

## EXHIBIT 11

### HAZARDOUS MATERIALS RISK ALLOCATION TERMS

All costs and expenses associated with the management of Hazardous Materials within the Facility Right of Way will be borne by the Developer, except as follows.

1. Except as provided in Section 2 below, Developer shall be entitled to the following compensation from TxDOT for Developer's reasonable, out-of-pocket costs and expenses directly attributable to the handling, transport, removal and disposal of, and other necessary or appropriate activities for remediation of, Hazardous Materials that are on, in or under the Facility Right of Way as of the date TxDOT shall make available (as "make available" is defined in the definition of TxDOT-Caused Delay) to Developer the affected parcel, including contaminated groundwater, and that are encountered in the original construction of the Facility, Upgrades or related Utility Adjustments (the "total chargeable pre-existing Hazardous Materials costs"):

(a) 50% of the total chargeable pre-existing Hazardous Materials costs that exceed the line item amount for pre-existing Hazardous Materials costs set forth in the Base Case Financial Model (the "cap") but are equal to or less than 1.75 times the cap. The Parties acknowledge that such line item amount is \$6,600,000, resulting in a total amount (1.75 x cap) of \$11,550,000; plus

(b) 100% of the total chargeable Hazardous Materials costs that exceed 1.75 times the cap.

2. Costs TxDOT may incur pursuant to Section 7.9.2 of the Agreement shall be treated as part of total chargeable pre-existing Hazardous Materials costs. Accordingly, (a) to the extent any such TxDOT costs are incurred at a time when, together with other total chargeable pre-existing Hazardous Materials costs, such total is below the cap, Developer shall fully reimburse TxDOT pursuant to Section 7.9.2 of the Agreement; (b) to the extent any such TxDOT costs are incurred at a time when, together with other total chargeable pre-existing Hazardous Materials costs, such total exceeds the cap but is equal to or less than 1.75 times the cap, Developer shall reimburse TxDOT pursuant to Section 7.9.2 of the Agreement for 50% of such TxDOT costs; and (c) to the extent any such TxDOT costs are incurred at a time when, together with other total chargeable pre-existing Hazardous Materials costs, such total exceeds 1.75 times the cap, Developer shall have no obligation to reimburse such TxDOT costs.

3. None of the following costs and expenses shall be chargeable against the cap or reimbursable by TxDOT:

(a) Costs and expenses attributable to Developer Releases of Hazardous Materials;

(b) Delay and disruption costs and expenses;

(c) Developer's administrative and overhead expenses arising out of or relating to Hazardous Materials; and

(d) Any other costs and expenses not attributable to the handling, transport, treatment, storage, removal or disposal of, or other necessary or appropriate activities for remediation of, pre-existing Hazardous Materials.

4. Within 90 Days after the Service Commencement Date, Developer shall deliver to TxDOT a written reconciliation, including all invoices, receipts and supporting documentation reasonably required by TxDOT, setting forth with particularity the total chargeable pre-existing Hazardous Materials costs. If the total chargeable pre-existing Hazardous Materials costs exceed the cap, TxDOT shall pay to Developer the portion of such excess set forth in Section 1 above within 30 Days after receipt or such reconciliation and supporting documentation. If the total chargeable pre-existing Hazardous Materials costs are less than the \$6,600,000 line item amount for pre-existing Hazardous Materials set forth in the Base Case Financial Model, then with such reconciliation Developer shall remit to TxDOT, as an additional, contingent Concession Payment, an amount equal to 50% of the excess of the \$6,600,000 line item amount over the total chargeable Hazardous Materials costs. For total chargeable pre-existing Hazardous Materials costs arising after the Service Commencement Date, if any, Developer shall timely submit to TxDOT written documentation of such costs in the same manner specified above and TxDOT shall reimburse Developer for such costs pursuant to the allocation schedule set forth in Section 1 above.

5. TxDOT will retain generator and arranger status for pre-existing Hazardous Materials in accordance with Section 7.9.4 of the Agreement.

6. Developer may be entitled to schedule and performance relief to the extent that the discovery of Hazardous Materials or other unexpected site conditions constitutes a Relief Event pursuant to Section 13.1.

7. Developer may be entitled to termination of the Agreement and Lease and certain termination compensation to the extent that the presence or release of Hazardous Materials becomes an Extended Relief Event pursuant to Section 19.2.