the Concession Agreement, Section 3.3(h) of the Design-Build Contract and Section 3.3(h) of the O&M Contract) are true and accurate in all material respects (except to the extent any representation and warranty itself is qualified by “materiality”, “Material Adverse Effect” or a similar qualifier, in which case, it is true and correct in all respects), except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true and correct in all material respects (except to the extent any representation and warranty itself is qualified by “materiality”, “Material Adverse Effect” or a similar qualifier, in which case, it is true and correct in all respects) as of such earlier date).

(l) There is no stamp, registration or similar tax under applicable Law, as presently in effect, imposed, assessed, levied or collected by a Governmental Authority on or in relation to amounts payable pursuant to any Funding Document to which the Concessionaire is a party.

(m) The Concessionaire has complied, with respect to the U.S. 36 Project, with all applicable requirements of NEPA.

(n) The U.S. 36 Project has been included in the metropolitan transportation improvement program for the DRCOG, in the State transportation plan and the approved State transportation improvement program to the extent required by 23 U.S.C. §602(a)(3).

ARTICLE III

ISSUANCE OF THE SERIES 2014 BONDS

Section 3.01. Agreement to Issue the Series 2014 Bonds; Loan of Proceeds. The Issuer issued, sold and delivered the Series 2014 Bonds in accordance with the terms of the Indenture, and upon the terms and conditions of this Series 2014 Loan Agreement and the Indenture, the Issuer has lent to the Concessionaire the proceeds of the Series 2014 Bonds (the “**Series 2014 Loan**”). The Concessionaire used the proceeds of the Series 2014 Bonds to (a) finance a portion of the costs of the Phase 2 Work, and (b) pay a portion of the Costs of Issuance of the Series 2014 Bonds. The Issuer deposited or cause to be deposited the net proceeds of the Series 2014 Bonds in the amount of \$20,001,867.60 (consisting of the aggregate principal

amount of the Series 2014 Bonds of \$20,360,000.00, less an original issue discount on the Series 2014 Bonds of \$358,132.40) with the Trustee and instructed the Trustee to apply the net proceeds received from the sale of the Series 2014 Bonds pursuant to Section 3.07(b) of the Indenture. Such actions and direction were approved by the Concessionaire.

Section 3.02. [Reserved].

Section 3.03. Security for Repayment of Loan; Series 2014 Note.

(a) Prior to or simultaneously with the delivery of this Series 2014 Loan Agreement, the Concessionaire shall deliver or shall cause to be delivered each of the Security Documents to which it is a party to the Security Trustee.

(b) As evidence of the Concessionaire's obligation to repay the Series 2014 Loan, the Concessionaire shall deliver to the Trustee, as assignee of the Issuer, on the Restatement Effective Date, the Series 2014 Note. The Issuer hereby directs the Concessionaire to make all payments or cause all payments to be made on the Series 2014 Note directly to the Trustee instead of to the Issuer, and the Concessionaire agrees to do so in the manner contemplated in the MSA. All payments made or caused to be made by the Concessionaire on the Series 2014 Note to the Trustee, as assignee of the Issuer, and all amounts received by the Trustee shall be credited to amounts due to the Trustee by the Issuer on the Series 2014 Bonds.

(c) As security for the Series 2014 Loan and the Series 2014 Note, the Concessionaire shall pledge, assign and grant, or shall cause to be pledged, assigned and granted to the Security Trustee, Liens on the Collateral in accordance with the provisions of the Security Documents. Subject to the terms of the Security Documents and the Senior Obligations Intercreditor Agreement, the Series 2014 Loan and the Series 2014 Note shall be secured by the Liens (i) on the Segregated Bonds Accounts, by a first priority security interest (and, for the avoidance of doubt, no other Secured Obligations shall be secured by a Lien on such Accounts) and (ii) on the other Collateral by a first priority security interest; provided that each of the Segregated TIFIA Phase 1 Account, the Segregated TIFIA Phase 2 Accounts and the Segregated Subordinated Loan Accounts and all funds deposited therein from time to time (and all earnings thereon), shall not be subject to any Lien securing the Series 2014 Loan and the Series 2014 Note.

(d) Except (i) for Permitted Liens, (ii) to the extent otherwise provided in paragraph (c) above, or (iii) as may be entitled to priority as a matter of law, the Collateral will be free and clear of any pledge, lien, charge or encumbrance thereon or with respect thereto prior to, or of equal rank with, the pledge created under the Security Documents, and all action on the part of the Concessionaire to that end has been duly and validly taken.

(e) The Concessionaire shall not use Project Revenues to make any payments or satisfy any obligations other than in accordance with the provisions of this Series 2014 Loan Agreement, the MSA, the Concession Agreement and the other Senior Loan Documents.

Section 3.04. Limitation of the Issuer's Liability. Nothing herein, in the Series 2014 Note, in the Indenture, in the Series 2014 Bonds or the Security Documents shall constitute an indebtedness of the Issuer or a multiple-fiscal year obligation of the Issuer within the meaning of any provisions of the State Constitution or the laws of the State. The Series 2014 Bonds are special, limited obligations of the Issuer, payable solely from and secured solely by the Trust Estate and are not, and shall not be deemed to constitute an obligation, moral or otherwise, of CDOT or the State, any other agency, instrumentality or political subdivision of the State, or any official, board member, director, officer, employee, agent or representative of any of the foregoing, and neither the full faith and credit of the Issuer or CDOT nor the full faith and credit nor the taxing power of the State or any other agency, instrumentality or political subdivision of the State is pledged to the payment of the principal (or Redemption Price) of and interest on the Series 2014 Bonds. The Owners of the Series 2014 Bonds may not look to any revenues of the Issuer, CDOT or the State for repayment of the Series 2014 Bonds and the only sources of repayment of the Series 2014 Bonds are revenues provided by the Concessionaire to the Issuer pursuant to this Series 2014 Loan Agreement for the payment of the principal (or Redemption Price) of and interest on the Series 2014 Bonds, and the Series 2014 Bonds do not constitute an indebtedness of the Issuer, CDOT or the State or a multiple-fiscal year obligation of the Issuer, CDOT or the State within the meaning of any provisions of the State Constitution or the laws of the State. The payment of the Series 2014 Bonds shall not be secured by any encumbrance, mortgage, or other pledge of property of the Issuer, CDOT or the State other than the Trust Estate. No property of the Issuer, CDOT or the State, subject to such exception, shall be liable to be forfeited or taken in payment of the Series 2014 Bonds. No member, officer or agent of the Issuer or any person executing the Series 2014 Bonds shall be liable personally on the Series 2014 Bonds by reason of the issuance thereof.

No provision, covenant, or agreement contained in this Series 2014 Loan Agreement, or any obligations herein imposed upon the Issuer, or the breach thereof, shall constitute an indebtedness or liability of the Issuer within the meaning of any State constitutional provision or statutory limitation or shall constitute or give rise to a pecuniary liability of the Issuer or any member, officer or agent of the Issuer or a charge against the Issuer's general credit. In making the agreements, provisions and covenants set forth in this Series 2014 Loan Agreement, the Issuer has not obligated itself except with respect to the application of the revenues, as hereinabove provided.

ARTICLE IV

LOAN PROVISIONS

Section 4.01. Amounts Payable.

(a) The Concessionaire hereby covenants and agrees to repay the Series 2014 Loan and the Series 2014 Note, as follows: on or before any Principal Payment Date or Interest Payment Date for the Series 2014 Bonds or any other date that any payment of principal (including mandatory sinking fund redemption payments) or Redemption Price of or interest on the Series 2014 Bonds, is required to be made or provided for in respect of the Series 2014 Bonds pursuant to the Indenture (which payments of principal of and interest on the Series 2014 Bonds will be in the respective amounts set forth on the debt

service schedule attached hereto as Exhibit C (no amendments to such debt service schedule shall be allowed without the written consent of the Concessionaire)), until the payment of principal or Redemption Price of, and interest on the Series 2014 Bonds shall have been fully paid or provision for the payment thereof shall have been made in accordance with the Indenture, in immediately available funds, a sum which, together with any other moneys available for such payment in the applicable account of the Series 2014 Debt Service Fund, will enable the Trustee to pay to the Owners of the Series 2014 Bonds the amount due and payable on such date as interest, principal or Redemption Price on the Series 2014 Bonds as provided in the Indenture.

Additionally, the Concessionaire hereby covenants and agrees to prepay the Series 2014 Loan and the Series 2014 Note in accordance with the provisions of Sections 5.01 and 5.02 hereof.

The Issuer hereby directs the Concessionaire and the Concessionaire hereby agrees to pay or direct the Security Trustee to pay to the Trustee, in accordance with the provisions of the MSA, all payments payable by the Concessionaire in respect of the Series 2014 Loan and the Series 2014 Note pursuant to this subsection.

(b) In accordance with Section 4.03 of the MSA, the Concessionaire also shall pay or direct the Security Trustee to pay to the Issuer, the Issuer's reasonable costs, fees and expenses directly related to the issuance of the Series 2014 Bonds and all agreements related thereto, including the reasonable fees and expenses of its counsel.

(c) In accordance with Section 4.03 of the MSA, the Concessionaire also shall pay or direct the Security Trustee to pay the Trustee Fees and Expenses and all other amounts which may be payable to the Trustee under the terms of the Indenture or in accordance with any contractual arrangement between the Concessionaire and the Trustee with respect thereto; provided, that the Concessionaire may, without creating a default hereunder, contest in good faith any such Trustee Fees or Expenses.

(d) In the event that the Concessionaire should fail to make any of the payments required in this Section, the amount so in default shall continue as an obligation of the Concessionaire until the amount in default shall have been fully paid, and the Concessionaire agrees to pay the same with interest thereon, to the extent provided under the Indenture or as permitted by Law, from the date when such payment was due, at the rate of interest borne by the Series 2014 Bonds.

(e) To the extent any moneys have been deposited by the Concessionaire, or on the Concessionaire's behalf, into the Series 2014 Interest Account, the Series 2014 Principal Account or the Series 2014 Redemption Account of the Series 2014 Debt Service Fund for the purpose of paying interest on and principal and Redemption Price of the Series 2014 Bonds when due, the Concessionaire's payment obligations pursuant this Section with respect to the applicable amount of principal or Redemption Price of, or interest on the Series 2014 Bonds will be deemed satisfied.

Section 4.02. Obligations of Concessionaire Unconditional. The obligations of the Concessionaire to make the payments required in Section 4.01 hereof and to perform and observe the other agreements contained herein shall be absolute and unconditional and shall not be subject to any defense or any right of setoff, counterclaim or recoupment arising out of (a) any breach by the Issuer, the Trustee or the Security Trustee of any obligation to the Concessionaire, whether hereunder or otherwise, or (b) any indebtedness or liability at any time owing to the Concessionaire by the Issuer, the Trustee or the Security Trustee, and, until such time as the principal or Redemption Price of and interest on the Series 2014 Bonds, shall have been fully paid or provision for the payment thereof shall have been made in accordance with the Indenture, the Concessionaire (i) will not suspend or discontinue any payments provided for in Section 4.01 hereof, (ii) will perform and observe all other agreements contained in this Series 2014 Loan Agreement, the Series 2014 Note, the Series 2014 Tax Regulatory Agreement and the Security Documents to which it is a party and (iii) except as otherwise provided herein, will not terminate this Series 2014 Loan Agreement, the Series 2014 Note, the Series 2014 Tax Regulatory Agreement or the Security Documents to which it is a party for any cause, or any failure of the Issuer, the Trustee or the Security Trustee to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with this Series 2014 Loan Agreement. Nothing contained in this Section shall be construed to release the Issuer from the performance of any of the agreements on its part herein contained, and in the event the Issuer should fail to perform any such agreement on its part, the Concessionaire may institute such action against the Issuer as the Concessionaire may deem necessary to compel performance so long as such action does not abrogate the obligations of the Concessionaire contained in the first sentence of this Section.

ARTICLE V

PREPAYMENT AND REDEMPTION

Section 5.01. Optional Prepayment and Redemption. At any time and from time to time when the Series 2014 Bonds are subject to optional redemption as set forth in the Section 4.01 of the Indenture, the Concessionaire may (a) deliver or cause the delivery of moneys to the Trustee in addition to Series 2014 Loan Payments or Series 2014 Additional Payments required to be made and direct the Trustee to use the moneys so delivered for the purpose of prepaying the Concessionaire's obligations under this Series 2014 Loan Agreement and the Series 2014 Note and calling the Series 2014 Bonds for optional redemption in accordance with the applicable provisions of the Indenture providing for optional redemption at the Redemption Price or Prices stated in the Indenture.

Section 5.02. Extraordinary Mandatory Redemption; Mandatory Sinking Fund Redemption.

(a) The Concessionaire shall prepay the Series 2014 Loan and the Series 2014 Note and cause the extraordinary mandatory redemption of all of the Series 2014 Bonds (or, if the proceeds received pursuant to the events described in clause (i), (ii) or (iii) below, as applicable, are insufficient to cause the extraordinary mandatory redemption of all of the Series 2014 Bonds, then any portion thereof as provided by Section 4.03 of the Indenture) on any Business Day at a Redemption Price of 100% of the principal amount

thereof plus interest accrued to the date fixed for redemption and without premium on the occurrence of any of the following events:

(i) Unspent Series 2014 Bond proceeds remain on deposit in the Bond Proceeds (Costs of Issuance) Subaccount or the Bond Proceeds (Project Costs) Subaccount on a date that is five (5) years and thirty (30) days after the Closing Date (such prepayment to be made with such unspent proceeds);

(ii) Net Loss Proceeds have been deposited to the Senior Bonds Debt Service Account pursuant to Section 4.24 of the MSA (such prepayment to be made with such Net Loss Proceeds); and

(iii) A Determination of Taxability has occurred with respect to the Series 2014 Bonds.

(b) The Concessionaire shall prepay the obligations under this Series 2014 Loan Agreement and cause the Series 2014 Term Bonds to be redeemed by mandatory sinking fund installments at the applicable Redemption Price on the applicable Redemption Date.

Section 5.03. Concessionaire Payments for Redemption. In accordance with the MSA, the Concessionaire shall deliver to the Trustee, or cause to be delivered to the Trustee, as Series 2014 Loan Payments, the moneys needed to redeem the Series 2014 Bonds in accordance with the redemption provisions relating thereto as set forth in Article IV of the Indenture, and also any amounts required to be provided in prepayment of the Series 2014 Loan and the Series 2014 Note and as required by Sections 5.01 and 5.02 hereof.

Section 5.04. Notice of Redemption. In order to exercise an option granted in Section 5.01 hereof, the Concessionaire shall at least forty-five (45) calendar days prior to the proposed redemption date (unless the Trustee shall agree to a shorter period), give written notice to the Issuer and the Trustee that it is exercising its option to direct the redemption of the Series 2014 Bonds and shall specify therein the date on which such redemption is to be made, which date shall be not be less than forty-five (45) days (or such shorter period as may otherwise be required hereby) from the date such notice is mailed.

Section 5.05. Actions by the Issuer. At the request of the Concessionaire or the Trustee, the Issuer shall take all steps required of it under the applicable provisions of the Indenture and the Series 2014 Bonds to effect the redemption of all or a portion of the Series Bonds pursuant to this Article V. The Concessionaire shall reimburse the Issuer for any reasonable expenses it may incur with respect to any actions it may be requested to take pursuant to this Section.

Section 5.06. Concurrent Discharging of Obligations. In the event any of the Series 2014 Bonds shall be paid and discharged, or deemed to be paid and discharged, pursuant to any provisions of this Series 2014 Loan Agreement and the Indenture, so that such Series 2014 Bonds are not thereafter Outstanding within the meaning of the Indenture, a like principal amount of the Series 2014 Loan under this Series 2014 Loan Agreement and the Series 2014 Note shall be deemed fully paid for purposes of this Series 2014 Loan Agreement and the Series

2014 Note and to such extent the obligations of the Concessionaire hereunder shall be deemed terminated with respect to that portion of the Series 2014 Loan and the Series 2014 Note.

ARTICLE VI

SPECIAL COVENANTS

Section 6.01. Maintain Legal Structure. The Concessionaire shall maintain its existence and good standing under its jurisdiction of formation, and the Concessionaire shall not consolidate with, privatize or merge into any other Person or convey, assign, transfer or lease all or substantially all of the U.S. 36 Project (or of any Segment thereof), except as otherwise permitted pursuant to Section 6.23 or 6.24 hereof, as applicable, or its other assets to any other Person, other than the pledge and assignment of the Collateral granted by it pursuant to the Security Documents. Notwithstanding the previous sentence, the Concessionaire may consolidate with, privatize or merge into any other Person if the resulting or acquiring Person (the “**Successor Concessionaire**”):

(a) assumes in writing all obligations and the performance and observance of all covenants and conditions of the predecessor Concessionaire of this Series 2014 Loan Agreement and the other Transaction Documents to which such predecessor Concessionaire was a party;

(b) provides the Issuer and the Trustee with an opinion of nationally recognized municipal bond counsel in form and substance acceptable to the Issuer and the Trustee to the effect that such consolidation, privatization or merger would not (i) cause interest paid on the Series 2014 Bonds to be included in the gross income of the Owners of the Series 2014 Bonds for federal income tax purposes (other than interest paid to Owners of the Series 2014 Bonds that are a “substantial user” of the facilities financed or refinanced with the Series 2014 Bonds or a “related person” within the meaning of Section 147(a) of the Code), or (ii) cause interest paid on the Series 2014 Bonds to be included in the taxable income of the Owners of the Series 2014 Bonds for Colorado income tax purposes, under present Colorado law;

(c) provides the Issuer and the Trustee an opinion of counsel to the Successor Concessionaire (reasonably satisfactory to the Issuer and the Trustee) to the effect that (i) the Successor Concessionaire has been duly formed, (ii) the Successor Concessionaire has all necessary power and capacity to assume, and has validly assumed, all obligations and the performance and observance of all covenants and conditions of the predecessor Concessionaire of this Series 2014 Loan Agreement and the other Transaction Documents to which such predecessor Concessionaire was a party, (iii) all obligations of the Concessionaire under this Series 2014 Loan Agreement and the other Transaction Documents to which it will become a party constitute legal, valid and binding obligations of such Successor Concessionaire; (iv) the proposed transaction does not impair any right or remedy of the Issuer or the Trustee or the Security Trustee under this Series 2014 Loan Agreement, the Indenture or the Security Documents, or impair the priority of the security interests granted thereunder; and (v) if the proposed transaction is applicable to

the Concessionaire, the proposed transaction is being undertaken in compliance with the provisions of the Concession Agreement; and

(d) no Series 2014 Loan Agreement Event of Default shall have occurred or be continuing as of the effective date of each such transaction or shall arise as of the effective date of each such transaction or as a result thereof.

Section 6.02. [Prosecution of Work. The Concessionaire shall diligently prosecute, or cause to be prosecuted, the work relating to the U.S. 36 Phase 2 Project and shall complete the U.S. 36 Phase 2 Project in accordance with the construction schedule set forth in the Concession Agreement, and in accordance with the standards required by the Concession Agreement.]

Section 6.03. Operation and Maintenance of U.S. 36 Project. The Concessionaire shall operate and maintain the U.S. 36 Project in a reasonable and prudent manner and shall maintain the U.S. 36 Project in good repair, working order and condition and in accordance with the requirements of the Concession Agreement. The Concessionaire shall, at all times do or cause to be done all things necessary to obtain, preserve, renew, extend and keep in full force and effect the rights, licenses, permits, franchises and authorizations material to the conduct of its business, and comply in all material respects with all applicable laws, rules, regulations, orders, decrees, judgments or administrative decisions, whether now in effect or hereafter enacted, of any Governmental Authority having jurisdiction over the Concessionaire or its assets or operations (including NEPA and all other federal, state and local laws, rules, regulations, orders, decrees, judgments and administrative decisions relating to the environment, the preservation or reclamation of natural resources, the management, release or threatened release of any hazardous material or to health and safety matters) that are applicable to the Concessionaire or the U.S. 36 Project.

Section 6.04. Insurance.

(a) The Concessionaire shall maintain or shall require its contractors to maintain insurance that is required to be obtained by the Concessionaire and its contractors to satisfy the requirements of the Concession Agreement. Such policies shall (to the extent permitted by the Concession Agreement) name the Security Trustee, on behalf of the Secured Creditors, as an additional payee as their interests may appear (pending any existing contractual overrides). The Concessionaire will notify the Security Trustee within thirty (30) days of cancellation (ten (10) days for non-payment of premium) of any insurance required to be obtained by the Concessionaire.

(b) The Concessionaire shall not take, or fail to take, any action, which would result in any insurance obtained by the Concessionaire, lapsing, becoming cancelled or otherwise being rendered void, voidable or ineffective and shall not cancel or vary any policy of insurance required to be maintained by it unless the Concession Agreement requires or permits otherwise.

Section 6.05. Material Obligations. The Concessionaire shall pay its material obligations promptly and in accordance with its terms and pay and discharge promptly all material taxes, assessments and governmental charges or levies imposed upon it or upon its

income or profits or in respect of its property, before the same shall become delinquent or in default, as well as all lawful and material claims for labor, materials and supplies or other claims which, if unpaid, in each case, might give rise to a Lien upon such properties or any part thereof; provided that such payment and discharge shall not be required with respect to any such tax, assessment, charge, levy or claim so long as the validity or amount thereof shall be contested by the Concessionaire in good faith by appropriate proceedings and so long as the Concessionaire shall, to the extent required by IFRS and, if required under applicable law, GAAP, on a consistent basis, set aside on its books adequate reserves with respect thereto, or unless failure to pay such tax, assessment, charge, levy or claim would not reasonably be expected to have a Material Adverse Effect.

Section 6.06. Change in Name, Place of Business or Fiscal Year. The Concessionaire shall not, at any time:

- (a) change its name, jurisdiction of formation, or principal place of business without giving the Issuer, the Trustee and the Security Trustee at least ten (10) days prior written notice; or
- (b) change its fiscal year without prior written notice sent to the Issuer, the Trustee and the Security Trustee at least ten (10) days prior to such change.

Section 6.07. Project Revenues. All Project Revenues received by the Concessionaire shall be applied in accordance with the Funding Documents to which it is a party, including as set forth under Section 4.03 of the MSA.

Section 6.08. Accounts and Reporting.

(a) The Concessionaire shall keep proper books of records and accounts in which complete and correct entries shall be made of its transactions in accordance with IFRS, and if required by applicable law, GAAP. The Concessionaire will permit the Trustee, at all reasonable times, to take copies and extracts from such books, records and papers, and will from time to time furnish, or cause to be furnished, to the Trustee such information and statements as the Trustee may reasonably request, all as may be reasonably necessary for the purpose of determining performance or observance by the Concessionaire of its obligations under this Series 2014 Loan Agreement.

(b) The Concessionaire shall employ and maintain independent auditors of nationally recognized standing to audit its annual financial statements. Concurrent with such appointment, the Concessionaire shall authorize such accountants to communicate directly with the Trustee and/or the Security Trustee and to respond to queries of the Trustee or the Security Trustee regarding the Concessionaire's accounts and operations. The Concessionaire shall be given a reasonable opportunity to participate in such communications when they are by phone or in person, and shall be copied on such communications when they are in writing.

(c) The Concessionaire shall, (A) within five (5) Business Days after the Concessionaire learns of the occurrence, give the Trustee and the Issuer notice setting forth details of any event under clauses (i), (ii), (iii) and (iv) below, or (B) with respect to

clause (v) below, upon the request of the Trustee or the Issuer, provide copies of such documents:

(i) Events of Default: any Series 2014 Loan Agreement Event of Default or any event which, given notice or the passage of time or both, would constitute a Series 2014 Loan Agreement Event of Default;

(ii) Litigation: the filing of any actual litigation, suit or action, or the delivery to the Concessionaire of any written claim, which could reasonably be expected to have a Material Adverse Effect;

(iii) Insurance Claim: any insurance claims in respect of any Event of Loss involving the U.S. 36 Project (or any Segment thereof) in excess of \$500,000 either individually or in the aggregate;

(iv) Other Adverse Events: the occurrence of any other event or condition, which could reasonably be expected to result in a Material Adverse Effect;

(v) Documents: any plans, reports and/or notices, other than those that are non-substantive or ministerial in nature, given by the Concessionaire or received from HPTE, CDOT or the Independent Engineer under the Concession Agreement; and

(vi) Extensions under Concession Agreement: copies of any extension, or proposed extension (as a result of the occurrence of a Compensation Event, Relief Event or Force Majeure Event (as such terms are defined in the Concession Agreement) or otherwise) to the Planned Full Services Commencement Date or the Full Services Commencement Longstop Date (as defined in the Concession Agreement).

(d) The Concessionaire shall deliver the following information to the Issuer and the Trustee:

(i) audited financial statements for the Concessionaire within one hundred twenty (120) days after the end of the Fiscal Year of the Concessionaire; and

(ii) simultaneously with the delivery of the financial statements in clause (i) above a certificate of the Concessionaire that states whether a Series 2014 Loan Agreement Event of Default has occurred and is continuing.

Section 6.09. Remedial Action. Within thirty (30) days after the Concessionaire learns of the occurrence of an event specified in Section 6.08(c)(i)-(iv) hereof, an Authorized Officer shall provide a statement to the Trustee setting forth the actions the Concessionaire has taken (if applicable) and proposes to take with respect thereto; provided that such statement shall only be provided to the Trustee if such statement is provided to the TIFIA Phase 1 Lender or the TIFIA Phase 2 Lender.

Section 6.10. Rating Agencies. The Concessionaire shall:

- (a) Use commercially reasonable efforts to cooperate with each Rating Agency rating the Series 2014 Bonds in connection with any review which is required to be undertaken by such Rating Agency pursuant to the Funding Documents;
- (b) Deliver to the Issuer and the Trustee copies of any public reports or public ratings on the Series 2014 Bonds received from any Rating Agency; and
- (c) Comply with reasonable and customary “ratings surveillance” agreements with each Rating Agency that is rating the Series 2014 Bonds, pursuant to requirements under the Funding Documents.

Section 6.11. Enforcement of Documents. The Concessionaire shall use commercially reasonable efforts to enforce against any other party thereto each covenant or obligation of such party in each Transaction Document to which it is a party or an intended beneficiary in accordance with its terms, except to the extent that the failure to do any of the foregoing could not reasonably be expected to have a Material Adverse Effect.

Section 6.12. Further Assurances, Corrective Instruments and Securing Liens. The Issuer and the Concessionaire agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the expressed intentions of this Series 2014 Loan Agreement. The Concessionaire shall, at any and all times, so far as it may be authorized by law, pass, make, do, execute, acknowledge and deliver, every further resolution, act, deed, conveyance, assignment, transfer and assurance as may be necessary or desirable to assure, convey, grant, assign, secure, confirm and maintain the Liens in and to the Collateral (whether now existing or hereafter arising) granted pursuant to the Security Documents, or intended so to be granted pursuant to the Security Documents, or which the Concessionaire may become bound to grant, and the Concessionaire will ensure that the Collateral is and will be free and clear of any pledge, Lien, charge or encumbrance thereon or with respect thereto other than Permitted Liens. The Concessionaire shall take all actions as may be necessary or desirable to effect the foregoing. The Concessionaire shall, at all times, defend, preserve and protect the Liens on such Collateral and all the rights of the Security Trustee for the benefit of the Issuer and the Trustee under the Security Documents against all claims and demands of all Persons whomsoever, subject to Permitted Liens.

The Issuer shall execute and deliver all instruments and shall furnish all information and evidence deemed necessary in order to enable the Concessionaire to fulfill its obligations as provided in this Section and the Security Documents. The Concessionaire shall reimburse the Issuer for any reasonable expenses it may incur with respect to any actions it may be requested to take pursuant to this Section.

Section 6.13. No Prohibited Liens. The Concessionaire shall not create, incur, assume or permit to exist any Lien on any property or asset now owned or hereafter acquired by it, or assign or sell any income or Project Revenues (including accounts receivable) or rights in respect of any thereof, except Permitted Liens.

Section 6.14. No Prohibited Business. The Concessionaire shall not, at any time, engage in any business or activity other than the financing, design, construction, operation and maintenance of the U.S. 36 Project, and activities incidental or related thereto.

Section 6.15. Restricted Payments. Except in accordance with this Section, the Concessionaire shall not at any time make (x) any distribution or other payment in respect of an outstanding Equity Interest in the Concessionaire, or in respect of any redemption, repurchase or other acquisition thereof (or otherwise permit the withdrawal of capital from the Concessionaire), (y) any payment of, interest on or other amounts in respect of any debt for borrowed money owed by the Concessionaire to any holder of an outstanding equity interest in the Concessionaire, or (z) any payment to any Affiliate of the Concessionaire or of any holder of an equity interest in the Concessionaire, other than (i) payments to an Affiliate of the Concessionaire permitted pursuant to Section 6.24 hereof, (iii) payments to the Sponsor or an Affiliate thereof in an amount equal to the applicable Tax Distribution Amount pursuant to Section 4.03(d)(xvi) of the MSA (collectively, “**Restricted Payments**”). The Concessionaire may, pursuant to the terms of the MSA, direct the Security Trustee to transfer monies from the Project Proceeds Account to the Distribution Account for the purpose of making Restricted Payments on any Interest Payment Date or a date occurring within thirty (30) days thereafter (each, a “**Distribution Date**”) if all of the following conditions (collectively, the “**Restricted Payment Conditions**”) have been satisfied as of such Interest Payment Date:

(a) all transfers and distributions required to be made pursuant to clauses [(i) through (xxi)] of Section 4.03(d) of the MSA on or prior to the relevant Interest Payment Date shall have been satisfied in full;

(b) (A) no Series 2014 Loan Agreement Event of Default has occurred and is continuing, or would occur as a direct result of the proposed transfer of funds to the Distribution Account and (B) no event of default under any other Senior Loan Agreement or the TIFIA Phase 2 Loan Agreement, or an event of default which may exist with due notice or the passage of time or both under any other Senior Loan Agreement or the TIFIA Phase 2 Loan Agreement, has occurred and is continuing;

(c) the Bonds Debt Service Reserve Account, the TIFIA Phase 1 Debt Service Reserve Account, the TIFIA Phase 2 Debt Service Reserve Account, the Ramp Up Reserve Account, the Cash Reserve Account, the O&M Reserve Account, the Major Maintenance Reserve Account and the Handback Requirements Reserve Account have been funded (in cash, Permitted Investments and, to the extent permitted, Acceptable Letters of Credit) in an amount equal to the then applicable Bonds Debt Service Reserve Requirement, TIFIA Phase 1 Debt Service Reserve Requirement, TIFIA Phase 2 Debt Service Reserve Requirement, Cash Reserve Requirement, O&M Reserve Requirement, Major Maintenance Reserve Requirement and Handback Reserve Requirement, respectively;

(d) (i) HPTE has not exercised its right to terminate the Concession Agreement pursuant to Section 50 of the Concession Agreement in respect of a Concessionaire Default (as defined in the Concession Agreement) or HPTE has rescinded any notice of termination previously issued pursuant to such Section 50; and (ii) the

Concessionaire has not exercised its right to terminate the Concession Agreement pursuant to Section 54 of the Concession Agreement in respect of an HPTE Default (as defined in the Concession Agreement) or the Concessionaire has rescinded any notice of termination previously issued pursuant to such Section 54 (it being understood that this clause (d)(ii) shall not prohibit the Concessionaire from distributing any Termination Compensation relating to the Initial Equity IRR (as defined in the Concession Agreement) to which it is entitled pursuant to Section 1.2(e) of Part 2 of Schedule 23 of the Concession Agreement so long as the TIFIA Phase 2 Loan shall have been repaid in full at the time of such distribution);

(e) the Full Services Commencement Date has occurred;

(f) the TIFIA Debt Service Payment Commencement Date has occurred;

(g) the payment of all debt service on the Bond Proceeds Loan Agreement, debt service on the TIFIA Phase 1 Loan, TIFIA Phase 2 Mandatory Debt Service, TIFIA Phase 2 Scheduled Debt Service, TIFIA Revenue Share Amounts and the transfer of any Sinking Fund Amount to the Sinking Fund Account in accordance with the MSA is current;

(h) (A) the Total Debt Service Coverage Ratio as of the Calculation Date occurring on the last day of the Calculation Period most recently ended was not less than 1.25:1.00, and (B) for each Calculation Date occurring during the immediately succeeding Calculation Period, the Total Debt Service Coverage Ratio is projected to be not less than 1.25:1.00;

(i) (A) the Senior Debt Service Coverage Ratio as of the Calculation Date occurring on the last day of the Calculation Period most recently ended was not less than 1.45:1.00 and (B) for each Calculation Date occurring during the immediately succeeding Calculation Period, the Senior Debt Service Coverage Ratio is projected to be not less than 1.45:1.00;

(j) the Concessionaire is not insolvent and would not be rendered insolvent by the making of the proposed Restricted Payment;

(k) all requirements set forth in any other Transaction Documents with respect to making Restricted Payments have been complied with; and

(l) the Issuer and the Trustee have received, no earlier than ten (10) Business Days and no later than three (3) Business Days prior to the proposed Distribution Date, a certificate certifying as to the matters contemplated in clauses (a), (b), (g), (h), (i) and (j) above, including a computation in reasonable detail of the applicable coverage ratios.

Section 6.16. Use of Proceeds; Tax Covenants.

(a) The Concessionaire has used, or caused to be used, the proceeds of the Series 2014 Loan only to (i) pay Costs of Issuance of the Series 2014 Bonds and (ii) to pay costs of the U.S. 36 Phase 2 Project.

(b) None of the Issuer or the Concessionaire have caused, or shall cause, any proceeds of the Series 2014 Bonds to be expended, except pursuant to the Indenture, this Series 2014 Loan Agreement, the Series 2014 Tax Regulatory Agreement and the MSA.

(c) The Issuer hereby covenants for the benefit of the Owners of the Series 2014 Bonds that it will not take any action or omit to take any action with respect to the Series 2014 Bonds and the proceeds thereof, if such action or omission (i) would cause interest paid on the Series 2014 Bonds to be included in the gross income of the Owners of the Series 2014 Bonds for federal income tax purposes (other than interest paid to Owners of the Series 2014 Bonds that are a “substantial user” of the facilities financed or refinanced with the Series 2014 Bonds or a “related person” within the meaning of Section 147(a) of the Code), or (ii) would cause interest paid on the Series 2014 Bonds to be included in the taxable income of the Owners of the Series 2014 Bonds for Colorado income tax purposes, under present Colorado law. The foregoing covenant shall remain in full force and effect notwithstanding the payment in full or defeasance of the Series 2014 Bonds until the date on which all obligations of the Issuer in fulfilling the above covenant under the Code and Colorado law have been met.

(d) The Concessionaire hereby covenants for the benefit of the Issuer and the Owners of the Series 2014 Bonds that it will not take any action or omit to take any action with respect to the Series 2014 Bonds and the proceeds thereof, the Series 2014 Loan and the proceeds thereof, any other funds of the Concessionaire or any of the facilities financed with the proceeds of the Series 2014 Bonds and the Series 2014 Loan if such action or omission (i) would cause interest paid on the Series 2014 Bonds to be included in the gross income of the Owners of the Series 2014 Bonds for federal income tax purposes (other than interest paid to Owners of the Series 2014 Bonds that are a “substantial user” of the facilities financed or refinanced with the Series 2014 Bonds or a “related person” within the meaning of Section 147(a) of the Code), or (ii) would cause interest paid on the Series 2014 Bonds to be included in the taxable income of the Owners of the Series 2014 Bonds for Colorado income tax purposes, under present Colorado law. The foregoing covenant shall remain in full force and effect notwithstanding the payment in full or defeasance of the Series 2014 Bonds until the date on which all obligations of the Concessionaire in fulfilling the above covenant under the Code and Colorado law have been met.

(e) Each of the Issuer and the Concessionaire, each on their own behalf, further covenant, represent and warrant to comply with the requirements and covenants applicable to the Issuer and the Concessionaire, as the case may be, set forth in the Series 2014 Tax Regulatory Agreement, to the extent necessary to comply with the covenants set forth in Sections 6.16(f) and 6.16(g) hereof, respectively.

(f) The Concessionaire further covenants to retain records relating to the use of the proceeds of the Series 2014 Bonds and the use of the facilities financed with the proceeds of the Series 2014 Bonds for a period of three years after payment in full of the Series 2014 Bonds, all in accordance with the requirements of the Code.

Section 6.17. Continuing Disclosure. The Concessionaire hereby covenants and agrees that it will comply with and carry out all of the provisions of the Series 2014 Continuing Disclosure Agreement. Notwithstanding any other provision of this Series 2014 Loan Agreement, failure of the Concessionaire to comply with its obligations set forth in the Series 2014 Continuing Disclosure Agreement shall not constitute a Series 2014 Loan Agreement Event of Default; provided, however, that any participating underwriter for the Series 2014 Bonds or any Owner or beneficial owner of the Series 2014 Bonds may take such actions as may be necessary and appropriate to compel performance by the Concessionaire of its obligations under this Section, including seeking mandate or specific performance by court order.

Section 6.18. Permitted Indebtedness; Additional Senior Obligations.

(a) The Concessionaire shall not create, issue, incur or assume any Indebtedness, other than Permitted Indebtedness.

(b) Additional Senior Obligations (other than Senior Refinancing Indebtedness) may not be issued, incurred or entered into by the Concessionaire unless each of the following conditions applicable thereto has been satisfied:

(i) the Trustee receives a certification from the Concessionaire stating that after giving effect to the issuance of such Additional Senior Obligations, (A) the Total Debt Service Coverage Ratio for each full Calculation Period occurring between the date of incurrence of such Additional Senior Obligations and the Final Maturity Date of the Series 2014 Bonds will not be less than 1.20:1.00, and (B) the Senior Debt Service Coverage Ratio for each full Calculation Period occurring between the date of incurrence of such Additional Senior Obligations and the Final Maturity Date of the Series 2014 Bonds will not be less than 1.50:1.00, in each case, on a pro forma basis;

(ii) the Trustee receives an updated Base Case Financial Model upon which the Total Debt Service Coverage Ratio and Senior Debt Service Coverage Ratio, as applicable, as described in clause (i) above shall be based, provided such updated Base Case Financial Model:

(A) contains current projections as of the time of the issuance of such Additional Senior Obligations, and

(B) has been reviewed and certified to be correct and accurate in all material respects by the Concessionaire and by an independent financial model auditor; provided that a review and certification by an independent financial model auditor described in this sub-clause (ii)(B) shall not be required, if such a review and certification was undertaken in the six (6) months immediately prior to the incurrence of such Additional Senior Obligations;

(iii) the Trustee receives certified copies of the financing documents pursuant to which such Additional Senior Obligations are issued, incurred or entered into, which financing documents shall not prohibit the Concessionaire

from incurring new indebtedness to refinance the Senior Obligations (subject to restrictions set out in this Section 6.18);

(iv) the Trustee receives a certificate from the Concessionaire stating that, as of the date the Additional Senior Obligations are issued, incurred or entered into either:

(A) no Series 2014 Loan Agreement Event of Default has occurred and is continuing; or

(B) if a Series 2014 Loan Agreement Event of Default has occurred and is continuing, such Series 2014 Loan Agreement Event of Default will be cured upon the issuance or incurrence of or entering into the Additional Senior Obligations and the application of the proceeds of the Additional Senior Obligations in accordance with the financing documents authorizing the issuance or incurrence of such Additional Senior Obligations;

(v) if the Additional Senior Obligations are being incurred in connection with the issuance of Additional Senior Bonds, proceeds of such Additional Senior Bonds or other moneys shall be loaned to the Concessionaire who shall deposit or cause to be deposited such proceeds into the Bond Proceeds (Project Costs) Subaccount, the Bond Proceeds (Costs of Issuance) Subaccount, the Bonds Debt Service Reserve Account, if necessary, or such other funds and accounts established under the MSA, as applicable;

(vi) [Reserved];

(vii) such Additional Senior Obligations shall have interest payment dates (except for Additional Senior Obligations issued as Variable Rate Indebtedness) and principal payment dates that coincide with the interest payment dates and principal payment dates of the Series 2014 Loan and any other Senior Obligations then outstanding;

(viii) the lenders or other holders of such Additional Senior Obligations have (or an agent on their behalf (including the Trustee) has) acceded to the MSA and the Senior Obligations Intercreditor Agreement;

(ix) the covenants and terms of such Additional Senior Obligations are not materially more restrictive for the Concessionaire than the covenants and other terms in the applicable Funding Documents entered into with respect to the previously issued Senior Obligations;

(x) the Concessionaire shall provide to the Trustee evidence of the assignment by a Rating Agency of a rating on such Additional Senior Obligations that is either (A) an Investment Grade Rating or (B) a rating that is no lower than the rating last assigned by such Rating Agency to the other outstanding Senior

Obligations prior to its assignment of rating on such Additional Senior Obligations; and

(xi) if the TIFIA Phase 1 Loan and/or the TIFIA Phase 2 Loan is then outstanding, the Concessionaire provides evidence to the Trustee that the TIFIA 1 Lender and/or the TIFIA 2 Lender, as applicable, has consented to, or waived its consent right to, the issuance or incurrence of such Additional Senior Obligations.

(c) Senior Refinancing Indebtedness may not be issued, incurred or entered into by the Concessionaire unless each of the following conditions applicable thereto has been satisfied:

(i) the Trustee receives a certification from the Concessionaire stating that after giving effect to the issuance or incurrence of such Senior Refinancing Indebtedness and the refinancing, replacement or refunding of the applicable Senior Obligations, Senior Debt Service for each full Calculation Period occurring between the date of incurrence of such Senior Refinancing Indebtedness and the Final Maturity Date of the Series 2014 Bonds will be less than or equal to the Senior Debt Service forecast for each such Calculation Period in the most recent Base Case Financial Model that does not take into account the issuance or incurrence of such Senior Refinancing Indebtedness and the refinancing, replacement or refunding of the applicable Senior Obligations;

(ii) the covenants and terms of such Senior Refinancing Indebtedness are not materially more restrictive for the Concessionaire than the covenants and other terms in the applicable Funding Documents entered into with respect to the Senior Obligations being refinanced;

(iii) such Senior Refinancing Indebtedness shall have interest payment dates (except for Senior Refinancing Indebtedness issued as Variable Rate Indebtedness) and principal payment dates that coincide with the interest payment dates and principal payment dates of the Senior Obligations being refinanced;

(iv) the lenders or other holders of such Senior Refinancing Indebtedness have (or an agent on their behalf (including the Trustee) has) acceded to the MSA and the Senior Obligations Intercreditor Agreement;

(v) the Trustee receives a certificate from the Concessionaire stating that, as of the date the Senior Refinancing Indebtedness is issued, incurred or entered into either:

(A) no Series 2014 Loan Agreement Event of Default has occurred and is continuing; or

(B) if a Series 2014 Loan Agreement Event of Default has occurred and is continuing, such Series 2014 Loan Agreement Event of Default will be cured upon the issuance or incurrence of the Senior Refinancing Indebtedness and the application of the proceeds of the Senior

Refinancing Indebtedness in accordance with the financing documents authorizing the incurrence of such Senior Refinancing Indebtedness;

(vi) the Concessionaire shall provide to the Trustee evidence of the assignment by a Rating Agency of a rating on such Senior Refinancing Indebtedness that is either (A) an Investment Grade Rating or (B) a rating that is no lower than the rating last assigned by such Rating Agency to the other outstanding Senior Obligations prior to its assignment of rating on such Senior Refinancing Indebtedness; and

(vii) the Trustee receives certified copies of the financing documents pursuant to which such Senior Refinancing Indebtedness is issued or incurred, which shall not prohibit the Concessionaire from issuing or incurring new indebtedness to refinance the Senior Obligations (subject to restrictions set out in this Section 6.18);

(viii) if the Senior Refinancing Indebtedness is being incurred in connection with the issuance of Additional Senior Bonds, proceeds of such Additional Senior Bonds or other moneys shall be loaned to the Concessionaire who shall deposit or cause to be deposited such proceeds into (A) such funds and accounts established under the MSA and used to refinance, replace or refund the applicable Senior Obligations, (B) the Bond Proceeds (Costs of Issuance) Subaccount, if any, (C) the Bonds Debt Service Reserve Account, if necessary, and (D) such other funds and accounts established under the MSA;

(ix) [Reserved]; and

(x) if the TIFIA Phase 1 Loan and/or the TIFIA Phase 2 Loan is then outstanding, the Concessionaire provides evidence to the Trustee that the TIFIA 1 Lender and/or the TIFIA 2 Lender, as applicable, has consented to, or waived its consent right to, the issuance or incurrence of such Senior Refinancing Indebtedness.

(d) In the event the Concessionaire wishes to incur Additional Senior Obligations for the purpose of refinancing, replacing or refunding Senior Obligations and the provisions of Section 6.18(c) hereof with respect to Senior Refinancing Indebtedness cannot be satisfied, the provisions of Section 6.18(b) hereof shall be required to be satisfied.

(e) In addition to the requirements set forth in Section 6.18(b) or 6.18(c) hereof, if the Additional Senior Obligations (including Senior Refinancing Indebtedness) are being incurred in connection with the issuance of Additional Senior Bonds,

(i) The Issuer and the Trustee shall enter into a Supplemental Indenture authorizing the issuance of such Additional Senior Bonds, which Supplemental Indenture specifies the matters set out in Articles III and IV of the Indenture;

(ii) The Issuer and the Concessionaire shall enter into an amendment to this Series 2014 Loan Agreement or an Additional Senior Bonds Loan Agreement consistent with the terms of the Supplemental Indenture described in (i) above; and

(iii) The Trustee shall have received the documents and opinions described in Section 6.09 of the Indenture.

Section 6.19. No Lien Extinguishment. The Concessionaire shall not, or shall not permit any Person to, without the prior written consent of the Owners of the Series 2014 Bonds, extinguish the Liens on the Collateral granted by it pursuant to the Security Documents, except as provided under the MSA and the other Security Documents.

Section 6.20. Changes to Material Project Contracts. The Concessionaire shall not amend, assign, modify or waive performance by any other party under any Material Project Contract, in any material respect, or terminate any Material Project Contract or enter into any other material agreement (other than the Transaction Documents) that is not related to the U.S. 36 Project (or incidental or ancillary thereto) without the prior written consent of the Trustee (at the direction of the Owners of a majority in aggregate principal amount of the then Outstanding Senior Bonds). Notwithstanding the foregoing, (a) the Concessionaire, the Design-Build Contractor, the O&M Contractor, HPTE or the Toll Services Provider, as applicable, may enter into change orders, amendments, modifications or waivers under the Design-Build Contract, the O&M Contract or the Toll Services Agreement, as applicable, which are reasonably required for compliance by the Concessionaire with the Concession Agreement; (b) the Concessionaire, the Design-Build Contractor, the O&M Contractor, HPTE or the Toll Services Provider, as applicable, may enter into change orders, amendments, modifications or waivers under the Design-Build Contract, the O&M Contract or the Toll Services Agreement, as applicable, if such change order, amendment, modification or waiver will not require the payment by the Concessionaire, net of any payments received from HPTE or any other party, to exceed an amount equal to (i) in the case of the Design-Build Contract, \$200,000 individually or \$1,000,000 in the aggregate, (ii) in the case of the O&M Contract \$200,000 individually or \$1,000,000 in the aggregate, and (iii) in the case of the Tolling Services Agreement \$200,000 individually or \$1,000,000 in the aggregate, with respect to any such contract (provided, that any change order, amendment, modification or waiver with respect to the construction or operation of the U.S. 36 Project that results in the (x) \$200,000 individual threshold or the \$1,000,000 aggregate threshold with respect to the Design-Build Contract, (y) \$200,000 individual threshold or the \$1,000,000 aggregate threshold with respect to the O&M Contract, or (z) \$200,000 individual threshold or the \$1,000,000 aggregate threshold with respect to the Tolling Services Agreement, as the case may be, being exceeded with respect to any such contract will be permitted without the consent of the Owners of a majority in aggregate principal amount of the then Outstanding Senior Bonds if (A) it is required by applicable Law; (B) the applicable scope of work will not have been changed as a result thereof, or (C) with respect to the Design-Build Contract, the Independent Engineer has certified that, in its reasonable opinion, there are sufficient funds available to the Concessionaire to pay for such change order, amendment, modification or waiver, together with other Project Costs, necessary to complete the Project by the Full Services Commencement Long Stop Date, and such change order, amendment, modification or waiver could not reasonably be expected to have a Material Adverse Effect; (c)

the Concessionaire may amend, waive any provision of, or terminate any Material Project Contract if such amendment, waiver or termination could not reasonably be expected to have a Material Adverse Effect; (d) any Material Project Contract may be terminated if such termination occurs by the express expiry of such Material Project Contract and not as a result of any default or breach on the part of any party to such Material Project Contract, and (e) if a Material Project Contract is terminated prior to the expiry of such contract, (i) such Material Project Contract is replaced by a replacement agreement between the Concessionaire and another counterparty that provides projected economic benefits for the Project that are, in light of the material risks and liabilities of such replacement contract, taken as a whole, at least as favorable as the benefits under the existing contract, in light of the material risks and liabilities of such existing contract and (ii) if the contract being replaced is the Design-Build Contract, the replacement agreement is entered into with a counterparty (taking into consideration any applicable guarantor) of similar or greater creditworthiness and experience as the Design-Build Contractor or with the prior written consent of the Trustee (at the direction of the Owners of a majority in aggregate principal amount of the then Outstanding Senior Bonds); provided, that if a Material Project Contract or counterparty to a Material Project Contract is replaced and a direct agreement existed with respect to such Material Project Contract prior to its replacement, the Concessionaire will cause a new (or amended and restated as the case may be) direct agreement to be entered into by any counterparty to such Material Project Contract, in form and substance substantially similar to the direct agreement being replaced or otherwise that is reasonably acceptable to the Trustee (at the direction of the Owners of a majority in aggregate principal amount of the then Outstanding Series 2014 Bonds).

The Concessionaire will provide to the Issuer and the Trustee copies of any executed amendments to such documents within fifteen (15) days after the date of such execution.

Section 6.21. Concession Agreement. The Concessionaire shall comply with the Concession Agreement in all material respects.

Section 6.22. Copies of Additional Material Project Contracts. The Concessionaire shall provide to the Issuer and the Trustee, promptly after execution, a copy of each Material Project Contract entered into after the Restatement Effective Date.

Section 6.23. No Prohibited Sale or Assignment. The Concessionaire shall not Dispose of its rights in and to the U.S. 36 Project (or any Segment thereof), any of the assets of the Concessionaire included in the U.S. 36 Project (or any Segment thereof) or its rights and obligations under the Concession Agreement or this Series 2014 Loan Agreement, except:

- (i) As permitted pursuant to Section 6.01 hereof, the Security Documents and the Series 2014 Tax Regulatory Agreement or as may be effected pursuant to a foreclosure of the Liens thereon securing the Secured Obligations in accordance with the MSA; and
- (ii) Any Disposition:
 - (A) of redundant or obsolete assets in the ordinary course of business;

(B) of immaterial assets on an arm's length basis for cash in the ordinary course of business; provided that (1) the fair market value of such Dispositions shall not exceed \$50,000 in the aggregate in any Fiscal Year and (2) no such Disposition could reasonably be expected to adversely affect the construction, operation or maintenance of the U.S. 36 Project;

(C) in exchange for or replaced by other assets of at least comparable value and utility in accordance with good operating practice; provided that the proceeds of such Disposition are applied to the purchase price of such replacement property within forty-five (45) Business Days after receipt of such proceeds;

(D) constituting a Permitted Lien; and

(E) that could not reasonably be expected to result in a Material Adverse Effect and do not violate the provisions of the Series 2014 Tax Regulatory Agreement.

Notwithstanding anything to the contrary in this Section 6.23, the Concessionaire may allow the Assumed Subordinated Lender or any other Person to exercise any of the rights set forth under [Section 11.3 of the Assumed Subordinated Loan Agreement] (or pursuant to any EOD Step-in Agreement as defined thereunder), provided the provisions of Article VII of the Subordinated Obligations Intercreditor Agreement and Section 6.28 hereof are complied with.

Section 6.24. Affiliate Transactions. The Concessionaire shall sell or transfer any property or assets to, or purchase or acquire any property or assets of, or otherwise engage in any other material transactions with, any of its Affiliates, except (a) Permitted Affiliate Subordinated Debt, (b) transactions at prices and on terms and conditions not less favorable to the Concessionaire than fair market prices and on terms and conditions not less favorable to the Concessionaire than could be reasonably obtained on an arm's-length basis from unrelated third parties, (c) transactions pursuant to the terms of the Management and Finance Services Agreements and (d) any replacement O&M Contract entered into with an Affiliate of the Concessionaire.

Section 6.25. [Reserved].

Section 6.26. No Deposit or Securities Accounts. The Concessionaire shall not create or maintain (or cause to be created or maintained on its behalf) any deposit or securities account other than the Project Accounts.

Section 6.27. No Amendment or Modification of Organizational Documents. The Concessionaire shall not amend or modify its Organizational Documents if such amendment or modification could reasonably be expected to adversely affect the interests of the Owners of the Series 2014 Bonds.

Section 6.28. Change of Control Pursuant to Section 11.3 of the Subordinate Loan Agreement. The Concessionaire hereby acknowledges and agrees that the Assumed Subordinated Lender or any other Person may exercise any of the rights set forth under Section

11.3 of the Assumed Subordinated Loan Agreement (or pursuant to any EOD Step-in Agreement as defined thereunder) (a “**Change of Control**”), provided that prior to such exercise the provisions of Article VII of the Subordinated Obligations Intercreditor Agreement shall be complied with and the Issuer and the Trustee are provided with an opinion of nationally recognized municipal bond counsel in form and substance acceptable to the Issuer and the Trustee to the effect that such Change of Control would not (i) cause interest paid on the Series 2014 Bonds to be included in the gross income of the Owners of the Series 2014 Bonds for federal income tax purposes (other than interest paid to Owners of the Series 2014 Bonds that are a “substantial user” of the facilities financed or refinanced with the Series 2014 Bonds or a “related person” within the meaning of Section 147(a) of the Code), or (ii) cause interest paid on the Series 2014 Bonds to be included in the taxable income of the Owners of the Series 2014 Bonds for Colorado income tax purposes, under present Colorado law.

ARTICLE VII

ASSIGNMENT; INDEMNIFICATION

Section 7.01. Assignment. Except as expressly contemplated herein, in the Indenture and in the Security Documents, neither the Concessionaire nor the Issuer may assign its interest in this Series 2014 Loan Agreement.

Section 7.02. Indemnification Covenant.

(a) The Concessionaire shall and hereby agrees to indemnify the Issuer and the Trustee, and the members, servants, officers, employees and other agents, now or hereafter, of the Issuer or the Trustee (each such Person being herein referred to as an “**Indemnitee**”), against and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities, fines, penalties, costs and expenses (including the fees, charges and disbursements of any counsel for any Indemnitee and the costs of environmental remediation), whether known, unknown, contingent or otherwise, incurred by or asserted against any Indemnitee arising out of, in connection with, or as a result of (i) the execution, delivery and performance of this Series 2014 Loan Agreement, the Series 2014 Note, the Series 2014 Tax Regulatory Agreement or any of the other Transaction Documents, (ii) the Series 2014 Loan or the use of the proceeds thereof, (iii) any Determination of Taxability, or allegations that interest on the Series 2014 Bonds is taxable or any regulatory audit or inquiry regarding whether interest on the Series 2014 Bonds is taxable, (iv) any condition of the Project, (v) the violation by any Member Indemnity Party of any law, rule, regulation, order, decree, judgment or administrative decision relating to the environment, the preservation or reclamation of natural resources, the management, release or threatened release of any hazardous material or to health and safety matters, in each case arising out of the negligence of any Member Indemnity Party and arising out of or in direct relation to the U.S. 36 Project (or any Segment thereof), or (vi) any untrue statement or misleading statement or alleged untrue statement or alleged misleading statement of a material fact contained in any offering document related to the Series 2014 Bonds or any Additional Senior Obligations or caused by any omission or alleged omission from such offering document of any material fact necessary in order to make the statements made therein, in the light of the circumstances under which they

were made, not misleading (except for the Issuer Covered Sections (as defined in the Series 2014 Bond Purchase Agreement) as to which no indemnity shall be provided to the Issuer by the Concessionaire); provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence, willful misconduct or material breach of contract of such Indemnitee. In case any action or proceeding is brought against an Indemnitee by reason of any claim with respect to which such Indemnitee is entitled to indemnification hereunder, the Concessionaire upon notice from such Indemnitee shall defend the same and such Indemnitee shall cooperate with the Concessionaire at the expense of the Concessionaire in connection therewith. Nothing herein shall be construed as a waiver of any legal immunity that may be available to any Indemnitee. All amounts due to any Indemnitee under this Section shall be payable promptly upon demand therefor. The obligations of the Concessionaire under this Section shall survive the payment or prepayment in full or transfer of the Series 2014 Loan, the enforcement of any provision of this Series 2014 Loan Agreement or the Transaction Documents, any amendments, waivers (other than amendments or waivers in writing with respect to this Section) or consents in respect hereof or thereof, any Series 2014 Loan Agreement Event of Default, and any workout, restructuring or similar arrangement of the obligations of the Concessionaire hereunder or thereunder.

(b) The Issuer and the Trustee, each separately agree that, upon the receipt of notice of the commencement of any action against the Issuer or the Trustee, their respective members, officers, employees and other agents, now or hereafter, as applicable, or any Person controlling it as aforesaid, in respect of which indemnity may be sought on account of any indemnity agreement contained herein, the Issuer or the Trustee, as applicable, will promptly give written notice of the commencement thereof to the Concessionaire hereunder, but the failure to so notify the Concessionaire of any such action shall not relieve the Concessionaire from any liability hereunder to the extent they are not materially prejudiced as a result of such failure to notify and in any event shall not relieve them from any liability which they may have to the indemnified party otherwise than on account of such indemnity agreement. In case such notice of any such action shall be so given, the Concessionaire shall be entitled to participate at its own expense in the defense or, if they so elect, to assume the defense of such action, in which event such defense shall be conducted by counsel chosen by the Concessionaire and satisfactory to the indemnified party or parties who shall be defendant or defendants in such action, and such defendant or defendants shall bear the fees and expenses of any additional counsel retained by them; but if the Concessionaire shall elect not to assume the defense of such action, the Concessionaire will reimburse such indemnified party or parties for the reasonable fees and expenses of any counsel retained by them; provided, however, if the defendants in any such action (including impleaded parties) include both the indemnified party and the Concessionaire and either the Concessionaire and counsel for the Concessionaire or the indemnified party shall have reasonably concluded that there may be a conflict of interest involved in the representation by a single counsel of both the Concessionaire and the indemnified parties, the indemnified party or parties shall have the right to select separate counsel, at the Concessionaire's expense and satisfactory to the Concessionaire, to participate in the defense of such action on behalf of such

indemnified party or parties, it being understood, however, that the Concessionaire shall not be liable for the expenses of more than one separate counsel (in addition to counsel specifically representing the Concessionaire).

(c) The Concessionaire, the Trustee and the Issuer agree that without the other parties' prior written consent, which consent shall not be unreasonably withheld or delayed, it will not settle, compromise or consent to the entry of any judgment in any claim in respect of which indemnification may be sought under the indemnification provision of this Series 2014 Loan Agreement, unless such settlement, compromise or consent (i) includes an unconditional release of such other applicable party from all liability arising out of such claim and (ii) does not include a statement as to or an admission of fault, culpability or a failure to act by or on behalf of such other party.

ARTICLE VIII

RESERVED

ARTICLE IX

EVENTS OF DEFAULTS AND REMEDIES

Section 9.01. Events of Default Defined. Any one of the following shall constitute a “**Series 2014 Loan Agreement Event of Default**” under this Series 2014 Loan Agreement:

(a) Failure by the Concessionaire to pay any amounts required to be paid pursuant to Section 4.01(a) hereof; or

(b) Any representation or warranty of the Concessionaire made in or delivered pursuant to this Series 2014 Loan Agreement and any other Series 2014 Loan Documents shall prove to have been incorrect in any material respect when made, and a Material Adverse Effect could reasonably be expected to result therefrom, and, if such misrepresentation is capable of remedy, such misrepresentation has not been cured within thirty (30) days after the Concessionaire's receipt of written notice from the Trustee of such misrepresentation; provided that such cure period shall be extended as is reasonably necessary under the circumstances to remedy such misrepresentation so long as corrective action is instituted by the Concessionaire within the thirty-day period and is diligently pursued until such misrepresentation is remedied; or

(c) Failure by the Concessionaire to observe and perform any covenant, condition or agreement on its part to be observed or performed under this Series 2014 Loan Agreement, the Series 2014 Note or any other Series 2014 Loan Documents (other than the Series 2014 Tax Regulatory Agreement) to which the Concessionaire is a party, unless such failure is capable of being remedied and is remedied within thirty (30) days after the earlier of (i) written notice specifying such failure shall have been given to the Trustee or the Security Trustee by the Concessionaire or (ii) written notice specifying such failure and requesting that it be remedied shall have been given to the Concessionaire by the Issuer, the Trustee or the Security Trustee, or within such longer

period of time as is reasonably necessary under the circumstances to remedy such failure, such extension not to exceed 180 days without the prior written approval of the Owners of a majority in aggregate principal amount of the Series 2014 Bonds then Outstanding; or

(d) [Reserved]

(e) A Bankruptcy Related Event shall occur; or

(f) Any of the events described under the definition of Bankruptcy Related Event occurs (i) with respect to the Member, [or (ii) with respect to the Sponsor, prior to the termination of the Equity Contribution Agreement in accordance with its terms;] or

(g) The Concession Agreement shall expire or be terminated (whether by reason of a default thereunder or by mutual agreement of the parties thereto or otherwise), or for any reason shall cease to be in full force and effect; or

(h) The Concessionaire shall fail to maintain its existence as a Colorado limited liability company; or

(i) Any acceleration shall occur of the maturity of any Indebtedness pursuant to any Cross Default Funding Document, or any such Indebtedness shall not be paid in full upon the final maturity thereof; or

(j) The occurrence of a Change of Control (as defined in the Concession Agreement) with respect to the Concessionaire that has occurred other than in compliance with the Concession Agreement; or

(k) An Indenture Event of Default shall have occurred and be continuing; or

(l) An “event of default” (howsoever described) shall have occurred and be continuing under any Cross Default Funding Document, provided that (i) such “event of default” shall be continuing after the giving of any applicable notice and the expiration of any applicable grace period specified in such Cross Default Funding Document with respect to such “event of default,” (ii) the effect of such “event of default” shall be to permit the immediate acceleration of the maturity of or require the early repayment of any or all of the Senior Obligations related to such Cross Default Funding Document and (iii) the Concessionaire shall have failed to cure such “event of default” or to obtain an effective written waiver thereof within thirty (30) days after receipt of written notice of such “event of default” from the Trustee; or

(m) The Concessionaire or any counterparty thereof shall default in the timely performance of any covenant, agreement or obligation under any Material Project Contract, and such default shall be continuing after the giving of any applicable notice and the expiration of any applicable grace period specified in the relevant Material Project Contract (unless in any case such default could not reasonably be expected to have a Material Adverse Effect), and the Concessionaire or the relevant counterparty, as the case may be, shall have failed to cure such default or to obtain an effective written

waiver thereof (as the case may be), within thirty (30) days after receipt of written notice thereof from the Trustee; or

(n) One or more judgments for the payment of money in an aggregate amount in excess of \$1,000,000 and not otherwise covered by insurance is entered against the Concessionaire and such judgment remains unsatisfied without any procurement of a stay of execution for a period of thirty (30) days; provided, that any such judgment shall not constitute an Series 2014 Loan Agreement Event of Default during the pendency of an appeal thereof, so long as, during such appeal, execution is effectively stayed or the liability for such judgment is adequately covered by insurance or a performance bond; or

(o) Any Security Document ceases (other than as expressly permitted thereunder or under the other Funding Documents) to be effective to grant a perfected security interest on any material portion of the Collateral described therein (other than Collateral permitted to be Disposed of by the Concessionaire in accordance with Section 6.22 hereof) other than as a result of actions or failure to act by the Trustee, the Security Trustee or any other Secured Creditor, and with the priority purported to be created thereby and such event continues for thirty (30) days after the applicable Secured Creditor giving notice thereof to the Concessionaire; or

(p) The Subordinated Lender Pledge Agreement ceases (other than as expressly permitted thereunder or under the Funding Documents) to be effective to grant a perfected security interest on any material portion of the collateral described therein other than as a result of actions or a failure to act by the Security Trustee or any Secured Creditor, and with the priority purported to be created thereby; or

(q) [Reserved]

(r) The Concessionaire shall (i) announce that it is abandoning the U.S. 36 Project or (ii) voluntarily cease [construction of the U.S. 36 Phase 2 Project or] the operation and maintenance of the U.S. 36 Project (unless such cessation of [construction or] operation and maintenance shall occur by reason of a Relief Event, a Compensation Event or a Force Majeure Event (as such terms are defined in the Concession Agreement)). If the Concessionaire voluntarily ceases [construction or] operation and maintenance activities and such cessation continues without interruption for ninety (90) days, the Trustee, at the direction of the Owners of a majority in aggregate principal amount of the then Outstanding Series 2014 Bonds, shall deliver to the Concessionaire a notice requesting a certificate to the effect that the Concessionaire intends to cause [construction or] operation and maintenance activities to resume as soon as is commercially practicable. If within forty-five (45) Business Days following delivery of such notice the certificate is not delivered, or if within forty-five (45) Business Days following delivery of such certificate, the Concessionaire does not resume such construction and operation and maintenance activities (other than as a result of the occurrence of a Relief Event, a Compensation Event or a Force Majeure Event (as such terms are defined in the Concession Agreement)), then the Trustee shall have the right to declare that an abandonment has occurred; or

(s) Any Equity Contribution required to be made under the provisions of the Equity Contribution Agreement shall fail to be made at the time and in the amounts required thereunder.

Section 9.02. Remedies on Series 2014 Loan Agreement Event of Default. Whenever any Series 2014 Loan Agreement Event of Default hereunder shall have occurred and be continuing, the Trustee, or the Issuer at the direction or with the written consent of the Trustee, may, in conjunction with its available remedies under the Indenture, exercise all remedies available to it at law or in equity, including one or any combination of the following remedial steps, by notice to the Concessionaire and the Security Trustee:

(a) Subject to the provisions of the Senior Obligations Intercreditor Agreement, declare that all or any part of any amount outstanding under this Series 2014 Loan Agreement and the Series 2014 Note is (i) immediately due and payable, and/or (ii) payable on demand by the Trustee, and any such notice shall take effect in accordance with its terms but only if all amounts payable with respect to the Outstanding Series 2014 Bonds are being accelerated, or if all of the Outstanding Series 2014 Bonds are being defeased under the terms of the Indenture or otherwise paid; or

(b) Have reasonable access to and inspect, examine and make copies of the books and records and any and all accounts, data and income tax and other tax returns of the Concessionaire during regular business hours of the Concessionaire; or

(c) Subject to the provisions of the Senior Obligations Intercreditor Agreement, take whatever other action at law or in equity may appear necessary or desirable to collect the amounts then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the Concessionaire under this Series 2014 Loan Agreement; or

(d) Subject to the provisions of the Senior Obligations Intercreditor Agreement, pursuant to the terms of the Security Documents, direct the Security Trustee to take any and all actions necessary to implement any available remedies with respect to the Collateral under any Security Document.

Any amounts collected pursuant to action taken under this Section and the Security Documents paid to the Trustee shall be applied in accordance with the provisions of the Indenture.

Section 9.03. No Remedy Exclusive. Subject to Section 7.02 of the Indenture, no remedy hereunder is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Series 2014 Loan Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any Series 2014 Loan Agreement Event of Default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Issuer or the Trustee to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as

may be required by Law or in this Article. Any such rights and remedies as are given to the Issuer hereunder shall also extend to the Owners of the Series 2014 Bonds, the Trustee and the Security Trustee, subject to the provisions of the Indenture, shall be entitled to the benefit of all covenants and agreements herein contained, subject to the terms of the Security Documents.

Section 9.04. Agreement to Pay Attorneys' Fees and Expenses.

(a) If, following the occurrence and during the continuance of an Series 2014 Loan Agreement Event of Default, the Issuer shall employ attorneys or incur other expenses for the collection of payments required hereunder or the enforcement of performance or observance of any obligation or agreement on the part of the Concessionaire herein contained, the Concessionaire agrees that it will on demand therefor pay to the Issuer the reasonable and documented fees of such attorneys and such other reasonable and documented expenses so incurred by the Issuer in connection with the same.

(b) Following the occurrence and during the continuance of a Series 2014 Loan Agreement Event of Default, the Trustee may, at the Concessionaire's reasonable costs and expense, employ or retain such counsel, accountants, appraisers or other experts or advisers as it may reasonably require for the purpose of determining and discharging its rights and duties hereunder and, in the absence of the Trustee's gross negligence, bad faith or willful misconduct in employing or retaining any such counsel, accountants, appraisers, experts or advisors, may act and rely and shall be protected in acting and relying in good faith on the opinion or advice of or information obtained from any counsel, accountant, appraiser or other expert or advisor, whether retained or employed by the Concessionaire or by the Trustee, in relation to any matter arising in the administration hereof, and shall not be responsible for any act or omission on the part of any of them. In addition, the Trustee shall not be liable for any acts or omissions of its nominees, correspondents, designees, agents, subagents or subcustodians except to the extent of its gross negligence, bad faith or willful misconduct in nominating or appointing such persons and so long as such persons are permitted to act hereunder.

Section 9.05. No Additional Waiver Implied by One Waiver. In the event any agreement contained in this Series 2014 Loan Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

ARTICLE X

MISCELLANEOUS

Section 10.01. Term of Agreement. This Series 2014 Loan Agreement shall be effective upon its execution and delivery and shall expire at such time as all of the Series 2014 Bonds and the fees and expenses of the Issuer and the Trustee shall have been fully paid or provision made for such payments, whichever is later; provided, however, that this Series 2014 Loan Agreement may be terminated prior to such date pursuant to Article V hereof and Article XI of the Indenture, but in no event before all of the obligations and duties of the Concessionaire

hereunder have been fully performed, including, without limitation, the payments of all costs and fees mandated hereunder and payment or provision for payment of all Series 2014 Bonds.

Section 10.02. Notices. Any notice, request or other communication required or permitted to be given under this Series 2014 Loan Agreement shall be in writing and deemed to have been properly given when delivered in person, or when sent by email, telecopy and electronic confirmation of error-free receipt is received or two days after being sent by certified or registered United States mail, return receipt requested, postage prepaid, addressed to the party at the address set forth below:

Issuer: Colorado High Performance Transportation Enterprise
c/o Colorado Department of Transportation
2829 W. Howard Place
Denver, Colorado 80204
Attention: Director of the Colorado High
Performance Transportation Enterprise
Telephone: 720-248-8544
Facsimile: [_____]
Email: nicholas.farber@state.co.us

Concessionaire: Plenary Roads Denver LLC
400 Burrard Street, Suite 2000
Vancouver, BC, V6C 3A6
Attention: Nigel Kirkwood/Ed Snider
Telephone: 604-638-3905
Facsimile: 604-638-3906
Email: nigel.kirkwood@plenarygroup.com,
edward.snider@plenarygroup.com

Plenary Roads Denver LLC
1700 Lincoln Street, Suite 2000
Denver, CO, 80203
Attention: Ed Snider
Telephone: 303-839-3800
Facsimile: 303-839-3838
Email: edward.snider@plenarygroup.com

Trustee: The Bank of New York Mellon Trust Company, N.A.
525 William Penn Place
Pittsburgh, PA 15259
Attention: Kevin Rockwell
Telephone: 412-234-7984
Facsimile: 412-236-9271
Email: kevin.rockwell@bnymellon.com

Security Trustee: The Bank of New York Mellon
240 Greenwich Street, 7E
New York, NY 10286
Attention: Mary E. Miselis
Telephone: 212-815-4812
Facsimile: 212-815-5802
Email: mary.miselis@bnymellon.com

A duplicate copy of each notice, certificate or other communication given hereunder by the Issuer or the Concessionaire shall also be given to the Trustee and the Security Trustee. The Issuer, the Concessionaire, the Trustee and the Security Trustee may, by written notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall each be sent.

Section 10.03. Binding Effect. This Series 2014 Loan Agreement shall inure to the benefit of and shall be binding upon the Issuer, the Concessionaire, the Trustee, the Owners of the Series 2014 Bonds and the Security Trustee and their respective successors and assigns, subject, however, to the limitations contained herein. The Trustee, the Owners of Series 2014 Bonds and the Security Trustee shall be third party beneficiaries hereunder.

Section 10.04. Severability. In the event any provision of this Series 2014 Loan Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 10.05. Amendments, Changes and Modifications. Subsequent to the issuance of Series 2014 Bonds and prior to their payment in full (or provision for the payment thereof having been made in accordance with the provisions of the Indenture), and except as otherwise herein expressly provided, this Series 2014 Loan Agreement may not be effectively amended, changed, modified, altered or terminated except in accordance with the provisions of the Indenture.

Section 10.06. Applicable Law and Venue. This Series 2014 Loan Agreement shall be governed by and construed in accordance with the laws of the State. Exclusive jurisdiction and venue for any actions brought hereunder shall in the federal and State courts located in Denver, Colorado.

Section 10.07. Captions. The captions and headings in this Series 2014 Loan Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or Sections of this Series 2014 Loan Agreement.

Section 10.08. Limitation of Liability. No covenant, agreement or obligation contained herein shall be deemed to be a covenant, agreement or obligation of any present or future director, officer, employee, member, shareholder, sponsor or agent of the Issuer or of the Concessionaire in his or her individual capacity so long as such person does not act in bad faith, and no such director, officer, employee or agent thereof shall be subject to any liability under this

Series 2014 Loan Agreement or with respect to any other action taken by such person provided that they do not act in bad faith.

Section 10.09. Colorado Governmental Immunity Act and Federal Torts Claims Act. No term or condition of this Series 2014 Loan Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections or other provisions of the Colorado Governmental Immunity Act, C.R.S. § 24-10-101 et seq., or the Federal Tort Claims Act, 28 U.S.C. §§ 1346(b) and 2671 et seq., as applicable now or hereafter amended.

Section 10.10. Compliance with MSA. Nothing in this Series 2014 Loan Agreement alters in any way the Concessionaire's rights, duties and obligations under the MSA.

Section 10.11. Compliance with Concession Agreement. Nothing in this Series 2014 Loan Agreement alters in any way the Concessionaire's rights, duties and obligations under the Concession Agreement.

Section 10.12. Amendment and Restatement. This Series 2014 Loan Agreement amends and restates in its entirety the Original Series 2014 Loan Agreement and from and after the Restatement Effective Date all references made to the Original Series 2014 Loan Agreement in any other instrument or document shall without more, be deemed to refer to this Series 2014 Loan Agreement. This Series 2014 Loan Agreement shall become effective and supersede all provisions of the Original Series 2014 Loan Agreement upon the execution of this Series 2014 Loan Agreement by each of the parties hereto and the fulfillment of all conditions precedent hereof but is not intended to be or operate as a novation or an accord and satisfaction of the Original Series 2014 Loan Agreement or the indebtedness, obligations and liabilities of the Issuer evidenced or provided for thereunder. Notwithstanding any provisions of this Section 10.12 to the contrary, Sections 7.02 of the Original Series 2014 Loan Agreement shall remain in full force and effect on and after the Restatement Effective Date.

Section 10.13. Execution in Counterparts; Electronic Signatures. This Series 2014 Loan Agreement may be executed in several counterparts, including counterparts that are manually executed and counterparts that are in the form of electronic records and are electronically executed, all or any of which shall be regarded for all purposes as one original and shall constitute and be but one and the same instrument.

An electronic signature means a signature that is executed by symbol attached to or logically associate with a record and adopted by a party with the intent to sign such record, including facsimile or e-mail signatures. The parties hereby acknowledge and agree that electronic records and electronic signatures, as well as facsimile signatures, may be used in connection with the execution of this Series 2014 Loan Agreement and electronic signatures, facsimile signatures or signatures transmitted by electronic mail in so-called PDF format shall be legal and binding and shall have the same full force and effect as if a paper original of this Series 2014 Loan Agreement had been delivered that had been signed using a handwritten signature. All parties to this Series 2014 Loan Agreement (a) agree that an electronic signature, whether digital or encrypted, of a party to this Series 2014 Loan Agreement is intended to authenticate this writing and to have the same force and effect as a manual signature; (ii) intended to be

bound by the signatures (whether original, faxed, or electronic) on any document sent or delivered by facsimile or electronic mail or other electronic means; (iii) are aware that the other party(ies) will rely on such signatures; and, (iv) hereby waive any defenses to the enforcement of the terms of this Series 2014 Loan Agreement based on the foregoing forms of signature. If this Series 2014 Loan Agreement has been executed by electronic signature, all parties executing this Series 2014 Loan Agreement are expressly consenting, under the United States Federal Electronic Signatures in Global and National Commerce Act of 2000 (“**E-SIGN**”), the Colorado Uniform Electronic Transactions Act (“**CETA**”) (C.R.S. Section 24-71.3-101 *et seq.*), the New York Electronic Signatures and Records Act (“**NYESRA**”) or any other similar state laws based on Uniform Electronic Transactions Act, that a signature by fax, e-mail, or other electronic means shall constitute an Electronic Signature to an Electronic Record under E-SIGN, CUETA and NYESRA with respect to this specific transaction.

[Remainder of page intentionally left blank; signature page follows]

IN WITNESS WHEREOF, the parties hereto have caused this Amended and Restated Loan Agreement to be duly executed, all as of the date first above written.

COLORADO HIGH PERFORMANCE
TRANSPORTATION ENTERPRISE, as Issuer

By: _____
Nicholas J. Farber, Director

PLENARY ROADS DENVER LLC, as
Concessionaire

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

[Signature page to Amended and Restated Loan Agreement (Series 2014 Bonds)]

EXHIBIT A
GLOSSARY OF TERMS

“*Acceptable Letter of Credit*” has the meaning assigned to it in Appendix A to the MSA.

“*Account*” means any account established pursuant to the Indenture or any Supplemental Indenture.

“*Additional Senior Bonds*” means Senior Bonds issued in connection with the incurrence of Additional Senior Obligations pursuant to Section 6.09 of the Indenture and Section 6.18 of the Series 2014 Loan Agreement.

“*Additional Senior Bonds Loan Agreement*” means the loan agreement, if any, to be executed by the Issuer and the Concessionaire in connection with the issuance of Additional Senior Bonds, substantially in the form of the Series 2014 Loan Agreement.

“*Additional Senior Creditor*” means any holder of any Additional Senior Obligations incurred by the Concessionaire and any trustee or agent therefor under the related Funding Documents.

“*Additional Senior Loan*” has the meaning given to it in the Additional Senior Bonds Loan Agreement.

“*Additional Senior Obligations*” means additional Indebtedness (including Senior Refinancing Indebtedness) incurred by the Concessionaire which ranks on a parity in lien and right of payment status with the Series 2014 Loan, as permitted under Section 6.18 of the Series 2014 Loan Agreement. Additional Senior Obligations may be incurred by the Concessionaire, from time to time, for one or more of the following purposes: (i) to complete construction of the U.S. 36 Phase 2 Project, (ii) to comply with obligations under the Material Project Contracts, (iii) to refurbish, upgrade, modify, expand or add to the U.S. 36 Project, (iv) to refinance, replace or refund all or part of any then outstanding Indebtedness of the Concessionaire, (v) to fund any debt service reserves with respect to such Additional Senior Obligations, (vi) to pay the costs of issuance of such Additional Senior Obligations, and (vii) for any combination of such purposes.

“*Adverse Tax Event*” means, with respect to a Tax-Exempt Senior Bond, an event that would cause interest on such Tax-Exempt Senior Bond to be included in gross income for federal income tax purposes.

“*Affiliate*” has the meaning assigned to it in Appendix A to the MSA.

“*Aggregate Total Debt Service Coverage Ratio*” means, as of each Calculation Date, the ratio of (a) Net Cash Flow to (b) the sum of (i) all Senior Debt Service, (ii) Debt Service in respect of the TIFIA Phase 2 Loan, and (iii) Subordinated Debt Service, provided that for purposes of such calculation (A) during the Capitalized Interest Period (as defined in the TIFIA Phase 2 Loan Agreement) the Debt Service on the TIFIA Phase 2 Loan shall be deemed to be zero, and

(B) during any future period, projected Net Cash Flow shall be calculated using the most recently updated Base Case Financial Model.

“*Assumed Subordinated Agent*” has the meaning assigned to it in Appendix A to the MSA.

“*Assumed Subordinated Debt*” means term Indebtedness (which shall not permit reborrowings) incurred pursuant to the Assumed Subordinated Loan.

“*Assumed Subordinated Lender*” has the meaning assigned to it in Appendix A to the MSA.

“*Assumed Subordinated Loan*” has the meaning assigned to it in Appendix A to the MSA.

“*Assumed Subordinated Loan Agreement*” has the meaning assigned to it in Appendix A to the MSA.

“*Authorized Denomination*” means, with respect to Series 2014 Bonds, \$5,000 in principal amount and any integral multiple thereof.

“*Authorized Officer*” has the meaning assigned to it in Appendix A to the MSA.

“*Bankruptcy Related Event*” has the meaning assigned to it in Appendix A to the MSA.

“*Base Case Financial Model*” has the meaning assigned to it in Appendix A to the MSA.

“*Beneficial Owners*” means any Person which has or shares the power, directly or indirectly, to make investment decisions concerning ownership of any Senior Bonds (including Persons holding Senior Bonds through nominees, depositories and other intermediaries).

“*Blue Sky Laws*” means the laws and accompanying regulations regulating the offers and sales of securities and of those selling them in each of the 50 states, District of Columbia and territories of Puerto Rico and Guam.

“*Bond Counsel*” means Kutak Rock LLP or other attorneys selected by the Issuer who have nationally recognized expertise in the issuance of municipal securities, the interest on which is excluded from gross income for federal income tax purposes.

“*Bond Proceeds (Costs of Issuance) Subaccount*” has the meaning assigned to it in Appendix A to the MSA.

“*Bond Proceeds (Project Costs) Subaccount*” has the meaning assigned to it in Appendix A to the MSA.

“*Bonds Debt Service Reserve Account*” has the meaning assigned to it in Appendix A to the MSA.

“*Bonds Debt Service Reserve Requirement*” has the meaning assigned to it in Appendix A to the MSA.

“*Borrower Finco*” means Plenary Roads Finco LP, a limited partnership organized under the laws of the State of Delaware, and any successor thereto.

“*Business Day*” means any day other than a Saturday, a Sunday or a day on which offices of the Government or the State of New York or the Commonwealth of Pennsylvania are authorized to be closed or on which commercial banks are authorized or required by law, regulation or executive order to be closed in New York, New York or Pittsburgh, Pennsylvania.

“*Calculation Date*” means each January 1 occurring after the Closing Date, except that Calculation Date shall mean each January 1 and July 1 occurring after the Closing Date for purposes of Sections 6.15(h) and 6.15(i) of the Series 2014 Loan Agreement.

“*Calculation Period*” means a twelve (12) month period ending on the date that is one day prior to a Calculation Date.

“*Cash Interest Subordinated Agent*” has the meaning assigned to it in Appendix A to the MSA.

“*Cash Interest Subordinated Debt*” means term Indebtedness (which shall not permit reborrowings) incurred pursuant to the Cash Interest Subordinated Loan.

“*Cash Interest Subordinated Lender*” has the meaning assigned to it in Appendix A to the MSA.

“*Cash Interest Subordinated Loan*” has the meaning assigned to it in Appendix A to the MSA.

“*Cash Interest Subordinated Loan Agreement*” has the meaning assigned to it in Appendix A to the MSA.

“*Cash Interest Subordinated Loan Proceeds Account*” has the meaning assigned to it in Appendix A to the MSA.

“*Cash Interest Subordinated Loan Debt Service Account*” has the meaning assigned to it in Appendix A to the MSA.

“*Cash Reserve Account*” has the meaning assigned to it in Appendix A to the MSA.

“*Cash Reserve Requirement*” has the meaning assigned to it in Appendix A to the MSA.

“*CDOT*” means the Colorado Department of Transportation created in C.R.S. Section 24-1-128.7 and any successor thereto.

“*CDPQ*” means Caisse de dépôt et placement du Québec.

“*CDPQ Acquisition*” means the acquisition of various infrastructure projects by Plenary North American Concessions Inc., a subsidiary of CDPQ, from Plenary Group Holding Ltd.

“*Change of Control*” has the meaning set forth in Section 6.28 of the Series 2014 Loan Agreement

“*Closing Date*” means February 26, 2014.

“*Code*” means the Internal Revenue Code of 1986, as amended, and regulations thereunder.

“*C.R.S.*” means the Colorado Revised Statutes, as amended.

“*Collateral*” has the meaning assigned to it in Appendix A to the MSA.

“*Concession Agreement*” means the Amended and Restated Concession Agreement, dated February 25, 2014, by and between HPTE and the Concessionaire, as amended and supplemented from time to time.

“*Concessionaire*” means Plenary Roads Denver LLC, a limited liability company organized under the laws of the State of Colorado, and any successor thereto.

“*Corporate Trust Office*” means the corporate trust office of the Trustee located at 525 William Penn Place, Pittsburgh, PA 15259. The Trustee may hereafter designate alternate Corporate Trust Offices and any successor Trustee shall designate its Corporate Trust Office by written notice delivered to the Issuer.

“*Costs of Issuance*” has the meaning assigned to it in Appendix A to the MSA.

“*CPI*” means the Consumer Price Index for All Urban Consumers (CPI-U) for the U.S. City Average for All Items, 1982-84=100 (not seasonally adjusted), or its successor, published by the Bureau of Labor Statistics with, unless otherwise specified herein, January 2014 as the base period.

“*Cross Default Funding Document*” means the Funding Documents listed in clauses (b), (e) (as such clause (e) relates to Senior Obligations), (g), (h), (k) (as such clause (k) relates to Senior Obligations), and (o) (as such clause (o) relates to Senior Obligations) of the definition of “Funding Documents” set forth in the MSA.

“*Debt Service*” means with respect of each of the Series 2014 Loan, the TIFIA Phase 1 Loan, the TIFIA Phase 2 Loan, the Assumed Subordinated Loan, the Cash Interest Subordinated Loan or any other Permitted Indebtedness of the Concessionaire, the principal (including any mandatory sinking fund payments) and interest payable in respect thereof, as appropriate.

“*Default*” means any event of condition that, with the giving of any notice, the passage of time, or both, would be an Indenture Event of Default or a Series 2014 Loan Agreement Event of Default.

“*Defeasance Escrow Fund*” means any trust account into which money and/or Defeasance Securities are deposited for the purpose of defeasing any Senior Bonds in accordance with Section 11.02 of the Indenture.

“*Defeasance Securities*” means Permitted Investments which are:

- (a) cash;
- (b) U.S. Treasury Bonds, Notes and Bonds, including State and Local Government Series (“**SLGS**”);
- (c) direct obligations of the U.S. Treasury which have been stripped by the Treasury itself and CATS, TIGRS and similar securities;
- (d) Resolution Funding Corp. (REFCORP): only the interest component of REFCORP strips which have been stripped by request to the Federal Reserve Bank of New York in book entry form;
- (e) pre-refunded municipal bonds rated in the same or a higher rating category than direct obligations of the U.S. Treasury by Moody’s and rated in the same or a higher rating category than direct obligations of the U.S. Treasury by S&P; provided that if the issue is only rated by S&P (i.e., there is no Moody’s rating), then the pre-refunded municipal bonds must have been pre-refunded with cash, direct U.S. or U.S. guaranteed obligations, or pre-refunded municipal bonds rated in the same or a higher rating category than direct obligations of the U.S. Treasury; and
- (f) the following obligations issued by the following agencies if such obligations are backed or guaranteed by the full faith and credit of the United States or the full faith and credit of the United States is pledged for the payment of principal of and interest on such obligations:
 - (i) U.S. Export-Import Bank (Eximbank) direct obligations or fully guaranteed certificates of beneficial ownership;
 - (ii) Farmers Home Administration (FmHA) certificates of beneficial ownership;
 - (iii) Federal Financing Bank;
 - (iv) General Services Administration participation certificates;
 - (v) U.S. Maritime Administration Guaranteed Title XI financing;
 - (vi) U.S. Department of Housing and Urban Development (HUD):
 - (A) Project Notes;
 - (B) Local Transportation Enterprise Bonds;
 - (C) New Communities Debentures—U.S. government guaranteed debentures; and

(D) U.S. Public Housing Notes and Bonds—U.S. government guaranteed public housing notes and bonds.

“*Design-Build Contract*” has the meaning assigned to it in Appendix A to the MSA.

“*Design-Build Contractor*” means Ames/Granite JV, a joint venture formed by its members Ames Construction, Inc., a Minnesota corporation, and Granite Construction Company, a California corporation, each holding a joint and several interest, in its capacity as construction contractor under the Design-Build Contract for the U.S. 36 Phase 2 Project.

“*Determination of Taxability*” means the occurrence of any of the following: (a) either the Trustee or the Issuer has received written notice from the Concessionaire, supported by an opinion of nationally recognized bond counsel, that an Event of Taxability has occurred, (b) either the Trustee or the Issuer has received written notice that the Commissioner of Internal Revenue or any District Director of Internal Revenue has issued a statutory notice of deficiency, or document of substantially similar import due to the occurrence of an Event of Taxability, or (c) the Issuer has received written notice from the Trustee that the Trustee has been advised by any taxpaying owner of the Series 2014 Bonds or former owner of Series 2014 Bonds that the Internal Revenue Service has assessed as includible in the gross income of such owner the interest on such owners Series 2014 Bond or Series 2014 Bonds due to the occurrence of an Event of Taxability; provided, however, that in respect of clauses (b) and (c) above, a Determination of Taxability shall not be deemed to have occurred unless and until the Concessionaire has been notified of the allegation that an Event of Taxability has occurred and either (i) the Concessionaire fails to commence a contest of such allegation in good faith and by appropriate legal or administrative proceeding within sixty (60) days following such notification; or (ii) the Concessionaire does commence such contest within such time, but thereafter fails to pursue it diligently, in good faith and by appropriate legal or administrative proceeding to a final order or judgment by a court or administrative body of competent jurisdiction; or (iii) such contest results in a final order of judgment of a court or administrative body of competent jurisdiction to the effect that an Event of Taxability has occurred and the time for any appeal of such order or judgment has expired.

“*Direct Agreements*” has the meaning assigned to it in Appendix A to the MSA.

“*Director*” means the Director of the Colorado High Performance Transportation Enterprise.

“*Disposition*” or “*Dispose*” means the sale, transfer, license, lease or other disposition (including any sale and leaseback transaction) of any property by any Person (or the granting of any option or other right to do any of the foregoing), including any sale, assignment, transfer or other disposal, with or without recourse, of any notes or accounts receivable or any rights and claims associated therewith or of any Equity Interests owned by such Person.

“*Distribution Account*” has the meaning assigned to it in Appendix A to the MSA.

“*DRCOG*” means the Denver Regional Council of Governments, a nonprofit association of local governments from the Denver metropolitan area, including Adams, Arapahoe, Boulder, Clear Creek, Douglas, Gilpin and Jefferson counties, the City and County of Denver, the City and County of Broomfield, and southwest Weld County.

“*Effective Date Subordinated Debt*” means the Assumed Subordinated Debt and the Cash Interest Subordinated Debt.

[“*Equity Contribution Agreement*” has the meaning assigned to it in Appendix A to the MSA.]

“*Equity Interests*” means the shares, units, membership interests, partnership units or other equity interests (however denoted) in the Concessionaire.

[“*Equity Lock-up Account*” has the meaning assigned to it in Appendix A to the MSA.]

[“*Equity Subaccount*” has the meaning assigned to it in Appendix A to the MSA.]

“*Event of Taxability*” means any event, condition or circumstance which has the effect or result that interest on a Series 2014 Bond is not excludable for federal income tax purposes from the gross income of an Owner such Series 2014 Bond or a former Owner of such Series 2014 Bond under Section 103 of the Code, other than for a period during which such Owner of such Series 2014 Bond or a former Owner of such Series 2014 Bond is or was a “substantial user” of the Project or a “related person” for purposes of Section 147(a) of the Code, that results from the failure of the Concessionaire to take any action or to omit to take any action or that results from the inaccuracy of any representation by the Concessionaire under the Series 2014 Loan Agreement or the Tax Regulatory Agreement. An Event of Taxability does not include any event, condition or circumstance which results in the interest on a Series 2014 Bond being a preference item subject to an alternative minimum tax, or any other tax consequences which depend upon an Owner of such Series 2014 Bond particular tax status.

“*FASTER*” means the Funding Advancements for Surface Transportation and Economic Recovery Act of 2009, title 43, article 4, part 8, Colorado Revised Statutes, as amended from time to time.

“*Favorable Opinion of Bond Counsel*” means an opinion of Bond Counsel, addressed to the Issuer, the Concessionaire and the Trustee, to the effect that the action proposed to be taken is authorized or permitted by *FASTER* and the Indenture and will not adversely affect any exclusion from gross income for federal income tax purposes of interest on the Series 2014 Bonds, other than for a period during which an Owner or a former Owner is or was a Substantial User of the Project or a “related person” for purposes of Section 147(a) of the Code.

“*Final Maturity Date*” means with respect to the Series 2014 Bonds and the Series 2014 Loan, January 1, 2044, and with respect to any Additional Senior Bonds and Additional Senior Obligations, the final maturity date set forth in the applicable Supplemental Indenture or Additional Loan Agreement.

“*Financial Consultant*” means a Person who (a) is retained by the Concessionaire, (b) is not, and none of whose officers, directors or employees is, an officer, director or employee of the Concessionaire or the Issuer, and (c) is a registered broker-dealer or municipal advisor experienced and has a national and favorable reputation with respect to public finance matters.

“*Fitch*” means Fitch Ratings, Inc. and any successor thereto.

[“*Full Services Commencement Date*” has the meaning set forth in the Concession Agreement.]

[“*Full Services Commencement Longstop Date*” has the meaning set forth in the Concession Agreement.]

“*Fund*” means any fund established pursuant to the Indenture or any Supplemental Indenture.

“*Funding Documents*” has the meaning assigned to it in Appendix A to the MSA.

“*GAAP*” means generally accepted accounting principles as defined by the American Institute of Certified Public Accountants or such other nationally recognized professional body, in effect from time to time in the United States of America, consistently applied.

“*Government*” means the United States of America and its departments and agencies

“*Governmental Authority*” means any federal, state, provincial, county, city, town, village, municipal or other government or governmental department, commission, council, court, board, bureau, agency, authority or instrumentality (whether executive, legislative, judicial, administrative or regulatory), of or within the United States of America or its territories or possessions (including the State and its counties and municipalities) or Canada or its provinces or territories, and their respective courts, agencies, instrumentalities and regulatory bodies, or any entity that acts “on behalf of” any of the foregoing, whether as an agency or authority of such body.

“*Handback Requirements Reserve Account*” has the meaning assigned to it in Appendix A to the MSA.

“*Handback Reserve Requirement*” means such amounts that are required to be deposited into the Handback Reserve Fund (as defined in the Concession Agreement) pursuant to Section 48.8 of the Concession Agreement.

“*Hedge Agreement*” means (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules, a “**Master Agreement**”), including any such obligations or liabilities under any Master Agreement.

“*HPTE*” means the Colorado High Performance Transportation Enterprise, a government-owned business within the Colorado Department of Transportation and a division of the Colorado Department of Transportation, as the public sector party to the Concession Agreement, and any successor thereto.

“*I-25 Managed Lanes*” has the meaning set forth in the Concession Agreement.

“*I-25 Project*” means the operation and maintenance of the I-25 Managed Lanes and the I-25 Shared Bridge Decks (as such terms are defined in the Concession Agreement) and the tolling of the I-25 Managed Lanes, in each case, in accordance with the terms of the Concession Agreement and each other applicable Transaction Document.

“*IFRS*” means the International Financial Reporting Standards recommended by the Canadian Accounting Standards Board, consistently applied.

“*Indebtedness*” of any Person means, without duplication, (a) all indebtedness of such Person for borrowed money, (b) all obligations of such Person for the deferred purchase price of property or services (c) all obligations of such Person evidenced by notes, bonds, debentures or other similar instruments, (d) all obligations of such Person created or arising under any conditional sale or other title retention agreement with respect to property acquired by such Person (even though the rights and remedies of the seller or lender under such agreement in the event of default are limited to repossession or sale of such property), (e) all obligations of such Person as lessee under leases that have been or should be, in accordance with IFRS and, if required under applicable law, GAAP, recorded as capital leases, (f) all obligations, contingent or otherwise, of such Person in respect of letters of credit, bankers’ acceptances, bank guaranties, surety bonds or similar extensions of credit, (g) all obligations of such Person in respect of a Hedge Agreement, (h) indebtedness secured by a Lien on property owned or being purchased by such Person, whether or not such indebtedness shall have been assumed by such Person or is limited in recourse and (i) all Indebtedness of others referred to in clauses (a) through (h) above and other payment obligations (collectively, “**Guaranteed Indebtedness**”) guaranteed directly or indirectly in any manner by such Person, or in effect guaranteed directly or indirectly by such Person through an agreement (i) to pay or purchase such Guaranteed Indebtedness or to advance or supply funds for the payment or purchase of such Guaranteed Indebtedness, (ii) to purchase, sell or lease (as lessee or lessor) property, or to purchase or sell services, primarily for the purpose of enabling the debtor to make payment of such Guaranteed Indebtedness or to assure the holder of such Guaranteed Indebtedness against loss, (iii) to supply funds to or in any other manner invest in the debtor (including any agreement to pay for property or services irrespective of whether such property is received or such services are rendered) or (iv) otherwise to assure a creditor against loss.

“*Indenture*” or “*Phase 2 Indenture*” means the Amended and Restated Trust Indenture, dated [●], 2020, by and between the Issuer and the Trustee, as amended and supplemented from time to time.

“*Indenture Event of Default*” has the meaning set forth in Section 7.01 of the Indenture.

“*Independent Engineer*” has the meaning assigned to it in Appendix A to the MSA.

“*Insolvency Laws*” means the United States Bankruptcy Code, 11 U.S.C. §§ 101 et seq., as from time to time amended and in effect, and any state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect.

“*Intercreditor Agent*” means The Bank of New York Mellon, in its capacity as intercreditor agent under the Senior Obligations Intercreditor Agreement, and any successor thereto.

“*Interest Payment Date*” means (a) with respect to the Series 2014 Bonds, each January 1 and July 1, commencing July 1, 2014, the dates upon which interest on the Series 2014 Bonds becomes due and payable, and (b) with respect to any Additional Senior Bonds, the Interest Payment Date(s) set forth in a Supplemental Indenture.

“*Investment Grade Rating*” means a rating assigned by a Rating Agency which is no lower than “BBB-” or “Baa3.”

“*Issuer*” means the Colorado High Performance Transportation Enterprise, a government-owned business within the Colorado Department of Transportation and a division of the Colorado Department of Transportation, and any successor thereto, in its capacity as issuer of the Series 2014 Bonds and any Additional Senior Bonds.

“*Issuer Representative*” means the Director any other officer or employee of the Issuer authorized by law or by a writing signed by the Director to act as an Issuer Representative under the Indenture, a Supplemental Indenture, the Series 2014 Loan Agreement and any Additional Senior Bonds Loan Agreement.

“*Law*” means any federal, state, local and municipal laws, rules and regulations, orders, codes, directives, permits, approvals, decisions, decrees, ordinances or by-laws having the force of law and any common or civil law, whether adopted or enacted prior to or after the date hereof including binding court and judicial decisions having the force of law, and includes any amendment, extension or re-enactment of any of the same in force from time to time and all other instruments, orders and regulations made pursuant to statute.

“*Lien*” means any mortgage, deed of trust, pledge, hypothecation, assignment, mandatory deposit arrangement, encumbrance, lien (statutory or other), security interest, or preference, priority or other security agreement of any kind or nature whatsoever, including any sale-leaseback arrangement, any conditional sale or other title retention agreement, any financing lease having substantially the same effect as any of the foregoing, and the filing of any financing statement or similar instrument under the UCC or comparable law.

“*MSA*” means the Amended and Restated Master Security Agreement, dated as of [●], 2020, by and among the Issuer, the Trustee, the Security Trustee, the Intercreditor Agent, the United States Department of Transportation, as TIFIA Phase 1 Lender, the United States Department of Transportation, as TIFIA Phase 2 Lender, Northleaf/PRD LenderCo LP, as the Assumed Subordinated Lender, the Cash Interest Subordinated Lender, the Assumed Subordinated Agent and the Cash Interest Subordinated Agent, the Concessionaire, and such other parties as accede thereto from time to time as Secured Parties in accordance with the terms thereof, as amended from time to time.

“*Major Maintenance Reserve Account*” has the meaning assigned to it in Appendix A to the MSA.

“*Major Maintenance Reserve Requirement*” has the meaning assigned to it in Appendix A to the MSA.

“*Managed Lanes*” has the meaning assigned to it in the Concession Agreement.

“*Management and Finance Services Agreements*” has the meaning assigned to it in Appendix A to the MSA.

“*Material Adverse Effect*” means a material adverse effect on (a) the U.S. 36 Project (or any Segment thereof), or the business, property or financial condition of the Concessionaire, (b) the ability of the Concessionaire or the Member to perform or comply with any of its material obligations under the Funding Documents or the Material Project Contracts to which it is a party, (c) prior to the Substantial Completion Date, the business, property or financial condition of the Sponsor relating to the U.S. 36 Project or the Sponsor’s ability to perform or comply with any of its material obligations under the Equity Contribution Agreement, (d) the validity, perfection or priority of the Liens on the Collateral in favor of the Security Trustee or (f) the rights or benefits of the Issuer, the Trustee or the Owners of the Series 2014 Bonds available under the Series 2014 Loan Agreement or the Indenture.

“*Material Project Contracts*” has the meaning assigned to it in Appendix A to the MSA.

“*Member*” or “*Sponsor Member*” means Plenary Roads Denver Ltd., a corporation established under the laws of the State of Colorado, and any successor thereto.

“*Member Indemnity Party*” means (a) each Member Related Party, (b) the Design-Build Contractor, (c) any Person for whom the Concessionaire may be legally or contractually responsible and (d) the employees, agents, officers, directors, shareholders, members, representatives, consultants, successors and assigns of any of the foregoing.

“*Member Related Party*” means, individually or collectively, the Concessionaire, the Member and the Sponsor.

“*Monthly Transfer Date*” has the meaning assigned to it in Appendix A to the MSA.

“*Moody’s*” means Moody’s Investor Services, Inc. and any successor thereto.

“*NEPA*” means the National Environmental Policy Act of 1969 (42 U.S.C. §§ 4321 et seq.).

“*Net Cash Flow*” has the meaning assigned to it in Appendix A to the MSA.

“*Net Loss Proceeds*” has the meaning assigned to it in Appendix A to the MSA.

“*O&M Contract*” has the meaning assigned to it in Appendix A to the MSA.

“*O&M Contractor*” has the meaning assigned to it in Appendix A to the MSA.

“*O&M Expenses*” has the meaning assigned to it in Appendix A to the MSA.

“*O&M Reserve Account*” has the meaning assigned to it in Appendix A to the MSA.

“*O&M Reserve Requirement*” has the meaning assigned to it in Appendix A to the MSA.

“*Organizational Documents*” means, with respect to any Person, (a) to the extent such Person is a corporation, the certificate or articles of incorporation and the by-laws of such Person, (b) to the extent such Person is a limited liability company, the certificate of formation or articles of formation or organization and operating or limited liability company agreement of such Person and (c) to the extent such Person is a partnership, joint venture, trust or other form of business, the partnership, joint venture or other applicable agreement of formation or organization and any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization and, if applicable, any certificate or articles of formation or organization or formation of such Person.

“*Original HPTE Direct Agreement*” means the direct agreement among HPTE, the Concessionaire and the Security Trustee dated on or about the Closing Date.

“*Original Security Agreement*” has the meaning assigned to it in the recitals in the MSA.

“*Original Security Documents*” means the Original Security Agreement, the Pledge Agreements, the Director Agreements (other than the HPTE Direct Agreement), the Original HPTE Direct Agreement and each other document or instrument from time to time pursuant to which a Lien or security interest is granted or perfected with regard to the Collateral.

“*Original Series 2014 Tax Regulatory Agreement*” means the Tax Regulatory Agreement dated February 26, 2014, by the Issuer, the Borrower Finco and the Concessionaire with respect to the Series 2014 Bonds.

“*Outstanding*” means all Senior Bonds that have been executed and delivered, except:

(a) any Senior Bond on which all principal of and interest due or to become due has been paid at maturity;

(g) any Senior Bond on which the Redemption Price due or to become due has been paid in accordance with the redemption provisions applicable to such Senior Bond;

(h) Senior Bonds in lieu of which other Senior Bonds have been executed and delivered pursuant to the provisions of the Indenture relating to the transfer and exchange of Senior Bonds or the replacement of mutilated, lost, stolen or destroyed Senior Bonds;

(i) Senior Bonds that have been canceled by the Trustee or that have been surrendered to the Trustee for cancellation;

(j) Senior Bonds on which all of the principal, interest or Redemption Price is due and for which the Trustee holds moneys sufficient to pay the principal, interest or

Redemption Price for the benefit of the Owner thereof pursuant to Section 4.01 of the Indenture; and

(k) Senior Bonds that have been defeased pursuant to Article XI of the Indenture.

“*Owner*” means the registered owner of any Senior Bond as shown in the registration records of the Trustee.

“*Participants*” means the participants of the Securities Depository which include securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations.

“*Permitted Affiliate Subordinated Debt*” has the meaning assigned to it in Appendix A to the MSA.

“*Permitted Hedging Arrangement*” means an interest rate swap, cap, collar, option, floor, forward or other hedging agreement, arrangement or security, however denominated, identified by the Concessionaire in a certificate signed by an officer of the Concessionaire as having been entered into by the Concessionaire with a Qualified Provider not for investment purposes but with respect to Permitted Indebtedness (which Permitted Indebtedness shall be specifically identified in the certificate) for the purpose of (a) reducing or otherwise managing the Concessionaire’s risk of interest rate changes or (b) effectively converting the Concessionaire’s interest rate exposure, in whole or in part, from a fixed rate exposure to a variable rate exposure, or from a variable rate exposure to a fixed rate exposure.

“*Permitted Indebtedness*” means:

- (a) the Series 2014 Loan;
- (b) Indebtedness under the TIFIA Phase 1 Loan Agreement in an aggregate principal amount not to exceed \$54,000,000 plus the amount of capitalized interest accrued pursuant to the terms of the TIFIA Phase 1 Loan Agreement
- (c) Indebtedness under the TIFIA Phase 2 Loan Agreement in an aggregate principal amount not to exceed \$60,000,000, plus the amount of capitalized interest accrued pursuant to the terms of the TIFIA Phase 2 Loan Agreement;
- (d) Assumed Subordinated Debt in an aggregate principal amount not to exceed \$20,554,455;
- (e) Cash Interest Subordinated Debt in an aggregate principal amount not to exceed \$9,296,933;
- (f) any Additional Senior Obligations;
- (g) any Subordinated Refinancing Debt or Permitted Subordinated Debt;
- (h) any Permitted Hedging Arrangement;

- (i) Permitted Affiliate Subordinated Debt;
- (j) reimbursement obligations in respect of letters of credit, and other financial obligations, arising under the Material Project Contracts or any other agreement executed by the Concessionaire in connection with the U.S. 36 Project that are payable as Project Costs or O&M Expenses to the extent the same constitute Indebtedness and that do not in the aggregate have face amounts exceeding \$1,000,000 (inflated annually by CPI) at any time;
- (k) purchase money obligations or capitalized leases incurred to finance discrete items of equipment not comprising an integral part of the U.S. 36 Project that are payable as O&M Expenses and that do not in the aggregate have annual debt service or lease payment obligations exceeding \$500,000 (inflated annually by CPI) at any time;
- (l) trade accounts or accrued expenses (incurred in the ordinary course of business) payable (other than for borrowed money) so long as such trade accounts or expenses payable are not overdue by more than ninety (90) days (unless subject to a good faith contest); and
- (m) amounts payable under the Concession Agreement or any other Material Project Contract to the extent the same constitute Indebtedness.

“Permitted Investments” means:

- (a) with respect to moneys in any fund, subfund, account or subaccount other than any Defeasance Escrow Fund, investments authorized in C.R.S. Sections 24-36-109, 24-36-112 and 24-36-113 or any successor thereto; and
- (b) with respect to any Defeasance Escrow Fund, Defeasance Securities.

“Permitted Liens” has the meaning assigned to it in Appendix A to the MSA.

“Permitted Subordinated Debt” means Indebtedness incurred by the Concessionaire which ranks on a parity in lien and right of payment status with the Effective Date Subordinated Debt that is incurred (a) to complete construction of the U.S. 36 Phase 2 Project, (b) to comply with obligations under the Material Project Contracts, (c) to refurbish, upgrade, modify, expand or add to the U.S. 36 Project, (d) to refinance, replace or refund all or part of any then outstanding Indebtedness of the Concessionaire, (e) to fund any debt service reserves with respect to such Indebtedness, (f) to pay the costs of issuance of such Indebtedness, and (g) for any combination of such purposes, provided that: (i) no Series 2014 Loan Agreement Event of Default has occurred and is continuing at the time of incurrence of such Indebtedness, (ii) such Indebtedness shall have interest payment dates (except for Permitted Subordinate Debt issued as Variable Rate Indebtedness) and principal payment dates that coincide with the Interest Payment Dates (regardless of whether the final maturity date of such Indebtedness is a date that is later than the final maturity date of the Series 2014 Loan), (iii) at the time of incurrence of such Indebtedness the Trustee receives a certification from the Concessionaire stating that after giving effect to the incurrence of such Indebtedness (A) the Aggregate Total Debt Service Coverage Ratio for each full Calculation Period occurring between the date of incurrence of such Indebtedness and the

Final Maturity Date of the Series 2014 Bonds will not be less than 1.15:1.00, and (B) the Senior Debt Service Coverage Ratio for each full Calculation Period occurring between the date of incurrence of such Indebtedness and the Final Maturity Date of the Series 2014 Bonds will not be less than 1.25:1.00, in each case, on a pro forma basis, and (iv) each lender or holder of any such Permitted Subordinated Debt (or an agent or trustee acting on its behalf) at the time of execution of any documentation with respect thereto shall become a party to and be bound by the MSA and the Subordinated Obligations Intercreditor Agreement.

“*Person*” means any natural person, firm, corporation, partnership, limited liability company, state, political subdivision of any state, other public body or other organization or association.

“*Phase 2 Work*” has the meaning set forth in the Concession Agreement.

“*Pledge Agreements*” as the meaning assigned to it in Appendix A to the MSA.

“*Principal Payment Date*” means any date on which the principal (including mandatory sinking fund redemption payments) of the Senior Bonds becomes due and payable.

“*Project*” has the meaning set forth in the Concession Agreement.

“*Project Accounts*” has the meaning assigned to it in Appendix A to the MSA.

“*Project Costs*” has the meaning assigned to it in Appendix A to the MSA.

“*Project Revenues*” has the meaning assigned to it in Appendix A to the MSA.

“*Qualified Provider*” means any financial institution or insurance company which is a party to a Permitted Hedging Arrangement if the unsecured long-term debt obligations of such financial institution or insurance company (or of the parent or a subsidiary of such financial institution or insurance company if such parent or subsidiary guarantees the performance of such financial institution or insurance company under such Permitted Hedging Arrangement), or obligations secured or supported by a letter of credit, contract, guarantee, agreement, insurance policy or surety bond issued by such financial institution or insurance company (or such guarantor parent or subsidiary), are rated in one of the three highest rating categories (without regard to numerical or similar modifiers) of a Rating Agency at the time of the execution and delivery of the Permitted Hedging Arrangement.

“*Ramp Up Reserve Account*” has the meaning assigned to it in Appendix A to the MSA.

“*Ramp Up Reserve Requirement*” shall mean the amounts required to be on deposit in the Ramp Up Reserve Account pursuant to Section 4.11 of the MSA.

“*Rating Agency*” means S&P, Moody’s, Fitch or any other nationally recognized statistical rating organization identified as such by the United States Securities and Exchange Commission.

“*Record Date*” means (a) with respect to the Series 2014 Bonds, for a January 1 Interest Payment Date the preceding December 15 and for a July 1 Interest Payment Date the preceding

June 15, notwithstanding whether such December 15 or June 15 is a Business Day, and (b) with respect to any Additional Senior Bonds, the Record Date set forth in the Supplemental Indenture.

“*Redemption Price*” means the amount due on a Senior Bond on the date on which it is redeemed prior to maturity pursuant to the redemption provisions applicable to such Senior Bond. Such term does not include the principal and interest due on Senior Bonds that are Term Bonds on the dates such Senior Bonds are to be redeemed in accordance with a mandatory sinking fund redemption or mandatory pro rata redemption schedule set forth in the Indenture or a Supplemental Indenture.

“*Representation Letter*” means the Blanket Issuer Letter of Representations dated January 16, 2014 from the Issuer to The Depository Trust Company.

“*Reserved Rights*” means amounts payable to the Issuer under Sections 4.01(b), 7.02 and 9.04 of the Series 2014 Loan Agreement and the corresponding provisions under any Additional Senior Bonds Loan Agreement.

“*Restatement Effective Date*” means [•], 2020.

“*S&P*” means S&P Global Ratings, a division of Standard & Poor’s Financial Services LLC, and any successor thereto.

“*Secured Creditor*” means each of the Issuer, the Trustee (on behalf of the Owners of the Series 2014 Bonds), the TIFIA Phase 1 Lender, the TIFIA Phase 2 Lender, the Subordinated Lenders, the Subordinated Agents, any Additional Senior Creditor, any Person providing Subordinated Refinancing Debt, any Person providing Permitted Subordinated Debt and any Person providing Permitted Hedging Arrangements.

“*Secured Obligations*” has the meaning assigned to it in Appendix A to the MSA.

“*Secured Party*” has the meaning assigned to it in Appendix A to the MSA.

“*Securities Depository*” means The Depository Trust Company and its successors and assigns, or any other depository selected as set forth in Section 3.06 of the Indenture, which agrees to follow the procedures required to be followed by such depository in connection with the Series 2014 Bonds.

“*Securities Act*” means the Securities Act of 1933, as amended from time to time, and the rules and regulations promulgated thereunder from time to time.

“*Security Documents*” means the MSA, the Pledge Agreements, the Direct Agreements and each other document or instrument from time to time pursuant to which a Lien or security interest is granted or perfected with regard to the Collateral.

“*Security Interest*” means any mortgage, pledge, hypothecation, assignment, mandatory deposit arrangement, encumbrance, attachment, lien (statutory or other), charge or other security interest, or preference, priority or other security agreement or preferential arrangement of any kind or nature whatsoever, including any sale-leaseback arrangement, any conditional sale or other title

retention agreement, any financing lease having substantially the same effect as any of the foregoing, and the filing of any financing statement or similar instrument under the UCC or comparable law.

“*Security Trustee*” means The Bank of New York Mellon, acting in its capacity as security trustee under the MSA, and any successor appointed under the MSA.

“*Segregated Bonds Accounts*” means the Bond Proceeds (Costs of Issuance) Subaccount, the Bond Proceeds (Project Costs) Subaccount and the Bonds Debt Service Reserve Account.

“*Segregated Subordinated Loan Accounts*” means the Cash Interest Subordinated Loan Proceeds Account, the Subordinated Loan Lock-up Account and the Cash Interest Subordinated Loan Debt Service Account.

“*Segregated TIFIA Phase 1 Account*” means the TIFIA Phase 1 Debt Service Reserve Account.

“*Segregated TIFIA Phase 2 Accounts*” means the TIFIA Phase 2 Loan Subaccount and the TIFIA Phase 2 Debt Service Reserve Account.

“*Senior Bonds*” means, collectively, the Series 2014 Bonds and any Additional Senior Bonds.

“*Senior Debt Service*” means, for any period, as of any date of calculation, an amount equal to the sum of all fees and interest and principal of the Senior Obligations accruing and payable during such period as set forth in the Base Case Financial Model (as it may be updated pursuant to the terms of the Funding Documents). In determining the principal amount of the Concessionaire Senior Obligations during such period, payment shall be assumed to be made in accordance with any amortization schedule established in respect thereof. Except with respect to Variable Rate Indebtedness, in determining the interest amount on the Senior Obligations during such period, payment shall be assumed to be made at the interest rate(s) and on the interest payment dates established in respect thereof and set forth in the applicable Senior Loan Documents. In determining the interest amount on Concessionaire Senior Obligations or Concessionaire Senior Obligations, as applicable, that are incurred as Variable Rate Indebtedness, the Variable Rate Indebtedness Interest Rate Assumption shall apply; provided that if a Permitted Hedging Arrangement has been entered into by the Concessionaire with respect to such Variable Rate Indebtedness, the interest amount on such Variable Rate Indebtedness shall be determined at the rate payable by the Concessionaire as provided by the terms of the Permitted Hedging Arrangement or the net interest rate payable by the Concessionaire pursuant to offsetting indices as set forth in the Permitted Hedging Arrangement.

“*Senior Debt Service Coverage Ratio*” means, as of each Calculation Date, the ratio of Net Cash Flow, for the Calculation Period ending on such Calculation Date, to Senior Debt Service, for the Calculation Period ending on such Calculation Date, provided that, during any future period, projected Net Cash Flow shall be calculated using the most recently updated Base Case Financial Model.

“*Senior Loan Agreement*” means the Series 2014 Loan Agreement, the TIFIA Phase 1 Loan Agreement and any other loan agreement or similar document entered into by the Concessionaire in connection with the incurrence of Additional Senior Obligations (including any Additional Senior Bonds Loan Agreement).

“*Senior Loan Documents*” means each Senior Loan Agreement, the Security Documents, any agreements and documents executed by the Concessionaire in connection with a hedging arrangement entered into pursuant to or in connection with any Senior Loan Agreement, and all other agreements, instruments and documents executed and delivered pursuant to or in connection with any of the foregoing.

“*Senior Obligations*” has the meaning assigned to it in Appendix A to the MSA.

“*Senior Obligations Intercreditor Agreement*” means the Amended and Restated Subordination and Intercreditor Agreement, dated as of [●], 2020, among the TIFIA Phase 2 Lender, the TIFIA Phase 1 Lender, the Trustee, the Security Trustee and the Intercreditor Agent.

“*Senior Refinancing Indebtedness*” means Additional Senior Obligations (a) issued or incurred solely for the purpose of (i) refinancing, replacing or refunding Senior Obligations, (ii) making a deposit to any debt service reserve fund, if necessary, and (iii) paying the costs of issuance of such Additional Senior Obligations, and (b) that meet the requirements set forth in Section 6.18(c) of the Series 2014 Loan Agreement.

“*Series*” means the Senior Bonds designated as a separate series in a Supplemental Indenture and any Senior Bonds authenticated and delivered in lieu of or in substitution for such Senior Bonds pursuant to the Indenture.

“*Series 2014 Additional Payment*” means the amounts required to be paid by the Concessionaire pursuant to the provisions of Sections 4.01(b), (c) and (d) of the Series 2014 Loan Agreement.

“*Series 2014 Bond Purchase Agreement*” means the Bond Purchase Agreement, dated February 20, 2014, by and among the Underwriter, the Issuer, the Borrower Finco and the Concessionaire, entered into with respect to the Series 2014 Bonds.

“*Series 2014 Bonds*” means the Colorado High Performance Transportation Enterprise U.S. 36 and I-25 Managed Lanes Senior Revenue Bonds Series 2014 issued in the original aggregate principal amount of \$20,360,000 pursuant to the Indenture.

“*Series 2014 Continuing Disclosure Agreement*” means the Amended and Restated Continuing Disclosure Agreement, dated [●], 2020, by and between the Concessionaire and the Trustee, as amended from time to time.

“*Series 2014 Debt Service Fund*” means the fund of such designation as established pursuant to Section 5.01 of the Indenture.

“*Series 2014 Interest Account*” means the Account of such designation established in the Series 2014 Debt Service Fund pursuant to Section 5.01 of the Indenture.

“*Series 2014 Loan*” has the meaning set forth in Section 3.01 of the Series 2014 Loan Agreement.

“*Series 2014 Loan Agreement*” or “*Bond Proceeds Loan Agreement*” means the Amended and Restated Loan Agreement, dated [●], 2020, by and among the Issuer and the Concessionaire, as amended from time to time.

“*Series 2014 Loan Agreement Event of Default*” has the meaning set forth in Section 8.01 of the Series 2014 Loan Agreement.

“*Series 2014 Loan Documents*” means the Series 2014 Loan Agreement, the Series 2014 Note, the Security Documents, the Series 2014 Tax Regulatory Agreement, the Series 2014 Continuing Disclosure Agreement and any and all other agreements, instruments or other documents evidencing, securing, governing or otherwise executed in connection with and effecting in any material respects the Series 2014 Loan.

“*Series 2014 Loan Payments*” means the amounts required to be paid by the Concessionaire in repayment (or prepayment) of the Series 2014 Loan and the Series 2014 Note pursuant to Section 4.01(a) of the Series 2014 Loan Agreement.

“*Series 2014 Note*” means the promissory note delivered by the Concessionaire on the Restatement Effective Date pursuant to the provisions of the Series 2014 Loan Agreement.

“*Series 2014 Principal Account*” means the Account of such designation established in the Series 2014 Debt Service Fund pursuant to Section 5.01 of the Indenture.

“*Series 2014 Redemption Account*” means the Account of such designation established in the Series 2014 Debt Service Fund pursuant to Section 5.01 of the Indenture.

“*Series 2014 Tax Regulatory Agreement*” means the Amended and Restated Tax Regulatory Agreement dated [●], 2020, by the Issuer and the Concessionaire with respect to the Series 2014 Bonds.

“*Sinking Fund Amount*” has the meaning assigned to it in Appendix A to the MSA.

“*Special Record Date*” means a special date fixed to determine the names and addresses of Owners of the Series 2014 Bonds for purposes of paying defaulted interest on the Series 2014 Bonds in accordance with Section 3.02 of the Indenture.

“*Sponsor*” means Plenary Group USA Concessions Ltd., a Delaware corporation, and any successor thereto.

“*State*” means the State of Colorado.

“*Subaccount*” means any subaccount established pursuant to the Indenture or any Supplemental Indenture.

“*Subordinated Agents*” has the meaning assigned to it in Appendix A to the MSA.

“*Subordinated Debt Service*” means, for any period, as of any date of calculation, an amount equal to the sum of all fees and interest and principal of the Effective Date Subordinated Debt, any Subordinated Refinancing Debt and any Permitted Subordinated Debt accruing and payable during such period as set forth in the Base Case Financial Model (as it may be updated pursuant to the terms of the Funding Documents). In determining the principal amount of the Effective Date Subordinated Debt, any Subordinated Refinancing Debt and any Permitted Subordinated Debt during such period, payment shall be assumed to be made in accordance with any amortization schedule established in respect thereof. Except with respect to Variable Rate Indebtedness, in determining the interest amount on the Effective Date Subordinated Debt, any Subordinated Refinancing Debt and any Permitted Subordinate Debt during such period, payment shall be assumed to be made at the interest rate(s) and on the interest payment dates established in respect thereof and set forth in the Subordinated Loan Agreement or the agreement entered into by the Concessionaire with respect to the incurrence of any Subordinated Refinancing Debt or any Permitted Subordinated Debt. In determining the interest amount on any Subordinated Refinancing Debt or Permitted Subordinated Debt that is incurred as Variable Rate Indebtedness, the Variable Rate Indebtedness Interest Rate Assumption shall apply; provided that if a Permitted Hedging Arrangement has been entered into by the Concessionaire with respect to such Variable Rate Indebtedness, the interest amount on such Variable Rate Indebtedness shall be determined at the rate payable by the Concessionaire as provided by the terms of the Permitted Hedging Arrangement or the net interest rate payable by the Concessionaire pursuant to offsetting indices as set forth in the Permitted Hedging Arrangement.

“*Subordinated Lenders*” has the meaning assigned to it in Appendix A to the MSA.

“*Subordinated Lender Pledge Agreement*” means the Amended and Restated Pledge Agreement and Limited Recourse Guaranty, dated as of [●], 2020, by the Subordinated Lenders in favor of the Security Trustee granting a security interest in the Subordinated Loans for the benefit of the Senior Creditors.

“*Subordinated Loan*” means each of the Assumed Subordinated Loan and the Cash Interest Subordinated Loan.

“*Subordinated Loan Agreement*” means each of the Assumed Subordinated Loan Agreement and the Cash Interest Subordinated Loan Agreement.

“*Subordinated Loan Lock-up Account*” has the meaning assigned to it in Appendix A to the MSA.

“*Subordinated Obligations Intercreditor Agreement*” means the Amended and Restated Subordination and Intercreditor Agreement, dated as of [●], 2020, among the TIFIA Phase 2 Lender, the TIFIA Phase 1 Lender, the Trustee, the Subordinated Lenders, the Subordinated Agents and the Security Trustee.

“*Subordinated Refinancing Debt*” means Indebtedness incurred by the Concessionaire which ranks on a parity in lien and right of payment status with the Effective Date Subordinated Debt that is incurred to refinance or replace the Effective Date Subordinated Debt, any then-outstanding Subordinated Refinancing Debt or any then-outstanding Permitted Subordinated Debt,

so long as (a) no Series 2014 Loan Agreement Event of Default has occurred and is continuing, (b) the governing documents thereof shall have covenants and terms not materially more restrictive to the Concessionaire than the Indebtedness being refinanced or replaced, (c) such Subordinated Refinancing Debt shall have interest payment dates (except for Subordinate Refinancing Debt issued as Variable Rate Indebtedness) and principal payment dates that coincide with the Interest Payment Dates (regardless of whether the final maturity date of such Indebtedness is a date that is later than the final maturity date of the Series 2014 Loan), (d) the net proceeds of the Subordinated Refinancing Debt (in respect of Subordinate Refinancing Debt that is Tax-Exempt Bonds, after costs of issuance not to exceed two percent (2%) of the principal amount of such Subordinated Refinancing Debt) do not exceed the principal amount of the Indebtedness being refinanced or replaced, (e) Subordinated Debt Service, after the incurrence of such Subordinated Refinancing Debt, in each year of the remaining term of the Series 2014 Loan, is forecast to be less than the Subordinated Debt Service forecast for such year in the most recently updated Base Case Financial Model, (f) the Aggregate Total Debt Service Coverage Ratio for each Calculation Period during the term of the Series 2014 Loan is not less than 1.15:1.00, on a pro forma basis for any period of twelve (12) consecutive months occurring prior to the earlier of (A) the final maturity date of the Series 2014 Loan and (B) the final maturity date of such Subordinated Refinancing Debt, and (g) each lender or holder of any such Subordinated Refinancing Debt (or an agent or trustee acting on its behalf) at the time of execution of any documentation with respect thereto shall become a party to and be bound by the MSA and the Subordinated Obligations Intercreditor Agreement.

["*Substantial Completion*" means the achievement of the following: (a) Phase 2 Work Completion (as defined in the Concession Agreement); and (b) the opening of the U.S. 36 Phase 2 Project to tolled vehicular or passenger traffic.]

["*Substantial Completion Date*" means the date upon which the U.S. 36 Phase 2 Project has achieved Substantial Completion.]

"*Substantial User*" means "substantial user" as defined in Section 147(a) of the Code.

"*Supplemental Indenture*" means any indenture supplementing or amending the Indenture or another Supplemental Indenture that is executed and delivered pursuant to Article IX of the Indenture.

"*Supplemental Securities Act*" means the Supplemental Public Securities Act, C.R.S. title 11, article 57, part 2, as amended.

"*Surface Transportation Infrastructure Project*" has the meaning assigned to it in FASTER.

"*Tax Distribution Amount*" has the meaning assigned to it in Appendix A to the MSA.

"*Tax-Exempt Senior Bond*" means each Series 2014 Bond and any other Senior Bond designated as a Tax-Exempt Senior Bond in the Supplemental Indenture authorizing the issuance of such Senior Bond.

"*Tax Regulatory Agreement*" means, with respect to the Series 2014 Bonds and each Series of Additional Senior Bonds on which the Issuer intends the interest to be excluded from gross

income for federal income tax purposes, (a) the agreement or other instrument that sets forth the Issuer's and the Concessionaire's expectations regarding the investment and use of proceeds of such Senior Bonds and other matters relating to Bond Counsel's opinion regarding the federal income tax treatment of interest on such Senior Bonds, including any instructions delivered by Bond Counsel in connection with such certificate, instrument or opinion; and (b) any amendment or modification of any such certificate, instrument or instructions that is accompanied by an opinion of Bond Counsel stating that the amendment or modification will not cause an Adverse Tax Event.

"Term Bond" means Senior Bonds of a Series which are payable on or before their specified maturity dates from sinking installment payments established pursuant to the Supplemental Indenture for such Series for that purpose and calculated to retire such Senior Bonds on or before their specified maturity dates.

"Termination Compensation" means any compensation payable by HPTE to the Concessionaire upon the early termination of the Concession Agreement pursuant to the terms of the Concession Agreement, including Schedule 23 thereof.

"TIFIA Debt Service Payment Commencement Date" has the meaning assigned to it in Appendix A to the MSA.

"TIFIA Phase 1 Debt Service Reserve Account" has the meaning assigned to it in Appendix A to the MSA.

"TIFIA Phase 1 Debt Service Reserve Requirement" has the meaning assigned to it in Appendix A to the MSA.

"TIFIA Phase 1 Lender" has the meaning assigned to it in Appendix A to the MSA.

"TIFIA Phase 1 Loan" has the meaning assigned to it in Appendix A to the MSA.

"TIFIA Phase 1 Loan Agreement" has the meaning assigned to it in Appendix A to the MSA.

"TIFIA Phase 2 Debt Service Reserve Account" has the meaning assigned to it in Appendix A to the MSA.

"TIFIA Phase 2 Debt Service Reserve Requirement" has the meaning assigned to it in Appendix A to the MSA.

"TIFIA Phase 2 Lender" has the meaning assigned to it in Appendix A to the MSA.

"TIFIA Phase 2 Loan" has the meaning assigned to it in Appendix A to the MSA.

"TIFIA Phase 2 Loan Agreement" has the meaning assigned to it in Appendix A to the MSA.

“*TIFIA Phase 2 Loan Subaccount*” has the meaning assigned to it in Appendix A to the MSA.

“*TIFIA Phase 2 Mandatory Debt Service*” has the meaning assigned to it in Appendix A to the MSA.

“*TIFIA Phase 2 Scheduled Debt Service*” has the meaning assigned to it in Appendix A to the MSA.

“*TIFIA Revenue Share Amounts*” has the meaning assigned to it in Appendix A to the MSA.

“*Toll Services Agreement*” has the meaning assigned to it in Appendix A to the MSA.

“*Toll Services Provider*” has the meaning assigned to it in Appendix A to the MSA.

“*Total Debt Service Coverage Ratio*” means, as of each Calculation Date, the ratio of (a) Net Cash Flow, for the Calculation Period ending on such Calculation Date, to (b) the sum of (i) Senior Debt Service, for the Calculation Period ending on such Calculation Date, and (ii) Debt Service in respect of the TIFIA Phase 2 Loan, for the Calculation Period ending on such Calculation Date, provided that for purposes of such calculation (A) during the Capitalized Interest Period (as defined in the TIFIA Phase 1 Loan Agreement) the Debt Service on the TIFIA Phase 1 Loan shall be deemed to be zero, (B) during the Capitalized Interest Period (as defined in the TIFIA Phase 2 Loan Agreement) the Debt Service on the TIFIA Phase 2 Loan shall be deemed to be zero, and (C) during any future period, projected Net Cash Flow shall be calculated using the most recently updated Base Case Financial Model.

“*Transaction Documents*” means the Material Project Contracts and the Funding Documents.

“*Transportation Enterprise Special Fund*” means the statewide transportation enterprise special revenue fund created in the State treasury by C.R.S. § 43-4-806(3)(a).

“*Trustee*” means The Bank of New York Mellon Trust Company, N.A., acting in its capacity as trustee under the Indenture, and any successor appointed under the Indenture.

“*Trust Estate*” has the meaning set forth in Section 2.01 of the Indenture.

“*Trustee Fees and Expenses*” means the fees and expenses payable to the Trustee for its services as trustee under the Indenture, subject to the terms of the compensation agreement between the Concessionaire and the Trustee.

“*Trustee Representative*” means, with respect to the Trustee, any officer assigned to the Corporate Trust Office, including any managing director, principal, vice president, assistant vice president, assistant treasurer, assistant secretary, or any other officer of such Person customarily performing functions similar to those performed by any of the above designated officers and having direct responsibility for the administration of the applicable agreement, and also, with

respect to a particular matter, any other officer, to whom such matter is referred because of such officer's knowledge of and familiarity with the particular subject.

“*UCC*” means the Uniform Commercial Code, as in effect from time to time in the State of Colorado, the State of New York or any other state or jurisdiction, as applicable.

“*Underwriter*” means Goldman, Sachs & Co., as underwriter of the Series 2014 Bonds.

“*U.S. 36 Managed Lanes*” means the Phase 1 Managed Lanes and the Phase 2 Managed Lanes.

“*U.S. 36 Phase 1 Project*” means the operation and maintenance by the Concessionaire of the Phase 1 Managed Lanes and the Phase 1 GP Lanes (as such terms are defined in the Concession Agreement), in each case, in accordance with the terms of the Concession Agreement and each other applicable Transaction Document.

“*U.S. 36 Phase 2 Project*” means (a) the financing, design and construction of one managed lane in each direction along the U.S. 36 median, enhancements to Bus Rapid Transit (as defined in the Concession Agreement) stations, widening of the general purpose lanes and pavement replacement, bridge replacements, sound and retaining walls in selected areas, the construction of a bikeway, and Intelligent System Improvements (ITS) along a 5.1 mile segment of U.S. 36 from 88th Street in Louisville/Superior, Colorado to the Table Mesa/Foothills Parkway in Boulder, Colorado, in each case, such work being the responsibility of the Concessionaire, and (b) the operation and maintenance by the Concessionaire of the Phase 2 Managed Lanes and the Phase 2 GP Lanes (as such terms are defined in the Concession Agreement), in each case, in accordance with the terms of the Concession Agreement and each other applicable Transaction Document.

“*U.S. 36 Project*” means, collectively, the U.S. 36 Phase 1 Project, the U.S. 36 Phase 2 Project and the I-25 Project. Each of the U.S. 36 Phase 1 Project, the U.S. 36 Phase 2 Project and the I-25 Project shall be referred to herein as a “Segment” of the U.S. 36 Project.

“*Variable Rate Indebtedness*” means any Indebtedness the interest rate on which is not fixed at the time of incurrence of such Indebtedness, and has not at some subsequent date been fixed at a single numerical rate for the entire term of the Indebtedness.

“*Variable Rate Indebtedness Interest Rate Assumption*” means (a) with respect to (i) Variable Rate Indebtedness the interest on which will be excludable from gross income for federal income tax purposes or (ii) Variable Rate Indebtedness that will secure the payment of interest on Tax-Exempt Senior Bonds, the interest rate shall be assumed to be the sum of (i) the rate quoted in The Bond Buyer 25 Revenue Bond Index, or such successor or replacement index, for the last week of the month preceding the date of calculation as published by *The Bond Buyer*, or if that index is no longer published, another similar index selected by a Financial Consultant to be a reasonable index for tax-exempt obligations, plus (ii) a spread, if any, determined by a Financial Consultant to be a reasonable spread above The Bond Buyer 25 Revenue Bond Index (or such successor or replacement index of similar index selected by a Financial Consultant) for tax-exempt obligations of a corresponding maturity date and rating as the Variable Rate Indebtedness to be incurred, with no credit enhancement, and (b) with respect to (i) Variable Rate Indebtedness the interest on which will not be excludable from gross income for federal income

tax purposes or (ii) Variable Rate Indebtedness that will secure the payment of interest on Senior Bonds that are not issued as Tax-Exempt Senior Bonds, the interest rate will be assumed to be a rate determined by a Financial Consultant to be a reasonable market rate for comparable taxable fixed interest rate obligations of a corresponding maturity date and rating as the Variable Rate Indebtedness to be incurred, with no credit enhancement.

EXHIBIT B

FORM OF SERIES 2014 NOTE

[•], 2020

**THIS NOTE HAS NOT BEEN REGISTERED
UNDER THE SECURITIES ACT OF 1933, AS AMENDED**

\$20,360,000 TWENTY MILLION THREE HUNDRED SIXTY DOLLARS No. [1]

Plenary Roads Denver LLC, a limited liability company organized under the laws of the State of Colorado, as Concessionaire (the “**Concessionaire**”), for value received, hereby promises to pay the Colorado High Performance Transportation Enterprise (the “**Issuer**”) the principal sum of \$20,360,000 pursuant hereto and in accordance with that certain Amended and Restated Loan Agreement, dated [•], 2020 (the “**Series 2014 Loan Agreement**”), by and among the Issuer and the Concessionaire and to pay (a) interest on the unpaid balance of such principal sum from and after the date of this Series 2014 Note at the interest rates borne by the Series 2014 Bonds (as hereinafter defined); and (b) interest on overdue principal, and to the extent permitted by law, on overdue interest, at the interest rates provided under the terms of the Series 2014 Bonds.

This Series 2014 Note has been executed and delivered by the Concessionaire pursuant to the Series 2014 Loan Agreement. Terms used but not defined herein shall have the meanings ascribed to such terms in the Series 2014 Loan Agreement and that certain Amended and Restated Trust Indenture, dated [•], 2020 (the “**Indenture**”), by and between the Issuer and The Bank of New York Mellon Trust Company, N.A., as trustee (the “**Trustee**”).

Under the Series 2014 Loan Agreement, the Issuer has loaned to the Concessionaire (the “**Series 2014 Loan**”) the proceeds received from the sale of the \$20,360,000 Colorado High Performance Transportation Enterprise U.S. 36 and I-25 Managed Lanes Senior Revenue Bonds Series 2014, dated February 26, 2014 (the “**Series 2014 Bonds**”). The Concessionaire has used, or caused to be used, such proceeds to (a) finance a portion of the costs of the Phase 2 Work and (b) pay a portion of the Costs of Issuance of the Series 2014 Bonds. The Concessionaire has agreed to repay such Series 2014 Loan by making payments at the times and in the amounts set forth in this Series 2014 Note. The Series 2014 Bonds were issued on February 26, 2014 pursuant to, and are secured by, the Indenture and the Security Documents.

To provide funds to pay the principal and Redemption Price of and interest on the Series 2014 Bonds as and when due, the Concessionaire hereby agrees to and shall make Series 2014 Loan Payments as follows: (i) on or before the first day of each January and July during the term of the Series 2014 Loan Agreement, commencing [January 1, 2021], an amount equal to the interest coming due on the next Interest Payment Date as provided in Exhibit C to the Series 2014 Loan Agreement, as the same may be amended from time to time in accordance with the

Indenture; and (ii) on or before the first day of January or July during the term of the Series 2014 Loan Agreement, commencing July 1, 2036, an amount equal to the principal coming due on the next Principal Payment Date as provided in Exhibit C to the Series 2014 Loan Agreement, as the same may be amended from time to time in accordance with the Indenture. In addition, to provide funds to pay the principal, Redemption Price and interest payments on the Series 2014 Bonds as and when due at any other time, the Concessionaire hereby agrees to and shall make payments on any other date on which any principal, Redemption Price and interest payments on the Series 2014 Bonds shall be due and payable, whether upon acceleration, call for redemption or otherwise.

If payment or provision for payment in accordance with the Indenture is made in respect of the principal or Redemption Price of and interest on the Series 2014 Bonds from moneys other than Series 2014 Loan Payments, this Series 2014 Note shall be deemed paid to the extent such payments or provision for payment of principal or Redemption Price of and interest on the Series 2014 Bonds has been made. Subject to the foregoing, all Series 2014 Loan Payments shall be in the full amount required hereunder.

All Series 2014 Loan Payments shall be payable in lawful money of the United States of America, in immediately available funds, and shall be made to the Trustee, in accordance with the provisions of the MSA, for the account of the Issuer, for deposit to the Series 2014 Principal Account, the Series 2014 Interest Account or the Series 2014 Redemption Account, respectively, and used as provided in the Indenture. The Concessionaire shall make the Series 2014 Loan Payments to the Trustee on or before each Series 2014 Loan Payment date as set forth in the Series 2014 Loan Agreement.

The obligation of the Concessionaire to make the payments required hereunder shall be absolute and unconditional and the Concessionaire shall make such payments without abatement, diminution or deduction regardless of any cause or circumstances whatsoever including, without limitation, any defense, right of set-off, recoupment or counterclaim which the Concessionaire may have or assert against the Issuer or the Trustee or any other person.

This Series 2014 Note is subject to optional, mandatory sinking fund and extraordinary mandatory prepayment, in whole or in part, upon the terms and conditions set forth in the Series 2014 Loan Agreement and the Indenture. Any prepayment is also subject to satisfaction of any applicable notice, deposit or other requirements set forth in the Series 2014 Loan Agreement or the Indenture.

Whenever a Series 2014 Loan Agreement Event of Default shall have occurred and be continuing, subject to the provisions of the Senior Obligations Intercreditor Agreement, the unpaid principal amount of and any premium and accrued interest on this Series 2014 Note may be declared or may become due and payable as provided in Section 9.02 of the Series 2014 Loan Agreement; provided that any annulment of a declaration of acceleration with respect to the Series 2014 Bonds under the Indenture shall also constitute an annulment of any corresponding declaration with respect to this Series 2014 Note.

The Concessionaire hereby waives presentment for payment, demand, protest, notice of protest, notice of dishonor and all defenses on the grounds of extension of time of payment for the payment hereof which may be given (other than in writing) by the Trustee.

The Concessionaire hereby certifies that all conditions, acts and things required to exist, happen and be performed precedent to and in the issuance of this Series 2014 Note, exist, have happened and have been performed, and that the issuance of this Series 2014 Note have been duly authorized by the Concessionaire.

IN WITNESS WHEREOF, the Concessionaire has executed this Series 2014 Note as of the date first above written.

PLENARY ROADS DENVER LLC, as
Concessionaire

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

ENDORSEMENT AND ASSIGNMENT

FOR VALUE RECEIVED, the Colorado High Performance Transportation Enterprise (the “Issuer”), hereby endorses and sells, assigns and transfers without recourse unto The Bank of New York Mellon Trust Company, N.A, as trustee (the “Trustee”) under the Amended and Restated Trust Indenture, dated [•], 2020, by and between said Trustee and the Issuer, the within Series 2014 Note and all rights thereunder, and hereby irrevocably constitutes and appoints said Trustee to transfer the within Series 2014 Note on the books kept for registration thereof, with full power of substitution in the premises.

IN WITNESS WHEREOF, the undersigned has hereunto signed and executed this Endorsement and Assignment this [•] day of [•], 2020.

COLORADO HIGH PERFORMANCE
TRANSPORTATION ENTERPRISE, as Issuer

By: _____
Nicholas Farber, Director

EXHIBIT C

SERIES 2014 BONDS DEBT SERVICE SCHEDULE

Colorado High Performance Transportation Enterprise
U.S. 36 and I-25 Managed Lanes Senior Revenue Bonds
Series 2014

<u>Payment Date</u>	<u>Principal</u>	<u>Interest</u>	<u>Total</u>
July 1, 2014	\$ 0.00	\$406,493.06	\$ 406,493.06
January 1, 2015	0.00	585,350.00	585,350.00
July 1, 2015	0.00	585,350.00	585,350.00
January 1, 2016	0.00	585,350.00	585,350.00
July 1, 2016	0.00	585,350.00	585,350.00
January 1, 2017	0.00	585,350.00	585,350.00
July 1, 2017	0.00	585,350.00	585,350.00
January 1, 2018	0.00	585,350.00	585,350.00
July 1, 2018	0.00	585,350.00	585,350.00
January 1, 2019	0.00	585,350.00	585,350.00
July 1, 2019	0.00	585,350.00	585,350.00
January 1, 2020	0.00	585,350.00	585,350.00
July 1, 2020	0.00	585,350.00	585,350.00
January 1, 2021	0.00	585,350.00	585,350.00
July 1, 2021	0.00	585,350.00	585,350.00
January 1, 2022	0.00	585,350.00	585,350.00
July 1, 2022	0.00	585,350.00	585,350.00
January 1, 2023	0.00	585,350.00	585,350.00
July 1, 2023	0.00	585,350.00	585,350.00
January 1, 2024	0.00	585,350.00	585,350.00
July 1, 2024	0.00	585,350.00	585,350.00
January 1, 2025	0.00	585,350.00	585,350.00
July 1, 2025	0.00	585,350.00	585,350.00
January 1, 2026	0.00	585,350.00	585,350.00
July 1, 2026	0.00	585,350.00	585,350.00
January 1, 2027	0.00	585,350.00	585,350.00
July 1, 2027	0.00	585,350.00	585,350.00
January 1, 2028	0.00	585,350.00	585,350.00
July 1, 2028	0.00	585,350.00	585,350.00
January 1, 2029	0.00	585,350.00	585,350.00
July 1, 2029	0.00	585,350.00	585,350.00
January 1, 2030	0.00	585,350.00	585,350.00
July 1, 2030	0.00	585,350.00	585,350.00
January 1, 2031	0.00	585,350.00	585,350.00
July 1, 2031	0.00	585,350.00	585,350.00

Payment Date	Principal	Interest	Total
January 1, 2032	0.00	585,350.00	585,350.00
July 1, 2032	0.00	585,350.00	585,350.00
January 1, 2033	0.00	585,350.00	585,350.00
July 1, 2033	0.00	585,350.00	585,350.00
January 1, 2034	0.00	585,350.00	585,350.00
July 1, 2034	0.00	585,350.00	585,350.00
January 1, 2035	0.00	585,350.00	585,350.00
July 1, 2035	0.00	585,350.00	585,350.00
January 1, 2036	0.00	585,350.00	585,350.00
July 1, 2036	1,035,000.00	585,350.00	1,620,350.00
January 1, 2037	1,035,000.00	555,593.75	1,590,593.75
July 1, 2037	1,090,000.00	525,837.50	1,615,837.50
January 1, 2038	1,100,000.00	494,500.00	1,594,500.00
July 1, 2038	1,160,000.00	462,875.00	1,622,875.00
January 1, 2039	1,160,000.00	429,525.00	1,589,525.00
July 1, 2039	1,230,000.00	396,175.00	1,626,175.00
January 1, 2040	1,225,000.00	360,812.50	1,585,812.50
July 1, 2040	1,295,000.00	325,593.75	1,620,593.75
January 1, 2041	1,300,000.00	288,362.50	1,588,362.50
July 1, 2041	1,370,000.00	250,987.50	1,620,987.50
January 1, 2042	1,375,000.00	211,600.00	1,586,600.00
July 1, 2042	1,455,000.00	172,068.75	1,627,068.75
January 1, 2043	1,455,000.00	130,237.50	1,585,237.50
July 1, 2043	1,535,000.00	88,406.25	1,623,406.25
January 1, 2044	1,540,000.00	44,275.00	1,584,275.00