

EXHIBIT 23

STATE SALES TAX PROVISIONS

1. The Parties acknowledge that on the Effective Date Developer delivered to TxDOT a standby letter of credit in the face amount of \$29.1 million to secure Developer's and the Design-Build Contractor's legal obligations, if any, to pay State sales tax on account of acquisition of goods, materials, equipment, supplies and services incorporated into, or used for performance and completion of, the original Construction Work for the Facility (i.e. excluding Upgrades, Renewal Work and O&M Work) (referred to herein as "such State sales tax").
2. With respect to such letter of credit, TxDOT and Developer shall have all of the respective rights and responsibilities set forth in Section 16.3 of the Agreement.
3. Developer shall renew or replace the letter of credit at intervals sufficient to assure that a letter of credit is effective at all times until the first to occur of (a) 60 days after the date (herein the "certification date") Developer presents to TxDOT a certified copy of a determination by the Texas Comptroller of Public Accounts that Developer has no obligation to pay the state sales tax in question, or that Developer has fully paid the state sales tax in question, (b) 60 days after the date (herein the "limitations date") of expiration of the statute of limitations applicable to the legal obligations of Developer and the Design-Build Contractor to pay such State sales tax, and (c) the date the required amount of the letter of credit is reduced to zero.
4. Developer shall be entitled to reduce the amount of the letter of credit by the amount of such State sales tax that it or the Design-Build Contractor pays from time to time, upon presentation to TxDOT of proof of payment; provided that if both Developer and the Design-Build Contractor pay such State sales tax on the same goods, materials, equipment, supplies and services, then only the greater of the two payments shall be allowed as a reduction in the letter of credit amount (the lesser amount being referred to herein as the "duplicate payment"). Developer shall, and shall cause the Design-Build Contractor to, separately account for such State sales tax payments in their respective books, and shall notify TxDOT semi-annually of payments by it and the Design-Build Contractor within 30 days of closing its books for the second quarter and for the year. Except to the extent set forth in Section 6 below, TxDOT shall have no obligation to reimburse Developer for any State sales tax liability, including liability in excess of the letter of credit.
5. TxDOT shall be entitled to draw on the letter of credit as follows:
 - (a) As and when provided in Section 16.3.1.2 of the Agreement; and
 - (b) At any time within 60 days after the first to occur of (i) the certification date and (ii) the limitations date.
6. If TxDOT draws on the letter of credit under Section 5(a) above, it shall hold the funds drawn for the purpose of reimbursing Developer for subsequent

payments of such State sales tax by it or the Design-Build Contractor, excluding duplicate payments, until the first to occur of (a) the certification date and (b) the limitations date; provided that TxDOT shall return any balance of such funds to Developer at any earlier time that Developer delivers to TxDOT a replacement letter of credit in the then-required face amount. With respect to reimbursements, Developer may submit to TxDOT, not more often than monthly, a written request for reimbursement of such State sales tax, excluding duplicate payments, together with proof of legal liability and proof of payment, together with such additional supporting documentation as TxDOT may reasonably request. TxDOT shall reimburse Developer for such State sales tax payment, up to the funds so held, within 30 Days after TxDOT receives such written request and supporting proof and documentation.

7. If TxDOT draws on the letter of credit under Section 5(b) above, the amount of the draw shall not exceed the original face amount of the letter of credit set forth in Section 1 above minus the total amount of such State sales tax paid by Developer and the Design-Build Contractor, excluding duplicate payments. TxDOT shall be entitled to retain the funds so drawn as an additional, contingent Concession Payment. Likewise, if TxDOT holds funds drawn under Section 5(a) above, it shall be entitled to retain the balance remaining after paying reimbursements and after the first to occur of the certification date or limitations date as an additional, contingent Concession Payment.