

**IN THE UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA**

In re:

Connector 2000 Association, Inc.,

Debtor.

Case No. 10-04467-dd
Chapter 9

FIRST AMENDED PLAN FOR ADJUSTMENT OF DEBTS

Connector 2000 Association, Inc. (“Debtor”), in furtherance of effecting an adjustment of its debts under the provisions of Chapter 9 of the Bankruptcy Code, proposes the following as its First Amended Plan for Adjustment of Debts, as modified, supplemented and amended (collectively, the “Plan”).

BANKRUPTCY RULE 3016 NOTICES OF RELEASES AND INJUNCTIONS PROVIDED FOR IN THE PLAN ARE ON PAGES 4 TO 5 OF THE PLAN.

TABLE OF CONTENTS

NOTICE OF RELEASES.....4

ARTICLE I - DEFINITIONS.....6

ARTICLE II - CLAIMS.....6

 A. CLASSIFICATION OF CLAIMS 6

 1. Administrative Claims..... 6

 2. Class 1. Senior Bondholders Claims..... 6

 3. Class 2 Subordinate Bondholders Claims..... 6

 4. Class 3. Bond Trustee Claims..... 6

 5. Class 4. SCDOT Claims 6

 6. Class 5. Executory Contract Claims 6

 7. Class 6. Lehman Brothers Claims 6

 B. TREATMENT OF CLAIMS..... 6

 1. Administrative Claims..... 6

 2. Class 1. Senior Bondholders Claims..... 7

 3. Class 2. Subordinate Bondholders Claims..... 8

 4. Class 3. Bond Trustee Claims..... 8

 5. Class 4. SCDOT Claims..... 8

 6. Class 5. Executory Contract Claims..... 8

 7. Class 6. Lehman Brothers Claims..... 8

ARTICLE III - TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES9

ARTICLE IV - MEANS OF IMPLEMENTING THE PLAN.....10

 A. AMENDED TRUST INDENTURE..... 10

 B. DISTRIBUTION OF NET REVENUES TO PAY NEW BONDS 13

 C. NEW LICENSE AGREEMENT 15

ARTICLE V - RELEASES AND INJUNCTIONS.....16

 A. RELEASES PROVIDED UNDER THE PLAN ("RELEASES") 16

 1. Release of Debtor, etc..... 16

 2. Release by Debtor, the Senior Bonds Trustee, the Subordinate Bonds Trustee and the Bondholders 16

 3. Release by Debtor and SCDOT 17

 4. Release by Bondholders..... 17

 5. Release of Professionals 17

 B. INJUNCTIONS..... 18

ARTICLE VI - VOTING PROCEDURES.....19

 A. BALLOTS AND VOTING DEADLINE 19

 B. CLAIMANTS ENTITLED TO VOTE TO ACCEPT OR REJECT THE PLAN. 20

 1. Allowance for Voting Purposes..... 20

 2. Impaired Classes of Claims 20

 3. Claimants Not Entitled to Vote..... 20

C. VOTE REQUIRED FOR CLASS ACCEPTANCE..... 20

D. POSSIBLE RECLASSIFICATION OF CREDITORS..... 21

ARTICLE VII - CONFIRMATION OF THE PLAN21

A. CONFIRMATION HEARING 21

B. REQUIREMENTS FOR CONFIRMATION OF THE PLAN..... 21

 1. Best Interests Test 21

 2. Acceptance by Impaired Classes 22

C. EFFECTIVENESS OF THE PLAN 23

D. WAIVER OF CONDITIONS TO EFFECTIVENESS OF PLAN 24

E. AMOUNT AND METHOD OF PAYMENT OF ADMINISTRATIVE CLAIMS 24

F. EFFECT OF CONFIRMATION AND DISCHARGE OF DEBTOR 24

ARTICLE VIII - CLAIMS ADMINISTRATION.....25

ARTICLE IX - MISCELLANEOUS26

 9.1 Delivery of Instruments 26

 9.2 Headings 26

 9.3 Automatic Stay..... 26

 9.4 Discharge 26

 9.5 Disputed Claims..... 26

 9.6 Record Date 26

 9.7 Limitation of Liability..... 26

 9.8 Further Acts 27

ARTICLE X - RETENTION OF JURISDICTION OF THE COURT.....27

APPENDIX A – DEFINITIONS

APPENDIX B – SERIES 2011A, SERIES 2011B AND SERIES 2011C BOND PAYMENT TABLE

APPENDIX C – BONDHOLDER EXCHANGE TABLE

APPENDIX D.1 AND D.2 – EXECUTORY CONTRACTS

APPENDIX E – PLAN SUPPLEMENT

BANKRUPTCY RULE 3016 NOTICE OF RELEASES AND INJUNCTIONS CONTAINED IN THE PLAN

THE PLAN PROVIDES FOR RELEASES OF AND INJUNCTIVE RELIEF TO THOSE PERSONS AND ENTITIES WHO ARE EITHER (1) PROVIDING SUBSTANTIAL CONSIDERATION TO THE ESTATE OR (2) SUBSTANTIALLY COMPROMISING THEIR CLAIMS. THE PERSONS AND ENTITIES SO PROTECTED, AND THE SCOPE OF THE RELEASES AND INJUNCTION, ARE DEFINED IN ARTICLE V OF THE PLAN. IF THE PLAN IS CONFIRMED, ALL PERSONS AND ENTITIES IDENTIFIED IN THESE PROVISIONS OF THE PLAN WILL BE RELEASED FROM THE CLAIMS OF ANY CREDITOR OR PARTY IN INTEREST IN THIS CASE WHETHER OR NOT SUCH CREDITOR OR PARTY IN INTEREST VOTED ON THE PLAN.

BANKRUPTCY RULE 3016 NOTICE OF ACTS TO BE ENJOINED BY CONFIRMATION OF THE PLAN

EXCEPT AS OTHERWISE PROVIDED HEREIN, FROM AND AFTER THE EFFECTIVE DATE, ANY AND ALL POTENTIAL CLAIMANTS SHALL BE PERMANENTLY ENJOINED FROM COMMENCING OR CONTINUING IN ANY MANNER, ANY SUIT, ACTION OR OTHER PROCEEDING, ON ACCOUNT OF OR RESPECTING ANY CLAIM, OBLIGATION, DEBT, RIGHT, CAUSE OF ACTION, REMEDY OR LIABILITY, OR ANY OTHER CLAIM OR CAUSE OF ACTION RELEASED OR TO BE RELEASED PURSUANT HERETO, AGAINST THE DEBTOR OR ANY OR ALL OF THE PLAN RELEASEES.

The Plan permanently enjoins the commencement or prosecution by any person or entity, whether directly, derivatively or otherwise, of any Claims, obligations, suits, judgments, damages, demands, debts, rights, causes of action or liabilities, released pursuant to the Plan against any Plan Releasee. Thus, except as otherwise provided in the Plan, all parties having a claim against the Debtor or any Plan Releasee arising prior to the Effective Date of the Plan SHALL WITH RESPECT THERETO BE ENJOINED ON AND AFTER THE EFFECTIVE DATE FROM:

- Commencing, conducting, or continuing in any manner, directly or indirectly, any suit, action, or other proceeding of any kind against any of the Plan Releasees or his/her/its direct or indirect successor in interest (including, without limitation, all suits, actions, and proceedings that are pending, or may be filed as of the Effective Date), which must be withdrawn or dismissed with prejudice;
- enforcing, levying, attaching, collecting, or otherwise recovering by any manner or means, whether directly or indirectly, any judgment, award, decree or order against any of the Plan Releasees or his/her/its assets or property, or his/her/its direct or indirect successor in interest, or any assets or property of such successor;
- creating, perfecting, or otherwise enforcing in any manner, directly or indirectly, any lien against any of the Plan Releasees or his/her/its assets or property, or his/her/its indirect or indirect successors in interest, or any assets or property of such successor;
- asserting any set-off, right of subrogation, or recoupment of any kind, directly or indirectly, against any obligation due any of the Plan Releasees or his/her/its assets or property, or his/her/its direct or indirect successors in interest, or any assets or property of such successor; and
- proceeding in any manner that does not conform or comply with the provisions of the Plan.

In addition, all injunctions or stays, whether by operation of law or by order of the Bankruptcy Court, provided for in the Case pursuant to Sections 105, 362, 524, or 922 of the Bankruptcy Code, or otherwise that are in effect on the Confirmation Date, shall remain in full force and effect until the Final Decree.

Notwithstanding any provision herein to the contrary, nothing in the Disclosure Statement, Plan, or in any order confirming the Plan shall: (i) discharge or release any person or entity from any claim, right, power or cause of action held or assertable by the United States Securities and Exchange Commission (the "SEC") with respect to the SEC's police or regulatory function, or (ii) impair, preclude or enjoin the SEC from commencing or continuing any investigation or taking any action against any person or entity in any nonbankruptcy forum.

ARTICLE I - DEFINITIONS

Capitalized terms not otherwise defined in the text of this Plan are intended to have the meanings assigned thereto in **Appendix A** attached hereto. Capitalized terms not otherwise defined herein or in **Appendix A** are intended to have the meaning assigned thereto in the Amended Trust Indenture or in the Original Trust Indenture, if defined therein. To the extent of any conflict between the definitions set forth in **Appendix A** and in the Amended Trust Indenture, the Amended Trust Indenture shall control. To the extent of any conflict between the description of the Amended Trust Indenture in the Plan or Disclosure Statement and the provisions of the Amended Trust Indenture, the actual provisions of the Amended Trust Indenture shall control. To the extent of any conflict between the description of the New License Agreement in the Plan or Disclosure Statement and the provisions of the New License Agreement, the actual provisions of the New License Agreement shall control.

ARTICLE II- CLAIMS

Following is a summary of the classes of creditors of the Debtor under the Plan and the provisions for the treatment of each class.

A. Classification of Claims

1. Administrative Claims. Allowed Administrative Claims are not classified under the Plan and are unimpaired.
2. Class 1. Class 1 consists of the claims of the holders of the Senior 1998 Bonds. This class is impaired.
3. Class 2. Class 2 consists of the claims of the holders of the Subordinate Bonds. This class is impaired.
4. Class 3. Class 3 consists of the claims of the Senior Bonds Trustee and Subordinate Bonds Trustee. This class is unimpaired.
5. Class 4. Class 4 consists of the claims of the SCDOT. This class is impaired.
6. Class 5. Class 5 consists of all claims arising from the rejection of executory contracts, if any. This class is impaired.
7. Class 6. Class 6 consists of Lehman Brothers. This class is impaired.

B. Treatment of Claims

1. Administrative Claims.

Allowed Administrative Claims are claims of the kind described in Sections 503(b) and 507(a)(2) of the Bankruptcy Code. Throughout the course of the Chapter 9 Case, the Debtor has

endeavored to satisfy administrative expenses as they became due. Accordingly, the Debtor believes that all Claims that otherwise would constitute Allowed Administrative Claims previously have been or will be satisfied in the ordinary course of business prior to or within ten (10) days of the Effective Date, by the Debtor unless such Claim or Claims are not yet an Allowed Claim(s) by order of the Court where required, or are not yet due according to their ordinary payment terms, in which case they will be paid when due. The Debtor expects to pay certain administrative expenses from funds held by the Trustee in the Revenue Fund, the Debt Service Fund and the Debt Service Reserve Fund securing the Original Bonds. The balance of available funds remaining in such Funds after payment of these expenses and any escrows related to unresolved claims as determined by the Senior Bonds Trustee will be transferred to the Debt Service Reserve Fund securing the Amended and Restated Bonds.

2. Class 1. Senior Bondholders Claims.

Holders of the Senior 1998 Bonds will be issued Series 2011A Bonds in the aggregate original principal amount of approximately \$126,903,926 which will be senior secured capital appreciation bonds, consisting of serial bonds maturing January 1 of the years 2012 through 2022 (inclusive) and three term bonds, each subject to mandatory sinking fund redemption, maturing January 1, 2032, January 1, 2042 and July 22, 2051. The proposed debt service table for the Series 2011A Bonds is set forth in **Appendix B** attached hereto. The Debtor's obligations in respect of the Series 2011A Bonds will be secured by a lien on the Trust Estate. The details of the Series 2011A Bonds are summarized in Section VII.B.1 of the Disclosure Statement.

The payment of debt service on Series 2011A Bonds will be made from Distributable Cash remaining after the First R&R Fund Deposit, which will equal 5% of the Distributable Cash to the R&R Fund for the first five years after the date of entry of the Confirmation Order and 2.5% thereafter as set forth in the New Waterfall described at Section VII.B.2 of the Disclosure Statement.

Debtor will also issue to Class 1 creditors Series 2011B Bonds in the aggregate original principal amount of approximately \$21,086,245 which will be senior subordinated secured capital appreciation bonds consisting of two term bonds, each subject to mandatory sinking fund redemption, maturing January 1, 2032 and July 22, 2051. The proposed debt service table for the Series 2011B Bonds is set forth in **Appendix B** attached hereto. The details of the Series 2011B Bonds are summarized in Section VII.B.1 of the Disclosure Statement. The Debtor's obligations in respect of the Series 2011B Bonds will be secured by a lien on the Trust Estate. The Series 2011B Bonds will be subordinated to the Series 2011A Bonds in all respects, including in right of payment and priority of liens.

The payment of debt service on the Series 2011B Bonds will also be made from Distributable Cash remaining after the First R&R Fund Deposit, the Second R&R Fund Deposit and the replenishment of the 2011 Debt Service Reserve Fund as set forth in the New Waterfall described at Section VII.B.2 of the Disclosure Statement.

3. Class 2. Subordinate Bondholders Claims.

The holders of the Series 1998C Bonds shall receive their pro rata share of approximately \$2,160,479 aggregate original principal amount of Series 2011C Bonds which will consist of junior subordinated secured capital appreciation term bonds bearing interest at 10.0% per annum, maturing, subject to mandatory sinking fund redemption, on July 22, 2051. The proposed debt service table for the Series 2011C Bonds is set forth in **Appendix B** attached hereto. The details of the Series 2011C Bonds are summarized in Section VII.B.1 of the Disclosure Statement. The Debtor's obligations in respect of the Series 2011C Bonds will be secured by a lien on the Trust Estate. The Series 2011C Bonds shall be subordinated to the Series 2011A Bonds and Series 2011B Bonds in all respects, including in right of payment and priority of liens.

The payment of debt service on the Series 2011C Bonds will be made from Distributable Cash remaining after the First R&R Fund Deposit, the Second R&R Fund Deposit, the Third R&R Fund Deposit and the replenishment of the 2011 Debt Service Reserve Fund as set forth in the New Waterfall described at Section VII.B.2 of the Disclosure Statement.

4. Class 3. Bond Trustee Claims. The claims of the Senior Bonds Trustee and Subordinate Bonds Trustee for administrative fees and expenses due under the Original Trust Indenture have been paid in the ordinary course of business. Debtor does not believe there are any past due amounts outstanding to these creditors. To the extent such ongoing fees and expenses have not been paid, they will be paid in the ordinary course, or they will be paid in cash prior to the Effective Date or at such later time as provided for by agreement between the Debtor and such creditors. The Debtor expects these fees and expenses will be paid from funds held by the Trustee in the Revenue Fund, the Debt Service Fund and the Debt Service Reserve Fund securing the Original Bonds. The balance of available funds remaining in such Funds after payment of these fees and expenses and any escrows related to unresolved claims as determined by the Senior Bonds Trustee will be transferred to the Debt Service Reserve Fund securing the Amended and Restated Bonds. Accordingly, holders of Class 3 claims are not impaired under or entitled to vote on the Plan.

5. Class 4. SCDOT Claims. The claims of SCDOT are general unsecured claims arising under the License Agreement. However, such claims are being released by SCDOT and therefore will not be paid under the Plan.

6. Class 5. Executory Contract Claims. This class consists of any claims arising from the rejection of an executory contract. However, the Debtor does not believe there are any claims within this class, as set forth in Article III below. Such claims, if any, would be general unsecured claims and would not receive any distribution.

7. Class 6. Lehman Brothers Claims. Lehman Brothers filed a Proof of Claim in the amount of \$2,769,643.00 related to the termination and liquidation, after Lehman Brother's bankruptcy filing, of a Repurchase Agreement issued in connection with the Bonds. Debtor intends to object to the claim of Lehman Brothers if it is not resolved consensually. The potential claim of Lehman Brothers is believed by the Senior Bonds Trustee and the Debtor to be less than \$1.2 million, which would be before any reduction or offset as described below. Any claim of Lehman may also be subject to a reduction or offset by a claim

which the Debtor has asserted against Lehman Brothers, the value of which is unknown at this time (but for which a proof of claim was filed in the Lehman Brothers bankruptcy case). Out of abundance of caution, the Senior Bonds Trustee allocated approximately \$1.2 million out of original repurchase collateral held by the Senior Bonds Trustee in the debt service reserve fund of the Original Trust Indenture after the repurchase agreement liquidation to a specific suspense account as a maximum reserve for any valid Lehman claim. The Debtor and Senior Bonds Trustee are in discussions with Lehman Brothers concerning the reason for the discrepancy between the amount claimed by Lehman Brothers in its proof of claim versus the amounts above, as well as potential resolution of related claim issues. If consensual resolution cannot be reached, the Debtor intends to object to the proof of claim and to seek an order or judgment declaring that the property being held by the Senior Bonds Trustee (in the current debt service reserve fund including the suspense account) which was derived from the Repurchase Agreement liquidation is property of the Debtor and not subject to any right or interest of Lehman Brothers. To the extent that the Court rules that property being held by the Senior Bonds Trustee is property of the Debtor, the Senior Bonds Trustee will transfer such property to the Senior Bonds Debt Service Reserve Subaccount of the Series 2011 Bonds Debt Service Reserve Account as described under the Amended Trust Indenture. However, should the Court rule that any such property belongs to the Lehman Brother's estate, after reduction for damages or setoff, if applicable, the Senior Bonds Trustee will be required to turnover such property to Lehman Brothers. The amount of money available to be paid to the Senior Bonds Debt Service Reserve Subaccount of the Series 2011 Bonds Debt Service Reserve Account on the Effective Date of the Plan will be reduced by any amount to be repaid to Lehman Brothers (and may be reduced by a reserve escrow for such amount by the Senior Bonds Trustee if such claim is not resolved prior to confirmation of the Plan). To the extent the claim of Lehman Brothers is in excess of the property held by the Senior Bonds Trustee in the debt service reserve fund from the repurchase agreement liquidation, such claim would be a general unsecured claim. The Debtor does not expect to have sufficient funds to make any distribution to Lehman Brothers to the extent it is determined to have a general unsecured claim against the Debtor. Accordingly, the holder of the Class 6 Claim is impaired under and entitled to vote on the Plan.

ARTICLE III - TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES

All contracts and leases of the Debtor that may constitute executory contracts or unexpired leases as of the Petition Date shall be assumed except for the Goldman Contract (as further identified on Appendix D.2 hereto) or such contracts and leases that (a) have been rejected pursuant to Order of the Court entered prior to the Effective Date, (b) have been renegotiated and either assumed or rejected on renegotiated terms pursuant to Order of the Court entered prior to the Effective Date, (c) are the subject of a motion to reject that is pending before the Bankruptcy Court on the Effective Date, (d) are the subject of a motion to assume on renegotiated terms that is pending before the Court on the Effective Date, or (e) are specifically treated otherwise in the Plan or in the Confirmation Order. Contracts rejected or assumed pursuant to (a) - (e) above shall be rejected or assumed, as the case may be, as of the date set forth in the operative motion, agreement or order arising therewith. The Debtor intends to assume all known potential executory contracts to which the Debtor is a party, including but not limited to the Original Trust Indenture and License Agreement, as amended and restated in the

Amended Trust Indenture and the New License Agreement, respectively, but excluding the Goldman Contract as set forth below.

Attached as Appendix D.1 is a list of the known executory contracts being assumed by the Debtor, including but not limited to the Original Trust Indenture and License Agreement, as amended and restated in the Amended Trust Indenture and the New License Agreement, respectively. Attached as Appendix D.2 is a list of the known potential executory contracts being rejected by the Debtor, specifically, the Goldman Contract (which Debtor believes has expired by its terms but is listing out of an abundance of caution).

The New License Agreement will be assumed by the Debtor.

Any contract or lease that expired pursuant to its terms prior to the Effective Date, and that has not been assumed or rejected by Final Order prior to the Effective Date, shall be deemed rejected.

ARTICLE IV - MEANS OF IMPLEMENTING THE PLAN

A. Amended Trust Indenture

The terms of the Bonds are amended and restated by the Debtor in the Amended Trust Indenture. Upon issuance of the Amended and Restated Bonds, the Bonds will be cancelled. The Amended and Restated Bonds will be governed by the Amended Trust Indenture. The position of the Subordinate Bond Trustee will be no longer necessary as of the Effective Date of the Plan. A copy of the substantially final drafts of the Amended Trust Indenture and the forms of the Amended and Restated Bonds and the New License Agreement have been filed as part of the Plan Supplement, attached hereto at **Appendix E**.

Certain of the material terms from the Amended Trust Indenture are summarized below. However, this is not intended to be a comprehensive summary of all material terms therein, and the entire Amended Trust Indenture and the New License Agreement should be consulted and reviewed thoroughly by creditors:

- **Additional Bonds**. The Amended and Restated Bonds are issued under the Amended Trust Indenture and have the terms summarized herein. The Debtor may issue additional parity bonds (“Additional Bonds”) under the Indenture to (i) refund any Outstanding Series 2011A Bonds or Series 2011B Bonds (or, if no Series 2011A Bonds or Series 2011B Bonds are then Outstanding, the Series 2011C Bonds) if such refunding will not exceed Debt Service on the Bonds in each year in which any Bonds are then Outstanding under the Amended Trust Indenture, or (ii) finance improvements to the Southern Connector so long as no Debt Service is payable on such Additional Bonds until a period after all Outstanding Bonds are scheduled to mature.
- **Extraordinary Mandatory Redemption Due to Excess Revenues**: If on any Bond Payment Date the Debtor has amounts on deposit in the Extraordinary Redemption Fund in excess of \$50,000, then the Debtor shall apply such amounts to redeem Series 2011A Bonds and, if all Series 2011A Bonds have been redeemed, Series 2011B Bonds, and if all Series 2011B Bonds have been redeemed, Series 2011C Bonds, in the inverse order of

their maturities. The redemption price shall be 105% of the accreted value of the relevant Amended and Restated Bonds, plus accrued and unpaid interest thereon to the redemption date. The mandatory sinking fund redemption schedule for the term bonds will be revised to reduce the latest required sinking fund redemption by an amount equal to the future value of the accreted value so redeemed to the date of the latest remaining mandatory sinking fund redemption for such term bonds, at the yield on the bonds so redeemed.

- Optional Redemption: The Amended and Restated Bonds are not subject to optional redemption prior to April 1, 2026. The Series 2011A Bonds and the Series 2011B Bonds are subject to redemption at the option of the Debtor on any date on or after April 1, 2026 (and, if all Series 2011A Bonds and Series 2011B Bonds have been previously repaid or defeased, the Series 2011C Bonds) in whole or in part, at a redemption price of 105% of the accreted value of such Amended and Restated Bonds so redeemed, such redemption price decreasing by 1% per year on successive anniversaries such that the redemption price on or after April 1, 2031 is 100% of the accreted value of such Bonds on the redemption date. Any partial redemptions shall be applied in the inverse order of maturities of the Amended and Restated Bonds so redeemed.
- Remedies. If the Debtor fails to make any payment in respect of the Series 2011A Bonds or there occurs another Event of Default as provided in Section 902 of the Amended Trust Indenture, the New Trustee may, and upon the direction of the holders of a majority of the aggregate Senior Bond Obligation shall, exercise the remedies set forth in the Amended Trust Indenture. Among these is that the New Trustee shall have the right to retain, or cause the Debtor to retain, (i) a traffic and revenue consultant to recommend the optimum toll rates for the Southern Connector, on the terms and conditions set forth in Section 706 of the Amended Trust Indenture, and/or (ii) a management consultant or other third party to examine and make recommendations regarding the Debtor's operations and Operating Costs, and except to the extent holders of at least 25% of the aggregate Senior Bond Obligation shall object to the recommendations of such consultants or third party, (and if no contrary direction from a greater percentage of ownership of the aggregate Senior Bond Obligation has been delivered to the Trustee), the Debtor shall promptly implement all recommendations of such consultant or other third party (to the extent within its power to do so). The Amended Trust Indenture, like the Original Trust Indenture, does not provide any right thereunder to accelerate the maturity of the Amended and Restated Bonds.

In addition, only a payment default on the Series 2011A Bonds constitutes a payment default under the Amended Trust Indenture. The failure to make scheduled payments on the Series 2011B Bonds or Series 2011C Bonds, does not constitute an Event of Default under such Bonds or under the Amended Trust Indenture. Such unpaid amounts accrue interest at the Bond rate as "Arrearages" which are payable when Distributable Cash is sufficient at a subsequent date, as further set forth in the Amended Trust Indenture. Other remedies may also be triggered under Section 706 of the Amended Trust Indenture, as discussed under "Toll Rate Covenant" below.

- 2011 Debt Service Reserve Fund: The Debtor shall maintain with the New Trustee the 2011 Debt Service Reserve Fund to pay shortfalls in debt service on the Series 2011A Bonds (and, if all Series 2011A Bonds have been redeemed, on the Series 2011B Bonds, and if all Series 2011B Bonds have been redeemed, on the Series 2011C Bonds). The 2011 Debt Service Reserve Fund shall be funded on the Effective Date of the Plan from any amounts on deposit in the Southern Connector Toll Road Revenue Fund (except for amounts deposited in the Southern Connector Toll Road Revenue Fund after the Confirmation Date and on or before the Effective Date which shall be transferred to the Revenue Fund established under the Amended Trust Indenture), the Southern Connector Toll Road Revenue Bond Debt Service Fund and the Southern Connector Toll Road Revenue Bond Debt Service Reserve Fund (each as defined in the Original Trust Indenture) that are under the control of the Senior Bonds Trustee as of the Effective Date of the Plan (the amount so deposited in the 2011 Debt Service Reserve Fund being referred to herein as the “2011 Debt Service Reserve Requirement”). If the New Trustee thereafter applies any amounts in the 2011 Debt Service Reserve Fund, the 2011 Debt Service Reserve Fund shall be fully replenished to the 2011 Debt Service Reserve Requirement before any payments or other distributions shall be made in respect of the Series 2011B Bonds or the Series 2011C Bonds, as applicable, as provided in the New Waterfall.
- Toll Rates: Toll rates have been initially established in amounts equal to the revised rates assumed from time to time to be in effect in Figure 4.4.1 of the Revised Traffic Study. Under the New License Agreement, the toll rates for use of the Southern Connector may be revised from time to time to the Optimum Rates for the Southern Connector as then estimated by an independent toll rate consultant selected by the Debtor, as and to the extent provided in the New License Agreement. The Amended Trust Indenture provides circumstances under which the Debtor is obligated to retain a toll rate consultant and undertake to revise rates as set forth below. Neither SCDOT nor the State of South Carolina shall be responsible to any person or entity for determining the adequacy of the toll rates for purposes of satisfying any of the Debtor’s obligations to third parties.
- Toll Rate Covenant: As set forth in Section 706 of the Amended Trust Indenture, the Debtor will retain from time to time an independent traffic and revenue Consultant of recognized expertise in the area of toll road traffic and revenue forecasting to study the operations of the Southern Connector and to recommend in a written report (each a “Toll Rate Study”) the optimum toll rates for the Southern Connector. The Debtor shall cause the Consultant to study the past and projected future traffic, growth, employment, alternative rate scenarios and other relevant factors and to determine the toll rates for the use of the Southern Connector which, in the opinion of the Consultant to be delivered to the Debtor and the New Trustee, would maximize the Toll Revenues estimated by the Debtor’s Consultant to be earned by the Debtor (the “Optimum Rates”) over a projected period of not less than five (5) years. The Optimum Rates may include different rates charged on the Southern Connector at different times of day. The Debtor shall provide a Toll Rate Study to the New Trustee on or before April 30, 2016 and once every five years thereafter. In addition, if on a Bond Payment Date (a) the Debtor fails to make any Debt Service payment required to be made on the Series 2011A and/or Series 2011B Bonds, or

(b) the Debt Service Coverage Ratio for the Series 2011A Bonds is less than (i) 1.20 for periods ending on or before January 1, 2016, and (ii) 1.25 for periods ending after January 1, 2016, or (c) the Debt Service Coverage Ratio for the Series 2011B Bonds is less than 1.00, then the Debtor will retain a Consultant and promptly cause a Toll Rate Study to be undertaken and the toll rates to be revised to the Optimum Rates as provided in Section 6.4 of the New License Agreement. The Debtor will deliver to the New Trustee copies of any documents, reports or studies of the Consultant delivered to SCDOT, and any requests of the Debtor and responses thereto by SCDOT, under Section 6.4 of the New License Agreement. The New Trustee will cause any Toll Rate Study promptly to be delivered to the Owners of the Amended and Restated Bonds. Unless the Owners of 25% or more of the aggregate Senior Bond Obligation deliver a written objection to the Debtor and the New Trustee to the implementation of the revised tolls set forth in such Toll Rate Study not later than 30 days after delivery of such Toll Rate Study to the Owners of the Amended and Restated Bonds, the toll rates on the Southern Connector shall be set at the Optimum Rates as determined by such Consultant. If the owners of 25% or more of the aggregate Senior Bond Obligation timely object in writing to the recommendations of such Consultant (and no contrary written direction from a greater percentage of ownership of the aggregate Senior Bond Obligation has been delivered to the Trustee) then the toll rates shall remain unaltered. Notwithstanding the foregoing, the Debtor shall not be required to retain a Consultant or undertake a Toll Rate Study more frequently than once every two years.

- Non-Recourse Obligations: The Amended and Restated Bonds will be expressly non-recourse to the Debtor, the State, SCDOT or any agency, department or political subdivision of the State, and payable solely from the Trust Estate.

B. Distribution of Net Revenues to Pay New Bonds

The Debtor is required to deliver all of the Revenues to the New Trustee immediately upon receipt for deposit into the Revenue Fund. After payment or reserve for Trustee Fees and Expenses and budgeted Operating Costs consistent with the Amended Trust Indenture, the New Trustee will maintain all Net Revenues in the Revenue Fund. The Amended Trust Indenture contains the New Waterfall to replace the existing Flow of Funds Schedule in Section 505 of the Original Trust Indenture and Section 6.13 and Exhibit 5 of the License Agreement. Whether an Event of Default has occurred and is then continuing or otherwise, in each fiscal year amounts in the Revenue Fund shall be applied for the following purposes in the priority in which listed below.

First, on or before the last day of each month, to the extent not paid from other sources, Operating Costs budgeted by the Debtor shall be distributed to, or on the order of, the Debtor.

All amounts remaining in the Revenue Fund as of any calculation date and after distribution of amounts in respect of Operating Costs and payment or reimbursement of Trustee Fees and Expenses, as described above, constitutes "Distributable Cash"; provided, however, that Distributable Cash shall exclude (i) any proceeds from liability or casualty

insurance or condemnation awards with respect to the Debtor's interest in the Southern Connector Project which shall be disbursed as provided in Section 717 of the Amended Trust Indenture, and (ii) all amounts derived as loans or otherwise from the United States of America, the State or any other Person relating to the Southern Connector. The Trustee shall transfer the Distributable Cash on the Business Day prior to each Bond Payment Date as provided in items *Second* through *Ninth*, below.

Second, the New Trustee will deposit into the R&R Fund (i) for Bond Payment Dates on or before January 1, 2016, an amount equal to 5.0% of the amount of Distributable Cash, and (ii) for Bond Payment Dates after January 1, 2016, an amount equal to 2.5% of the amount of Distributable Cash;

Third, the New Trustee shall transfer to the Senior Bonds Debt Service Account amounts which, when added to other amounts then in the Senior Bonds Debt Service Account, and available for such purposes, shall equal the Debt Service on the Series 2011A Bonds and any other Additional Bonds issued as Senior Bonds required to be paid on such Bond Payment Date, including any amounts representing Arrearages on the Senior Bonds from earlier Bond Payment Dates;

Fourth, the New Trustee shall deposit into the R&R Fund (i) for Bond Payment Dates on or before January 1, 2016, an amount equal to 0.0% of the amount of Distributable Cash, and (ii) for Bond Payment Dates after January 1, 2016, an amount not to exceed 2.5% of the amount of Distributable Cash;

Fifth, if any subaccount in the Debt Service Reserve Fund contains less than the Debt Service Reserve Fund Requirement for such subaccount, the Trustee shall transfer into such subaccount an amount equal to the amount needed to restore the balance in such subaccount to the Debt Service Reserve Fund Requirement for such subaccount;

Sixth, the New Trustee shall transfer to the Senior Subordinate Bonds Debt Service Account amounts which, when added to other amounts then in the Senior Subordinate Bonds Debt Service Account, and available for such purposes, shall equal the Debt Service on the Series 2011B Bonds and any other Additional Bonds issued as Senior Subordinate Bonds required to be paid on such Bond Payment Date, including any amounts representing Arrearages on the Senior Subordinate Bonds from earlier Bond Payment Dates;

Seventh, the New Trustee shall deposit into the R&R Fund an amount not to exceed 2.5% of the amount of Distributable Cash;

Eighth, the New Trustee shall transfer to the Junior Subordinate Bonds Debt Service Account amounts which, when added to other amounts then in the Junior Subordinate Bonds Debt Service Account, and available for such purposes, shall equal the Debt Service on the Series 2011C Bonds and any other Additional Bonds issued as Junior Subordinate Bonds required to be paid on such Bond Payment Date, including any amounts representing Arrearages on the Junior Subordinate Bonds from earlier Bond Payment Dates; and

Ninth, the New Trustee will deposit into the R&R Fund an amount not to exceed 2.5% of

the amount of Distributable Cash.

Any Distributable Cash remaining after the above listed distributions (“Excess Net Revenues”) will be deposited to the Extraordinary Redemption Fund to be used (if the amount on deposit therein exceeds a minimum amount of \$50,000) to effect the early redemption of the Amended and Restated Bonds in Authorized Denominations. Amounts owing on the Series 2011 Bonds and any Additional Bonds issued under the Amended Trust Indenture and unpaid due to insufficient Distributable Cash shall be deferred and bear interest from the date of non-payment at a rate equal to the interest rate or yield on the Bond to which such unpaid amount relates, compounded annually (such unpaid amounts plus interest being the “Arrearages”) to be added to amounts payable on future Bond Payment Dates. The above percentage distributions to the R&R Fund will be used to compute the amount of Distributable Cash to be deposited into the R&R Fund for each Bond Payment Date. Non-payment of amounts to the R&R Fund due to the insufficiency of Distributable Cash will not result in a default under the New License Agreement or the Amended Trust Indenture, and shall not be added to the R&R Fund deposits for future Bond Payment Dates. However, as part of the financing of the Southern Connector, the Debtor is agreeing under the New License Agreement to reimburse SCDOT for the full unreimbursed Highway Maintenance Costs for the Southern Connector plus interest at the rate of five percent (5%) per annum compounded annually after all of the Amended and Restated Bonds (or any obligations issued to refinance such Amended and Restated Bonds) have been repaid. Any such repayment to SCDOT would require an extension of the term of the New License Agreement. One hundred percent (100%) of the Net Revenues received during any such extended term of the New License Agreement would be paid to SCDOT for this purpose of reimbursing the unreimbursed Highway Maintenance Costs with interest to SCDOT after all Project Debt has been repaid.

In the event on any Bond Payment Date any Debt Service payment is not made on any series of Bonds due to insufficiency of Distributable Cash, distributions of Distributable Cash in respect of the Debt Service on such Tier of Bonds on later Bond Payment Dates shall be applied, *First*, to any Arrearages and if the amount available is not sufficient to pay all of the Arrearages on such Tier of Bonds in full such Distributable Cash will be applied to the oldest unpaid Arrearages in the direct order of their due dates and within any due date ratably, and, *Second*, to the current Debt Service owing on such Tier of Bonds on such Bond Payment Date and if the amount available is not sufficient to pay all of the current Debt Service in full such remaining Distributable Cash will be applied ratably.

C. New License Agreement.

The Debtor and SCDOT will enter into a New License Agreement, the terms of which are summarized in Section VII B. 5 of the Disclosure Statement. A copy of the New License Agreement has been filed as part of the Plan Supplement, attached hereto at Appendix E-2.

ARTICLE V - RELEASES AND INJUNCTIONS

A. Releases Provided Under the Plan (“Releases”)

1. Release of Debtor, etc.: Notwithstanding any other provision of the Plan, as of the Effective Date, the Senior Bonds Trustee, the Subordinate Bonds Trustee, the Bondholders, SCDOT, and each person or entity bound by the Plan on account of treatment of its Claim in the Plan, shall be deemed to forever release, waive, and discharge all claims, obligations, suits, judgments, damages, demands, rights, causes of action, and liabilities, whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity or otherwise, which are based in whole or in part on any act, omission, transaction, or occurrence taking place on or prior to the Effective Date in any way relating to the License Agreement, the Southern Connector, or the Original Trust Indenture, and that could have been asserted by or on behalf of the Senior Bonds Trustee, the Subordinate Bonds Trustee, the Bondholders, SCDOT, and/or such person or entity, whether it arises directly, indirectly, derivatively, or in any representative or other capacity, against the Debtor, its past and present directors, officers, employees and agents, and the attorneys and other retained professionals of any of them; **provided however** this does not release claims of SCDOT, the New Trustee or the holders of the Amended and Restated Bonds arising after the Effective Date under the New License Agreement, the Amended and Restated Bonds, the Amended Trust Indenture, the Plan, or other operative documents entered into or effective pursuant to the Plan. The Confirmation Order shall constitute an injunction against the prosecution, whether directly, derivatively or otherwise, of any pre-Effective Date claim, debt, right, cause of action, liability, offset or defense released or to be released pursuant to this Article of the Plan.

2. Release by Debtor, the Senior Bonds Trustee, the Subordinate Bonds Trustee and the Bondholders: Notwithstanding any other provision of the Plan, as of the Effective Date, the Debtor, the Senior Bonds Trustee, the Subordinate Bonds Trustee, and the Bondholders shall be deemed to forever release, waive, and discharge all claims, obligations, suits, judgments, damages, demands, rights, causes of action, and liabilities, whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity or otherwise, which are based in whole or in part on any act, omission, transaction, or occurrence taking place on or prior to the Effective Date in any way relating to the License Agreement, the Southern Connector, or the Original Trust Indenture, and that could have been asserted by or on behalf of the Debtor, the Senior Bonds Trustee, the Subordinate Bonds Trustee, and/or the Bondholders whether it arises directly, indirectly, derivatively, or in any representative or other capacity, against SCDOT and its respective past and present directors, commissioners, officers, employees, professionals, and agents; **provided however** this does not release claims of the Debtor, the New Trustee or the holders of the Amended and Restated Bonds arising after the Effective Date under the New License Agreement, the Amended and Restated Bonds, the Amended Trust Indenture, the Plan or other operative documents entered into or effective pursuant to the Plan. The Confirmation Order shall constitute an injunction against the prosecution, whether directly, derivatively or otherwise, of any pre-Effective Date claim, debt, right, cause of action, liability, offset or defense released or to be released pursuant to this Article of the Plan.

3. Release by Debtor and SCDOT: Notwithstanding any other provision of the Plan, as of the Effective Date, the Debtor and SCDOT shall be deemed to forever release, waive, and discharge all claims, suits, obligations, judgments, damages, demands, rights, causes of action, and liabilities, whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity or otherwise, which are based in whole or in part on any act, omission, transaction, or occurrence taking place on or prior to the Effective Date in any way relating to the License Agreement, the Southern Connector, or the Original Trust Indenture, and that could have been asserted by or on behalf of the Debtor and/or SCDOT whether it arises directly, indirectly, derivatively, or in any representative or other capacity, against the Senior Bonds Trustee, the Subordinate Bonds Trustee, and the Bondholders, and their respective past and present officers, directors, employees, professionals, and agents; **provided however** this does not release claims of Debtor or SCDOT arising after the Effective Date under the New License Agreement, the Amended and Restated Bonds, the Amended Trust Indenture, the Plan, or other operative documents entered into or effective pursuant to the Plan. The Confirmation Order shall constitute an injunction against the prosecution, whether directly, derivatively or otherwise, of any pre-Effective Date claim, debt, right, cause of action, liability, offset or defense released or to be released pursuant to this Article of the Plan.

4. Release by Bondholders: Notwithstanding any other provision of the Plan, as of the Effective Date, the Bondholders shall be deemed to forever release, waive, and discharge all claims, obligations, suits, judgments, damages, demands, rights, causes of action, and liabilities, whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity or otherwise, which are based in whole or in part on any act, omission, transaction, or occurrence taking place on or prior to the Effective Date in any way relating to the License Agreement, the Southern Connector, or the Original Trust Indenture, and that could have been asserted by or on behalf of the Bondholders whether it arises directly, indirectly, derivatively, or in any representative or other capacity, against the Senior Bonds Trustee and the Subordinate Bonds Trustee, and their respective past and present officers, directors, employees, professionals, and agents; **provided however** this does not release claims of the New Trustee or the holders of the Amended and Restated Bonds arising after the Effective Date under the New License Agreement, the Amended and Restated Bonds, the Amended Trust Indenture, the Plan, or other operative documents entered into or effective pursuant to the Plan. The Confirmation Order shall constitute an injunction against the prosecution, whether directly, derivatively or otherwise, of any pre-Effective Date claim, debt, right, cause of action, liability, offset or defense released or to be released pursuant to this Article of the Plan.

5. Release of Professionals: As of the Effective Date of the Plan, all persons or entities that have held, currently hold, or may hold a claim or other debt or liability, which are based in whole or in part on any act, omission, transaction, or occurrence taking place on or prior to the Effective Date, against any of the professionals working for the Debtor (including any separate counsel for the Board of Directors of the Debtor), SCDOT, Senior Bonds Trustee, or Subordinate Bonds Trustee, are permanently enjoined from taking any of the following actions on account of any such claim, debt, or liability: (a) commencing or continuing in any manner,

any action or other proceeding against the professionals, other than to enforce any right pursuant to the Plan; (b) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree, or order against the professionals, other than as permitted pursuant to the Plan; (c) creating, perfecting, or enforcing any lien or encumbrance against the professionals; (d) asserting a setoff, right of subrogation, or recoupment of any kind against any debt, liability, or obligation due to the professionals, other than as permitted pursuant to the Plan; and (e) commencing or continuing any action, in any manner, in any place that does not comply with, or is inconsistent with, the provisions of the Plan, **provided however** this does not release any claims of the Debtor, the New Trustee, the holders of the Amended and Restated Bonds, or SCDOT arising after the Effective Date under the New License Agreement, the Amended and Restated Bonds, the Amended Trust Indenture, the Plan or other operative documents entered into or effective pursuant to the Plan. The Confirmation Order shall constitute an injunction against the prosecution, whether directly, derivatively or otherwise, of any pre-Effective Date claim, debt, right, cause of action, liability, offset or defense released or to be released pursuant to this Article of the Plan.

Notwithstanding any provision herein to the contrary, nothing in the Disclosure Statement, Plan, or in any order confirming the Plan shall: (i) discharge or release any person or entity from any claim, right, power or cause of action held or assertable by the United States Securities and Exchange Commission (the "SEC") with respect to the SEC's police or regulatory function, or (ii) impair, preclude or enjoin the SEC from commencing or continuing any investigation or taking any action against any person or entity in any nonbankruptcy forum.

B. Injunctions

EXCEPT AS OTHERWISE PROVIDED HEREIN, FROM AND AFTER THE EFFECTIVE DATE, ANY AND ALL POTENTIAL CLAIMANTS SHALL BE PERMANENTLY ENJOINED FROM COMMENCING OR CONTINUING IN ANY MANNER, ANY SUIT, ACTION OR OTHER PROCEEDING, ON ACCOUNT OF OR RESPECTING ANY CLAIM, OBLIGATION, DEBT, RIGHT, CAUSE OF ACTION, REMEDY OR LIABILITY, OR ANY OTHER CLAIM OR CAUSE OF ACTION RELEASED OR TO BE RELEASED PURSUANT HERETO, AGAINST THE DEBTOR OR ANY OR ALL OF THE PLAN RELEASEES.

The Final Confirmation Order shall permanently enjoin the commencement or prosecution by any person or entity, whether directly, derivatively or otherwise, of any Claims, obligations, suits, judgments, damages, demands, debts, rights, causes of action or liabilities, released pursuant to the Plan against any Plan Releasee. Thus, except as otherwise provided in the Plan, all parties having a claim against the Debtor or any Plan Releasee arising prior to the Effective Date of the Plan **SHALL WITH RESPECT THERETO BE ENJOINED ON AND AFTER THE EFFECTIVE DATE FROM:**

- Commencing, conducting, or continuing in any manner, directly or indirectly, any suit, action, or other proceeding of any kind against any of the Plan Releasees or his/her/its direct or indirect successor in interest (including, without limitation, all suits, actions, and proceedings that are pending, or may be filed as of the

Effective Date), which must be withdrawn or dismissed with prejudice;

- enforcing, levying, attaching, collecting, or otherwise recovering by any manner or means, whether directly or indirectly, any judgment, award, decree or order against a Plan Releasee or his/her/its assets or property, or his/her/its direct or indirect successor in interest, or any assets or property of such successor;
- creating, perfecting, or otherwise enforcing in any manner, directly or indirectly, any lien against a Plan Releasee or his/her/its assets or property, or his/her/its indirect or indirect successors in interest, or any assets or property of such successor;
- asserting any set-off, right of subrogation, or recoupment of any kind, directly or indirectly, against any obligation due a Plan Releasee or his/her/its assets or property, or his/her/its direct or indirect successors in interest, or any assets or property of such successor; and
- proceeding in any manner that does not conform or comply with the provisions of the Plan.

In addition, all injunctions or stays, whether by operation of law or by order of the Bankruptcy Court, provided for in the Case pursuant to Sections 105, 362, 524 or 922 of the Bankruptcy Code, or otherwise that are in effect on the Confirmation Date, shall remain in full force and effect until the Final Decree. For the avoidance of doubt, nothing herein shall or shall be deemed or construed to enjoin or prevent any party from enforcing the provisions of this Plan after Confirmation and the Effective Date.

Notwithstanding any provision herein to the contrary, nothing in the Disclosure Statement, Plan, or in any order confirming the Plan shall: (i) discharge or release any person or entity from any claim, right, power or cause of action held or assertable by the United States Securities and Exchange Commission (the "SEC") with respect to the SEC's police or regulatory function, or (ii) impair, preclude or enjoin the SEC from commencing or continuing any investigation or taking any action against any person or entity in any nonbankruptcy forum.

ARTICLE VI - VOTING PROCEDURES

A. Ballots and Voting Deadline

A Ballot to be used to accept or reject the Plan for creditors whose Claims are impaired under the Plan accompanies the Disclosure Statement and Plan.

Pursuant to Rule 3018 of the Federal Rule of Bankruptcy Procedure, the Court has established January 5, 2011 as the record date for the determination of the identity of the impaired Creditors from whom acceptances or rejections of the Plan will be solicited. Holders of claims in Class 1 and Class 2 are instructed to complete all required information on the Ballot, execute the Ballot, and return the completed Ballot to the Voting Nominee such that the Ballot is received in sufficient time to allow the Voting Nominee to receive the Ballot and summarize the

results on a Master Ballot and return the Master Ballots to the Solicitation Agent by March 4, 2011. The Voting Nominee for holders of claims in Class 1 and Class 2 are instructed to complete all required information on their Master Ballots, execute the Master Ballots, and return the completed Master Ballots to the Solicitation Agent such that the Master Ballots are actually received by the Solicitation Agent by 4:00 p.m., prevailing Eastern Time, on or before March 4, 2011 (the "Voting Deadline"). Holders of claims in Class 4, Class 5 and Class 6 are instructed to complete all required information on the Ballot, execute the Ballot, and return the completed Ballot to the Solicitation Agent such that the Ballot is actually received by the Solicitation Agent by the Voting Deadline. Any failure to follow the voting instructions included with the relevant Ballot may disqualify that Ballot and the corresponding vote. Reference is made to the Solicitation Procedures Order for further information on voting and Ballot matters.

Except to the extent allowed by the Bankruptcy Court, Ballots received after the Voting Deadline may not be accepted or used by or against the Debtor in connection with the Debtor's request for Confirmation of the Plan or any modification thereof.

B. Claimants Entitled to Vote to Accept or Reject the Plan.

1. Allowance for Voting Purposes. All creditors holding Allowed Claims in an impaired Class may vote to accept or reject the Plan. Generally, a claim is deemed "allowed" for voting purposes if a proof of claim was timely filed, and no objection to the claim has been filed that has not been resolved. If such an objection has been filed, the Claimant cannot vote on the Plan unless the Court, after notice and hearing, either overrules the objection or temporarily allows the claim for voting purposes pursuant to Bankruptcy Rule 3018(a). See the Solicitation Procedures Order for more detailed requirements related to voting matters.

2. Impaired Classes of Claims. As noted above, the holder of a claim has the right to vote on the Plan if that claim is allowed and classified into a Class that is *impaired* under the Plan. A Class is impaired if the Plan alters the legal, equitable, or contractual rights of the members of that Class with respect to their claims or interests. The Debtor believes that Classes 1, 2, 4, 5 and 6 are impaired under the Plan.

3. Claimants Not Entitled to Vote. The holders of the following types of claims are not entitled to vote on the Plan: (a) claims that have been disallowed; (b) claims that are subject to a pending objection and which have not been allowed for voting purposes pursuant to Bankruptcy Rule 3018(a); (c) claims that are not impaired; and (d) claims entitled to priority pursuant to Section 507(a)(2) of the Bankruptcy Code (defined as "Administrative Claims" in the Plan). Holders of Administrative Claims are not entitled to vote because such claims are not classified and are required to receive certain treatment specified by the Bankruptcy Code. Any party that disputes the characterization of its claim as unimpaired, however, may request that the Court find that its claim is impaired in order to obtain the right to vote on the Plan.

C. Vote Required for Class Acceptance.

As part of the Confirmation Hearing, the Court will determine whether the impaired voting classes have accepted the Plan by determining whether sufficient acceptances have been received from the holders of Allowed Claims in such Classes. An impaired Class of Claims will

be determined to have accepted the Plan if the holders of Allowed Claims in the Class casting votes in favor of the Plan (i) hold at least two-thirds of the allowed amount of the Allowed Claims of the holders in such Class who vote, and (ii) constitute more than one-half in number of holders of the Allowed Claims in such Class voting on the Plan. Ballots of holders of impaired Claims that are signed and returned, but not expressly voted for either acceptance or for rejection of the Plan, may be disqualified or counted as Ballots for the acceptance of the Plan if permitted by the Court. Except as may be allowed by the Court, a Ballot accepting the Plan may not be revoked.

D. Possible Reclassification of Creditors

The Debtor is required pursuant to Section 1122 of the Bankruptcy Code to place Claims in Classes that contain Claims substantially similar to each other. While the Debtor believes it has classified all Claims in compliance with Section 1122, it is possible a creditor may challenge the Debtor's classification of such creditor's Claim. If the Debtor is required to reclassify any Claims under the Plan, the Debtor, to the extent permitted by the Court, intends to continue to use the acceptances received from any creditor pursuant to the solicitation of acceptance using the Disclosure Statement for the purpose of obtaining the approval of the Class or Classes of which such creditor is ultimately deemed a member. Any reclassification of Claims could adversely affect the Class in which such Claims were initially a member, or any other Class under the Plan, by changing the composition of such Class and the required vote thereof on acceptance of the Plan. Further, a reclassification of Claims could necessitate the re-solicitation of votes.

ARTICLE VII - CONFIRMATION OF THE PLAN

A. Confirmation Hearing

The Bankruptcy Code requires that the Court, after notice, hold a Confirmation hearing. The Confirmation hearing will be separately noticed. The Bankruptcy Court may adjourn the Confirmation hearing from time to time without further notice except for an announcement made at the Confirmation hearing.

B. Requirements for Confirmation of the Plan

At the Confirmation hearing, the Bankruptcy Court will determine whether the requirements of Section 943 of the Bankruptcy Code have been satisfied in which event the Bankruptcy Court will enter an order confirming the Plan. Some of the principal requirements include:

1. **Best Interests Test**

One of the determinations that the Court must make before confirming the Plan is whether the Plan is in the best interest of creditors and is feasible. There are very few authorities on what constitutes the best interests of creditors under chapter 9 of the Bankruptcy Code. One leading commentator notes that the proposed plan must be better than the alternative available to creditors:

In the chapter 9 context, the alternative is dismissal of the case, permitting every creditor to fend for itself in the race to obtain the mandamus remedy and to collect the proceeds. Clearly, such a result is chaos, especially in those cases where the debt burden of the municipality is too high to support the taxes that the lands of the municipality will bear or the taxes or fees that the inhabitants or the users of municipal services will pay.

See 6 Collier on Bankruptcy § 943.03 [a] (15th ed. Rev. 2002). This test does not contemplate the Bankruptcy Court considering the liquidation test commonly used in Chapter 11 proceedings. The Debtor believes that the Plan is in the best interests of creditors because the Plan maximizes the economic return to the Debtor's creditors in the most practicable way given the unusual and complex nature of this Case.

2. Acceptance by Impaired Classes

Section 1129(a)(8) of the Bankruptcy Code requires that, unless the Plan satisfies the "cramdown" provisions of Section 1129(b) as discussed below, each impaired Class must accept the Plan by their requisite vote for Confirmation to occur. As more fully described herein, a class of Claims will have accepted the Plan if holders of at least two-thirds in amount and more than one-half in number of Allowed Claims in such class voting to accept or reject the Plan have voted in favor of acceptance.

It is important to recognize that the majorities required by Section 1126(b) of the Bankruptcy Code are calculated based on those creditors in a class that actually vote on a plan. Thus, for example, if there were 100 creditors, and only five creditors voted to accept or reject the plan, such creditors could determine the acceptance or rejection of the plan for the entire class of creditors. Thus it is important that each holder of Claims in Classes 1, 2, 4, 5, and 6, votes on the Plan.

The Bankruptcy Code provides that the Court may confirm a plan of adjustment that is not accepted by all impaired classes if at least one impaired class of Claims accepts the Plan and the "cramdown" provisions set forth in Section 1129(b)(1) and 1129(b)(2) are satisfied. The Plan may be confirmed under the cramdown provisions if, in addition to satisfying the other requirements of Section 943(b) of the Bankruptcy Code, the Plan is (i) fair and equitable; and (ii) does not discriminate unfairly with respect to each class of claims that is impaired under and has not accepted the Plan.

Among other things, the "fair and equitable" standard requires that unless a dissenting unsecured class of claims receives payment in full for its allowed claims, no holder of allowed claims in any class junior to that class may receive or retain any property on account of such claims. Additionally, the "fair and equitable" standard has been interpreted to prohibit any class senior to a dissenting class from receiving under a plan more than 100% of its allowed claims. Under the Plan no class senior to a dissenting unsecured class will receive more than 100% payment of its allowed claims, and therefore, the Debtor believes the Plan satisfies the "fair and equitable" standard.

The requirement that the plan not “discriminate unfairly” means that a dissenting class must be treated substantially equally with respect to other classes of equal rank. The Debtor does not believe that the Plan unfairly discriminates against any class that may not accept or otherwise consent to the Plan.

At the Confirmation hearing, the Court will determine whether the Plan meets all of the requirements of Section 943 of the Bankruptcy Code governing the confirmation of a plan of adjustment. Among the conditions precedent to the Court’s Confirmation of the Plan are: (i) a finding that the Plan was solicited upon disclosure of adequate information as defined in Section 1125(a) of the Bankruptcy Code; and (ii) a finding that at least one of the impaired Classes of Claims that is voting in the Chapter 9 Case has accepted the Plan by the affirmative vote of Claimants that hold at least two-thirds in amount and not less than one-half in number of the Allowed Claims of such Classes that have voted on such Plan, but excluding any Claimants designated under Section 1126(e) of the Bankruptcy Code.

C. Effectiveness of the Plan

Following are conditions that must be satisfied or waived on or prior to the Effective Date:

1. The Confirmation Order shall have been entered in form and substance reasonably satisfactory to the Debtor, SCDOT and the Senior Bonds Trustee, and shall, among other things, (i) provide for the issuance and distribution of the Amended and Restated Bonds, (ii) provide for the assumption of the New License Agreement and find that there are no defaults requiring cure thereunder and (iii) provide that notwithstanding Rule 3020(e) of the Bankruptcy Rules, the Confirmation Order shall be immediately effective, subject to the terms and conditions of the Plan; and

2. The Confirmation Order shall not then be stayed, vacated or reversed; and

3. The Confirmation Order shall be a Final Order and no request for revocation of the Confirmation Order shall have been made or, if made, remain pending; and

4. The Amended Trust Indenture and Amended and Restated Bonds have been executed and delivered and the New Trustee shall have received (as a condition to acceptance of delivery of the Amended and Restated Bonds):

(a) one executed counterpart of the Amended Trust Indenture and the Amended and Restated Bonds for each maturity thereof, together with a letter, signed by the Debtor, instructing the Trustee as to the delivery of such Bonds; and

(b) opinions of counsel acceptable to the New Trustee to the effect that, as of its date (i) the Amended Trust Indenture has been duly authorized, executed and delivered by the Debtor and constitutes the legal, valid and binding special, limited obligation of the Debtor; provided, however, that such opinion may include exceptions for limitations imposed by or resulting from bankruptcy, insolvency, moratorium, reorganization, or other laws affecting creditors’ rights generally, matters relating to equitable principles and other customary exceptions or qualifications appropriate in the circumstances; (ii) the Amended Trust Indenture

creates the valid pledge of and lien on the Trust Estate which it purports to create, subject only to the provisions of the Amended Trust Indenture permitting the application thereof for the purposes and on the terms and conditions set forth in the Amended Trust Indenture; (iii) the Amended and Restated Bonds are valid and binding special, limited obligations of the Debtor, payable solely from the sources provided therefor in the Amended Trust Indenture; provided, however, that such opinion may include exceptions for limitations imposed by or resulting from bankruptcy, insolvency, moratorium, reorganization, or other laws affecting creditors' rights generally, matters relating to equitable principles and other customary exceptions or qualifications appropriate in the circumstances; (iv) the Confirmation Order has been duly entered and is final and unappealable; (v) all conditions precedent in the Plan and Confirmation Order to the delivery of the Amended and Restated Bonds in exchange for the Original Bonds have been accomplished or waived and (vi) interest on the Amended and Restated Bonds will not be included in gross income of the holders of the Amended and Restated Bonds for federal income tax purposes; and

(c) a fully executed counterpart of the New License Agreement; and

(d) evidence of filed UCC-1 financing statements relating to the pledge of the Trust Estate; and

(e) evidence that SCDOT shall have received true and correct copies of the documents set forth in subsection (a) above certified by the Debtor in accordance with the New License Agreement and Amended Trust Indenture; and

5. The New License Agreement shall have been fully executed and delivered and shall have become effective.

D. Waiver of Conditions to Effectiveness of Plan

Each of the conditions set forth in Article VII.C of the Plan may be waived in whole or in part by the Debtor and the Senior Bonds Trustee without notice to parties in interest or the Court and without a hearing.

E. Amount and Method of Payment of Administrative Claims

The distributions to holders of Administrative Claims will be made prior to or within ten (10) days of the Effective Date, by the Debtor unless such Claim or Claims are not yet an Allowed Claim(s) by order of the Court where required.

F. Effect of Confirmation and Discharge of Debtor

Pursuant to Section 944 of the Bankruptcy Code, except as otherwise provided in the Plan, **the entry of the Confirmation Order, as of the Effective Date, will act as a full and complete discharge of all Claims against the Debtor, the post-Effective Date Debtor, or the post-Effective Date Debtor's assets of any nature whatsoever**, including, without limitation, any liability of a kind specified in Sections 502(g), 502(h) or 502(i) of the Bankruptcy Code, that arose or have been asserted against the Debtor at any time before the entry of the Confirmation Order or that arise from any pre-Confirmation conduct of the Debtor whether or not the Claim(s)

are known to or knowable by the Claimant. **The discharge of the Debtor will become effective as to each Claim, whether or not the Claim constituted an Allowed Claim and whether or not the holder of the Claim voted to accept the Plan. In addition, the Confirmation Order will operate as a general resolution with prejudice, as of the Effective Date, of all pending legal proceedings against the Debtor and its respective assets and properties as well as any proceedings not yet instituted against the Debtor or its respective assets and properties, except as otherwise provided in this Plan. As provided in Section 524 of the Bankruptcy Code, the discharge provided in the Plan operates as an injunction against the prosecution of any Claim so discharged.**

ARTICLE VIII - CLAIMS ADMINISTRATION

8.1 Except as otherwise provided in the Plan or the Confirmation Order, objections to Claims may be filed to any Claim in accordance with applicable law; *provided, however, that objections to Claims shall be filed on or before 60 days after the Effective Date or such objections shall be deemed waived.*

8.2 Except as set forth in Section 8.3, all Class 1 and Class 2 Claims shall be deemed filed and automatically allowed as set forth below. All Class 1 and Class 2 Claims are undisputed and shall be deemed secured to the extent provided in the Original Trust Indenture. All Class 1 and Class 2 Claims shall be deemed filed and automatically allowed in an amount equal to unpaid accreted value or principal plus accrued and unpaid interest existing as of the Petition Date, as calculated in accordance with the underlying bond documents and based on the records maintained by the Senior Bonds Trustee, the Subordinate Bonds Trustee, and DTC or DTC participants as applicable (but without duplication).

8.3 Debtor reserves the right to object to the Claim of any individual holder of a Bond if such individual filed a proof of Claim and it is determined by the Debtor that the Claim is included as part of the proof of Claim filed by the Senior Bonds Trustee or Subordinate Bonds Trustee.

8.4 The Debtor shall not object to the Class 3 Claims.

8.5 Any Claim for which a proof of Claim has been filed within any applicable period of limitation fixed by the Bankruptcy Court, or any Claim set forth on the List of Creditors, is deemed filed under Section 925 of the Bankruptcy Code, and to which an objection is not filed by the Debtor within the time period set forth in Section 8.1 hereof, shall be deemed an Allowed Claim.

8.6 Unless otherwise provided in the Plan or the Confirmation Order, any Claim which is not deemed filed under Section 925 of the Bankruptcy Code and for which no proof of Claim has been timely filed shall not be treated as an Allowed Claim for purposes of voting or distribution under the Plan, whether or not an objection to such Claim is filed and such Claim(s) shall be barred and discharged upon the Effective Date.

ARTICLE IX - MISCELLANEOUS

9.1 Delivery of Instruments. All parties bound by this Plan shall execute or deliver all instruments required to be executed by the Plan.

9.2 Headings. The headings used in this Plan are solely for the convenience of the reader and do not in any way limit, expand or modify the provisions of this Plan to which they refer.

9.3 Automatic Stay. Nothing herein shall be deemed to modify or vacate the automatic stay of actions against the Debtor; provided however that the automatic stay shall terminate upon the Effective Date.

9.4 Discharge. Upon the Effective Date, and the Debtor's performance of all obligations required by this Plan, the Debtor shall be discharged of all pre-Effective Date debts except as otherwise provided in this Plan.

9.5 Disputed Claims. Notwithstanding any other provision of this Plan, a Disputed Claim shall be paid in accordance with the Plan only after the Court enters its Order on the Disputed Claim as an Allowed Claim and such Order has become a Final Order.

9.6 Record Date. The Court has established January 5, 2011 as the record date for the determination of the identity of the impaired Creditors from whom acceptances or rejections of the Plan will be solicited. Persons entitled to vote on the Plan shall be determined by reference to: (i) the bond registrars' lists maintained by the Senior Bonds Trustee, the Subordinate Bonds Trustee, and DTC and DTC participants with only those named Bondholders being entitled to vote on the Plan, (ii) affidavits submitted to the Debtor pursuant to Rule 3003(d) of the Bankruptcy Rules, and (iii) the List of Creditors filed by the Debtor pursuant to Bankruptcy Code 924.

9.7 Limitation of Liability. Except as otherwise provided in the Plan, none of the Plan Participants, acting in such capacity, shall either have or incur any liability to any entity for any violation of any applicable law, rule or regulation governing solicitation of acceptance or rejection of a plan for adjustment of debts or the offer, issuance, sale or purchase of securities arising from or relating to any act taken or omitted to be taken in connection with or related to the Debtor's Case, including any act taken or omitted to be taken in connection with or related to the formulation, negotiation, preparation, dissemination, implementation, confirmation or consummation of the Plan, the Disclosure Statement, the Confirmation Order, or any contract, instrument, release or other agreement or document created or entered into, or any other act taken or omitted to be taken in connection with the Plan, the Disclosure Statement, the Confirmation Order or any act taken or omitted to be taken in connection with any estimation, projection, evaluation or investigation undertaken or prepared in connection with the formulation of the Plan, the Disclosure Statement, or the Confirmation Order; provided, however, that the provisions of this section shall have no effect on the liability of any Plan Participant that would otherwise result from any such act or omission to the extent that such act or omission is determined to have been unauthorized or to have constituted gross negligence or willful misconduct.

9.8 Further Acts. The Debtor is authorized and directed to do and perform or cause to be done and performed, all such further acts and things and shall execute and deliver all such other agreements, instruments or documents as may be reasonably necessary to satisfy its obligations under the Plan.

ARTICLE X - RETENTION OF JURISDICTION OF THE COURT

Pursuant to Bankruptcy Code Section 945, following the Effective Date, the Bankruptcy Court shall retain sole and exclusive jurisdiction of the following:

1. To resolve objections to Claims;
2. Determination of all causes of action, controversies, disputes or conflicts, whether or not the subject of an action pending as of the Confirmation Date, between the Debtor and any other party, to the extent consistent with provisions of the Bankruptcy Code applicable to Chapter 9 cases;
3. The correction of any defect, the curing of any omission, or the reconciliation of any inconsistency in the Plan or the Confirmation Order as may be necessary to carry out the purposes and intent of the Plan;
4. The enforcement and interpretation of the terms and conditions of the Plan and the Plan Documents;
5. The entry of any order, including injunctions, necessary to enforce any title, right and powers of the Debtor hereunder and to impose such limitations, restrictions and terms and conditions of such title, rights and powers as this Court may deem necessary;
6. The entry of a temporary restraining order and/or a permanent injunction or other equitable relief against any party who, subsequent to the date of Confirmation, initiates a legal action, other than an appeal of the Confirmation Order to the United States District Court, in any court wherein such party asserts that the Plan is unenforceable or invalid in any respect;
7. The entry of an order reopening this Case as may be necessary to the exercise of the exclusive jurisdiction set forth in this Article X; and
8. The entry of a Final Decree.

Respectfully submitted,

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