

AGREEMENT
By and between the
FEDERAL HIGHWAY ADMINISTRATION,
UNITED STATES DEPARTMENT OF TRANSPORTATION

AND

MINNESOTA DEPARTMENT OF TRANSPORTATION

THIS AGREEMENT, made and entered into this 17 day of July 2009, by and between the MINNESOTA DEPARTMENT OF TRANSPORTATION, an agency of the State of Minnesota, (hereinafter referred to as "Mn/DOT"), and the FEDERAL HIGHWAY ADMINISTRATION, UNITED STATES DEPARTMENT OF TRANSPORTATION, (hereinafter referred to as "FHWA") hereby provides as follows:

WITNESSETH:

WHEREAS, Section 1012(b)(4) of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), Pub. L. No. 102-240, as amended, permits the FHWA to allow the collection of tolls as part of a value pricing pilot program established under section 1012(b); and

WHEREAS, section 1012(b) of ISTEA, as amended, authorizes the Secretary of Transportation to enter into cooperative agreements with as many as fifteen (15) State or local governments or public authorities to establish, maintain, and monitor value pricing programs, or projects; and

WHEREAS, Mn/DOT, through the execution of cooperative agreements for prior value pricing projects, is one of the fifteen participants in the pilot program; and

WHEREAS, as part of Mn/DOT's value pricing program, Mn/DOT desire to toll the high occupancy vehicle ("HOV") lane/s and a priced dynamic shoulder lane on I-35W, which is located in Dakota and Hennepin Counties (hereinafter referred to as the "toll facility"); and

WHEREAS, the FHWA has determined that this Agreement is necessary to oversee and administer the collection of tolls pursuant to Section 1012(b)(4) of ISTEA, as amended; and

WHEREAS, Section 1012(b) of ISTEA, as amended, requires that all revenues received from the operation of a value pricing project be applied only toward the project's operating costs (including project implementation costs; mitigation measures to deal with adverse financial effects on low-income drivers; the proper maintenance of the facility; any reconstruction,

rehabilitation, restoration, or resurfacing of the facility; any debt service incurred in implementing the project; a reasonable return on investment of any private person financing the project), and other projects eligible for assistance under title 23, United States Code;

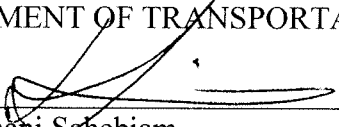
NOW THEREFORE, the Mn/DOT and the FHWA hereby agree as follows:

- (1) The FHWA agrees that Mn/DOT may operate the Facility as a toll facility in accordance with the provisions of this Agreement and as part of its value pricing pilot program.
- (2) Pursuant to Section 1012(b) of ISTEA, as amended, Mn/DOT will use all revenues received from the operation of the Facility to first fund the operating costs of the project as described in the Value Pricing Pilot Program Cooperative Agreement and its attachments (including project implementation costs; mitigation measures to deal with adverse financial effects on low-income drivers; the proper maintenance of the facility; any reconstruction, rehabilitation, restoration, or resurfacing of the facility; any debt service incurred in implementing the project; a reasonable return on investment of any private person financing the project) and then apply any revenues in excess of these purposes for other projects eligible for assistance under title 23, United States Code. In expending toll revenues collected from the operation of the Facility, the Commissioner of Transportation for the State of Minnesota may spend any excess toll revenues as follows:
 - (a) One-half must be transferred to the Metropolitan council to be applied to Title 23 eligible projects that expand and improve transit services within the corridor beyond the level of service provided on the date of implementation.
- (3) That the toll rates charged for the use of the Facility will vary pursuant to the terms in the Minnesota UPA agreement establishing the project and the applicable regulations and guidance pertaining to section 1012(b) of ISTEA, as amended.
- (4) That Mn/DOT agrees, upon reasonable notice, to make all of its records pertaining to the Facility subject to audit by the FHWA. The Mn/DOT agrees to annually audit the records of the Facility for compliance with the provisions of this Agreement and report the results thereof to FHWA. In lieu of the Mn/DOT performing said audit, a report of the State Auditor or an independent auditor furnished to FHWA may satisfy the requirements of this section.
- (5) The effects of the project must be monitored for a period of at least five years to evaluate the effects on driver behavior, traffic volume, transit ridership, air quality, and availability of funds for transportation programs.
- (6) Mn/DOT agrees to comply with all Federal laws and requirements applicable to this project, including the laws and policies applicable to the Value Pricing Pilot Program.

- (7) That this Agreement will be prepared in duplicate originals so that each signatory will have a signed Agreement. This Agreement may be signed in counterparts, each of which shall be deemed an original and taken together shall constitute one and the same agreement.

IN WITNESS THEREOF, the parties hereto have caused this instrument to be duly executed, the day and year first written above.

STATE OF MINNESOTA
DEPARTMENT OF TRANSPORTATION

BY: 
Khani Sahebjam
Deputy Commissioner/Chief Engineer

FEDERAL HIGHWAY ADMINISTRATION
UNITED STATES DEPARTMENT OF TRANSPORTATION

BY: 
Jeffrey E. Paniati
Executive Director