

EXHIBIT Z

DISPUTE RESOLUTION PROVISIONS

Section 1. Selection of Mediators and TR Dispute Panel Members.

(a) Purpose and Role of Mediation and TR Dispute Panels. The parties recognize the importance of having an expedient and cost efficient process to assist in the resolution of Disputes that may arise during the performance of the Agreement. As set forth in Article 21 of the Agreement, mediation is available for any Dispute that is not resolved by the Steering Committee, and a TR Formal Dispute Panel (“TR Dispute Panel”) is available for any Dispute that is not resolved by the Steering Committee that involves the Concessionaire disputing a Department directive issued in accordance with Section 10.02(c) of the Agreement (“TR Dispute”). Mediators and TR Dispute Panel members will be appointed in the manner set forth below.

(b) Selection of Mediators and TR Dispute Panel Members.

(i) Within sixty (60) Days after the Effective Date of the Agreement, Department and Concessionaire will each propose three (3) candidates to be included on a list of potential mediators (“the Mediator Candidate List”) and six (6) candidates to be included on a list of potential members for the TR Dispute Panel (“TR Dispute Panel Candidate List”). With respect to the Mediator Candidate List, each party will endeavor to appoint candidates who have the background and experience to mediate the resolution of a dispute on a major infrastructure project. With respect to the TR Dispute Panel Candidate List, each party will include one person from each of the disciplines of geotechnical, tunnel construction, structural, mechanical-electrical-plumbing and low voltage systems, tolling operations, and law. It is desirable that candidates for the TR Dispute Panel have some experience with contract administration and the resolution of construction disputes. Each party will ensure that all candidates for the Mediator Candidate List and TR Dispute Panel Candidate List submit resumes summarizing their experience and disclosure statements showing compliance with the conflict of interest requirements of Section 1(c) below. Depending upon the nature of the TR Dispute, members of the TR Dispute Panel Candidate List may, if the parties mutually agree, be requested to mediate a TR Dispute if the nature of such Dispute is such that the candidate’s background and experience is viewed as being appropriate to serve in that role.

(ii) Within ten (10) Days after the parties’ exchange of the Mediator Candidate List and TR Dispute Panel Candidate List, the Steering Committee will confer with the parties and determine the candidates that are acceptable to both parties. The Steering Committee will also agree on the process and timing for submitting and approving additional proposed candidate(s) for any of the initial candidates that were rejected by one of the parties or did not meet the requirements of Section 1(c) below, such that within thirty (30) Days after the initial candidate lists are exchanged a six-member

Mediator Candidate List and a twelve-person TR Dispute Panel Member Candidate List will have been established by agreement of the parties.

(c) Conflict of Interest.

(i) Neither mediators nor TR Dispute Panel members will have a conflict of interest with any party or a financial interest in any party or the Project, in any Project Agreement, or in the outcome of any Dispute decided hereunder, except for payments to that member for services as mediator or as a member of a TR Dispute Panel.

(ii) No approval of a proposed candidate for inclusion on the Mediator Candidate List or TR Dispute Panel Candidate Lists will constitute a waiver of any objection to a conflict of interest of such individual with respect to appointment as a mediator or TR Dispute Panel member as to a particular Dispute.

(iii) None of the mediator or TR Dispute Panel candidates will consider themselves an appointee, representative, agent or advocate of a party even though that party proposed them for inclusion on the respective list. All mediators and TR Dispute Panel members will be obligated to discharge their responsibilities in an impartial, objective, independent and professional manner without regard to the particular interests of either party.

(d) Replacement of Candidate List Members.

(i) At any time, the parties may by mutual agreement or by the process set forth below replace any of the persons on the Mediator Candidate List or TR Dispute Panel Candidate List that are not then serving on an active Dispute. In replacing a person on the TR Dispute Panel Candidate List, the parties will endeavor to maintain the mix of disciplines set forth in Section 1(b) above.

(ii) In the event that after the Mediator Candidate List and TR Dispute Panel Candidate List are approved by the parties a party proposes (“Proposing Party”) to replace a person on such lists, it will notify the other party (“Evaluating Party”) by sending a summary of the replacement candidate’s qualifications, a resume of experience, a disclosure statement, and such other information as the Evaluating Party will request. Within thirty (30) Days after the Evaluating Party receives a proposed candidate’s information, the Evaluating Party will evaluate the proposed candidate’s information and notify the Proposing Party whether the candidate is approved for inclusion on the respective list.

(iii) If the Evaluating Party does not approve a proposed candidate for inclusion on the Mediator Candidate List or TR Dispute Panel Candidate List, the Proposing Party will propose additional candidates in reasonably rapid succession, and the selection process will continue until the Evaluating Party’s approval is obtained as to a proposed candidate’s inclusion on the respective list. Any disagreements that prevent timely replacement of persons on the Mediator Candidate List or TR Dispute Panel Candidate List will be resolved by the Steering Committee.

(iv) Given the purpose of the above-referenced Dispute resolution processes, the parties agree that if there is a need to consider the use of a mediator or technical expert that is not included on the Mediator Candidate List or TR Dispute Panel Candidate List, they will discuss this at the Steering Committee and reasonably consider agreeing to use individuals who are not on the then-existing lists if this will aid in the resolution of a Dispute. Any such individual will meet the conflict of interest requirements of Section 1(c)(i) above.

(e) Communication with Those on the Mediator or TR Dispute Panel Candidate Lists.

(i) Each party may communicate in writing or by e-mail with persons on the Mediator Candidate List or TR Dispute Panel Candidate List for the purposes of: (a) ascertaining their availability to serve relative to a particular Dispute; and/or (b) reconfirming or clarifying such individuals' qualifications and the absence of conflicts of interest; *provided*, that the communicating party simultaneously furnishes copies of all such communications to the other party.

(ii) During the period that any TR Dispute Panel member serves on a TR Dispute Panel: (a) neither party will communicate *ex parte* with such TR Dispute Panel member; and (b) no TR Dispute Panel member will communicate *ex parte* with any person (other than other TR Dispute Panel members) regarding any aspect of the applicable TR Dispute.

Section 2. Steering Committee.

(a) Notice and Initiation of Dispute Resolution Process.

(i) If a party wishes to bring an unresolved Dispute to the Steering Committee pursuant to Sections 21.01 or 21.02 of the Agreement, it will submit written notice to the other party and the chairperson of the Steering Committee requesting that a meeting of the Steering Committee be convened to consider and resolve the Dispute. Such notice will include the following:

- (A) A detailed description of the Dispute;
- (B) The contractual basis for the Dispute, accompanied by relevant Project records; and
- (C) The relief being sought.

(ii) Within seven (7) Days after receipt of such written summary from the initiating party, the receiving party will submit to the Steering Committee a written response to the points made by the initiating party.

(iii) The Steering Committee will convene a meeting within ten (10) Days after the chairperson's receipt of an initiating request. After the meeting has convened, the Steering Committee will have seven (7) Days to: (a) resolve the Dispute and take or direct

the steps necessary to implement the resolution, or (b) notify the parties in writing that there has been no resolution.

(b) Process of Resolving Disputes. The Steering Committee will have broad discretion to implement procedures that it deems appropriate to objectively consider the Dispute and how to resolve it. This may include seeking the use of a facilitator or technical experts to provide advice on the issues before the Steering Committee on a particular Dispute, in which event the Steering Committee may by written notice to the parties modify the time period set forth in Section 2(a)(iii) above.

Section 3. Mediation.

(a) Appointment of Mediator and Initiation of Mediation Process.

(i) Any party wishing to initiate mediation pursuant to Sections 21.01 or 21.02 of the Agreement will submit written notice to the other party of such intent. Within seven (7) Days after receipt of such notice, each party will provide to the other its recommendation for an individual from the Mediator Candidate List to mediate the Dispute. The Steering Committee will make best efforts to appoint a mediator within fourteen (14) Days of the exchange of the recommendations.

(ii) Within thirty (30) Days after appointment of the mediator, the parties will attend and participate in a one-day mediation. The parties may by mutual agreement extend the time period for the mediation to occur or continue a mediation initiated within the 30-Day period if progress is being made on attempting to resolve the Dispute. In the event that the mediation process resolves the Dispute, the parties will promptly take the steps necessary to implement such resolution.

(iii) For purposes of Article 21 of the Agreement, the mediation will be deemed initiated on the date that the parties attend the mediation session set forth in Section 3(a)(ii) above.

(b) Mediation Procedures. The mediator will have discretion to conduct the mediation in any manner that he/she deems appropriate. This will include the process for exchanging information and presentations at the mediations sessions. Each party will have a senior representative attend the mediation session who is authorized to make a decision for that party.

(c) Confidentiality.

(i) All statements made in the course of the mediation are privileged settlement discussions. All those participating in the mediation must agree that any statements made or information disclosed to the Mediator in private caucus is privileged and that disclosure cannot be compelled under any circumstances. All records, reports, or other documents prepared by the Mediator or submitted to the Mediator in confidence by any party are confidential and disclosure cannot be compelled under any circumstances.

Section 4. TR Dispute Panel.

(a) Appointment of TR Dispute Panel.

(i) If the Concessionaire intends to bring a TR Dispute to a TR Dispute Panel for determination in accordance with Section 21.02 of the Agreement, the Concessionaire will submit written notice to the Department of such intent. Within seven (7) Days after receipt of such notice, each party will provide to the other its recommendations for individual(s) from the TR Dispute Panel Candidate List to serve on the TR Dispute Panel. The Steering Committee will make best efforts to appoint the TR Dispute Panel within fourteen (14) Days of the exchange of the recommendations.

(ii) The TR Dispute Panel appointed to resolve each TR Dispute will consist of three individuals, except as the parties may agree pursuant to Section 4(a)(v) below to have a single person TR Dispute Panel. The TR Dispute Panel will consist of: (a) two members with the background and experience appropriate for the subject matter of the TR Dispute; and (b) one lawyer.

(iii) If the parties cannot agree on the two candidates with technical expertise, then each party will rank in order of preference (1 being the top choice and so on) the available technical candidates, and the two candidates with the lowest combined score will become the two technical appointees. If there is a disagreement with respect to the lawyer candidate, the parties will follow the same process as above.

(iv) The parties and the TR Dispute Panel members will enter into the TR Dispute Panel Member Three Party Agreement in the form set forth in Attachment 1. Unless otherwise agreed by the parties, the lawyer candidate will act as chairperson of the TR Dispute Panel. Communications for purposes of administering the TR Dispute Panel thereafter will be through the TR Dispute Panel chairperson.

(v) The parties may agree to have any TR Dispute heard and determined by a single person TR Dispute Panel, in which case the parties will follow the process set forth in Section 4(a)(i) to determine, by agreement, which person from TR Dispute Panel Candidate List will serve as the TR Dispute Panel member.

(b) TR Dispute Procedures.

(i) The TR Dispute Panel will conduct its proceedings to resolve a TR Dispute per the requirements specified herein; *provided*, however, that:

(A) The parties may agree to modify the procedures applicable to the TR Dispute Panel's proceedings to resolve a TR Dispute, effective upon the TR Dispute Panel chairperson's receipt of the parties' written notice describing such modification; and

(B) The TR Dispute Panel may modify the procedures applicable to its proceedings to resolve a TR Dispute so as to be more responsive to the

needs of the parties; *provided*, that: (i) the TR Dispute Panel chairperson issues written notice to the parties describing the proposed modification; and (ii) both parties give their written consent thereto.

Each party will diligently cooperate with the TR Dispute Panel and the other party to effectuate an expeditious and efficient resolution of the TR Dispute.

(ii) The Concessionaire will, concurrently with the notice set forth in Section 4(a)(i) above, submit to the Department a statement (“Position Statement”) containing the following:

- (A) a concise summary of the nature and background of the TR Dispute, the facts relevant to the TR Dispute, and the issues to be decided;
- (B) a statement of the relief the Concessionaire is seeking;
- (C) copies of any Project Agreements, Project documents, records, reports and any other documents upon which the Concessionaire intends to rely or upon which it believes the TR Dispute Panel would find helpful in understanding the TR Dispute.

(iii) The Department will, within ten (10) Days after receipt of the above-referenced submission, submit to the Concessionaire a statement (“Responding Statement”) containing the following:

- (A) to the extent it disagrees with the Position Statement, a concise summary of the nature and background of the TR Dispute, the facts relevant to the TR Dispute, and the issues to be decided;
- (B) copies of any Project Agreements, Project documents, records, reports and any other documents upon which the Department intends to rely or upon which it believes the TR Dispute Panel would find helpful in understanding the TR Dispute.

(iv) Each party will submit their respective Position Statement and Responding Statement to the TR Dispute Panel at the time the TR Dispute Panel is appointed.

(v) The TR Dispute Panel will conduct a telephonic prehearing conference within five (5) Days of being appointed to discuss with representatives of the parties, among other things: (a) clarification of the TR Dispute and relief requested; (b) the schedule for submitting or exchanging any additional information; (c) the date, time and place for the hearing; and (d) the logistics, organization of exhibits, and any other preliminary matters that the TR Dispute Panel or parties believe will make the hearing itself as timely and efficient as practicable. Unless the parties agree otherwise, the hearing will be limited to two (2) Days in duration.

(vi) The date, time, and place for a hearing will be set at a location that is reasonably convenient for the parties; *provided*, however, unless the parties agree

otherwise, the TR Dispute Panel will conduct a hearing within thirty (30) Days of being appointed. The parties will respond to requests for hearing dates in a timely manner, be cooperative in scheduling the earliest practicable date, and adhere to the established hearing schedule.

(vii) Any party desiring a stenographic record will make arrangements directly with a stenographer and will notify the other party of these arrangements at least five (5) Days before the hearing. The requesting party will pay the cost of producing the record so that the other party and each TR Dispute Panel member will receive a copy as it is produced to the requesting party.

(viii) The parties may submit to the TR Dispute Panel any information or documents that are relevant and material to the TR Dispute and will produce to each other such information and documents as they or the TR Dispute Panel deems relevant and necessary to an understanding and determination of the TR Dispute. All information and documents will be submitted or presented to the TR Dispute Panel and both of the parties, except where a party fails to attend the hearing or has waived the right to be present. The legal rules of evidence will not apply to information and documents presented in connection with or at the TR Dispute hearing, and the TR Dispute Panel will determine the admissibility, relevance, materiality and sufficiency of the information and documents offered and may exclude information and documents deemed by the TR Dispute Panel to be cumulative or irrelevant. The TR Dispute Panel will close the hearing when it has received all information and documents that it determines are needed to decide the TR Dispute.

(ix) If the Department asserts that the TR Dispute is beyond the TR Dispute Panel's jurisdiction or authority, the TR Dispute Panel will hear and determine such preliminary matter prior to consideration of the merits of the TR Dispute. If the TR Dispute Panel determines that the TR Dispute is beyond the scope of its jurisdiction or authority, then it will issue a TR Dispute Decision dismissing the TR Dispute, without prejudice to the Concessionaire's rights to pursue the TR Dispute pursuant to Section 21.03 of the Agreement. If the TR Dispute Panel determines the TR Dispute is within its jurisdiction or authority, it will issue such determination (including its reasoning) in writing to the parties, whereupon the TR Dispute Panel will then proceed to hear the merits of the underlying TR Dispute. In such event, the thirty (30) day period referred to in Section 4(b)(vi) above will begin on the date that the TR Dispute Panel issues the determination described in the preceding sentence. The Department's assertion of lack of jurisdiction or authority and subsequent participation before the TR Dispute Panel to contest the merits of the TR Dispute will be without waiver of or prejudice to its right to assert such lack of jurisdiction or authority in subsequent proceedings, including those under Section 21.03 of the Agreement.

(x) Either party will be entitled to request the TR Dispute Panel to aggregate the consideration of multiple TR Disputes for resolution by the TR Dispute Panel where common questions of fact, law and contract interpretation and the efficiencies to be gained in conducting a single proceeding to resolve all such TR Disputes merit such aggregation. Upon receipt of such a request, the TR Dispute Panel will consider the aggregated TR

Disputes in a single proceeding unless, as a preliminary matter, the TR Dispute Panel determines that this is inappropriate. The TR Dispute Panel will specify which TR Disputes (if any) are to be aggregated and which are not. If not aggregated, each of the TR Disputes will be heard by TR Dispute Panel that considered the aggregation request, unless the parties agree to convene separate TR Dispute Panel(s) for one or more of such TR Disputes.

(c) TR Dispute Decisions.

(i) The TR Dispute Panel will promptly issue its decision (“TR Dispute Decision”) by email to the parties, but in no event later than fourteen (14) Days from the date of closing the hearing.

(ii) The TR Dispute Decision will include the TR Dispute Panel’s written findings, analysis and conclusions in support of the TR Dispute Decision. The TR Dispute Panel will base its TR Dispute Decision only on the facts and circumstances presented by the parties as to the TR Dispute at issue, the terms and conditions of the Agreement, and the law of the Commonwealth of Virginia. The TR Dispute Panel should make every effort to reach a unanimous decision. The TR Dispute Decision will be signed by no less than a majority of the TR Dispute Panel members.

(iii) Within five (5) Days after the transmittal of a TR Dispute Decision, either party, with written notice to the other party, may request the TR Dispute Panel to correct any clerical, typographical, or computational errors in the TR Dispute Decision. The other party will be given five (5) Days to object to the request on the ground that there is no clerical, typographical, or computational error in the TR Dispute Decision. The TR Dispute Panel will perform the requested correction of errors, if any, within five (5) Days after receipt of any objections from the opposing party or expiration of the five (5) Day period within which any such objection was to be made.

(d) Dissolution of TR Dispute Panel for a Given Dispute. The TR Dispute Panel for a given Dispute will be dissolved and the TR Dispute Panel members serving on such TR Dispute Panel will be released from further service as to that TR Dispute after the time periods set forth in Section 4(c)(iii) have expired. The dissolution of the TR Dispute Panel will not be construed to mean that the members of that TR Dispute Panel are no longer on the TR Dispute Panel Candidate List.

(e) Advisory Opinion Process.

(i) Although the purpose of the TR Dispute Panel is to afford the Concessionaire an expeditious remedy in the event of a TR Dispute, the parties may agree to use a TR Dispute Panel to obtain an advisory opinion in an informal manner as provided in this Section 4(e).

(ii) After the Concessionaire has initiated the TR Dispute process, the Concessionaire may, pursuant to Section 4(b)(i)(A), propose to the Department that the parties seek an advisory opinion from the TR Dispute Panel prior to proceeding with a

formal hearing. If the Department agrees, the parties will so notify the TR Dispute Panel and schedule a meeting with the Dispute Panel to occur within thirty (30) Days of the appointment of the TR Dispute Panel. If the parties agree to seek an advisory opinion, the time periods for the Concessionaire to pursue a TR Dispute Decision will be extended for the period within which the advisory opinion process is being implemented.

(iii) Prior to issuing a directive in accordance with Section 10.02(c) of the Agreement, the Department may elect to use a TR Dispute Panel to provide an advisory opinion. If Department chooses to do so, it will so advise the Concessionaire during a Steering Committee meeting and then follow the same processes Concessionaire is to follow as the initiating party to a TR Dispute, except that the TR Dispute Panel will provide only an advisory opinion and the formal process set forth in Sections 4(b)(iv) to 4(b)(x) and Section 4.3 issue will not apply.

(iv) The parties will agree on an informal process that will include: (a) exchange of information and the furnishing to the TR Dispute Panel of any information or documents that the parties want the TR Dispute Panel to consider; (b) a meeting with the TR Dispute Panel in which the parties will discuss their positions; and (c) an oral opinion from the TR Dispute Panel after the conclusion of the meeting (to be confirmed in writing if both parties so request). If the TR Dispute Panel's advisory opinion does not resolve the Dispute or the Department's directive, the parties will so confirm in writing within ten (10) Days after the advisory opinion meeting and the applicable time periods for each party to act will thereupon commence.

(v) The seeking and obtaining of an advisory opinion will be without prejudice to: (a) the Concessionaire's right to seek a TR Dispute Decision through the formal process set forth in Section 4; or (b) the Department's right to issue a directive pursuant to Section 10.02(c) of the Agreement. All information, communications and documents in connection with the advisory opinion process will be subject to Section 3(c) above.

ATTACHMENT 1 TO EXHIBIT Z
TR DISPUTE PANEL MEMBER THREE PARTY AGREEMENT

This TR DISPUTE PANEL MEMBER THREE-PARTY AGREEMENT (“TR Three-Party Agreement”) is entered into this ____ day of _____, ____ by and between the Virginia Department of Transportation (“Department”), Elizabeth River Crossings Opco LLC (“Concessionaire”), and _____, an individual (the “TR Dispute Panel Member”) (individually, a “Party”, and collectively, the “Parties”).

RECITALS

A. The Department and the Concessionaire are parties to that certain Comprehensive Agreement, dated as of the Effective Date therein (the “Agreement”).

B. Article 21 of the Agreement provides for the establishment and operation of a Technical Requirements Formal Dispute Panel (“TR Dispute Panel”) to resolve TR Disputes.

C. The Department and the Concessionaire desire to appoint the TR Dispute Panel Member to the TR Dispute Panel to resolve a TR Dispute and the TR Dispute Panel Member desires to accept such appointment, each on the terms and conditions set forth accordance with Exhibit Z of the Agreement and this TR Three Party Agreement.

NOW THEREFORE, in consideration of the terms, conditions, covenants and agreements contained herein and by reference, the receipt and sufficiency of which are acknowledged, the Parties agree as follows:

Section 1. Definitions and References.

(a) Definitions. All capitalized terms used in this TR Three Party Agreement and not defined or modified herein will have the meanings set forth in the Agreement and Exhibit Z of the Agreement.

(b) Incorporation by Reference. Section 21.02 of the Agreement and Section 4 of Exhibit Z are incorporated herein by reference.

Section 2. Appointment.

(a) Appointment. The Department and the Concessionaire appoint the TR Dispute Panel Member to the TR Dispute Panel to provide services in connection with the TR Dispute listed on Annex 1, and the TR Dispute Panel Member accepts such appointment and agrees to perform such services in accordance with this TR Three Party Agreement.

(b) Term of Service. The TR Dispute Panel Member will serve on the TR Dispute Panel through fourteen (14) Days after the issuance of a TR Dispute Decision, except that: (a) the TR Dispute Panel Member will resign for health considerations or other reasons of incapacity preventing continuation of service; or (b) the TR Dispute Panel Member will resign if

he or she discovers facts or circumstances that would, in such member's good faith judgment prevent such member from discharging his or her duties in the impartial and objective manner required under the terms of Section 1(c)(iii) of Exhibit Z. The TR Dispute Panel Member will give immediate notice of his or her resignation for any of these reasons.

Section 3. Covenants/Disclosures/Removal.

(a) Covenants. The TR Dispute Panel Member covenants to Department and Concessionaire that he or she:

(i) will be bound by and perform such member's obligations in accordance with Section 21.02 of the Agreement, Exhibit Z of the Agreement, and this TR Three Party Agreement; and

(ii) will follow the requirements of Section 1(c)(iii) of Exhibit Z in considering the TR Dispute.

(b) Disclosures.

(i) Any person proposed to be appointed as a TR Dispute Panel Member will disclose to the Department and the Concessionaire any circumstance likely to give rise to justifiable doubt as to such TR Dispute Panel Member's fairness, impartiality or independence, including but not limited to any requirements of Section 1(c)(i) of Exhibit Z. Such obligation to disclose will remain in effect throughout the period of such member's service on the TR Dispute Panel.

(ii) In order to encourage full disclosure by TR Dispute Panel candidates, disclosure of information pursuant to this Section 3(b) is not to be construed as an indication that the disclosing individual considers that the disclosed circumstance is likely to affect impartiality or independence.

(c) Disqualification/Removal. Each TR Dispute Panel Member will be impartial and independent and will perform his or her duties with diligence and in good faith, and will be subject to disqualification or removal for:

(i) inability or refusal to perform his or her duties with diligence and in good faith, and

(ii) any grounds for disqualification or removal as provided by the Agreement or Exhibit Z of the Agreement.

Section 4. Compensation.

(a) Payment for Services. The TR Dispute Panel Member's hourly billing rate and costs and expenses for service on the TR Dispute Panel and the means for calculating the same are attached hereto as Annex 2. Payment of fees for work performed and services rendered by each TR Dispute Panel Member and for his or her direct out-of-pocket costs and expenses will be calculated as set forth in Section 4(b) below. Such payments will be full compensation for

services rendered by each TR Dispute Panel Member, and for all labor, materials, supplies, equipment and incidentals necessary for such TR Dispute Panel Member's participation on the TR Dispute Panel.

(b) TR Dispute Panel Member Invoices. Each TR Dispute Panel Member will submit invoices concurrently to the Department and the Concessionaire on a monthly basis for payment by each of one-half of the full amount due for such TR Dispute Panel Member's services rendered in the prior month. Such invoices will be in a format approved by the Department's and the Concessionaire, accompanied by an itemization of: (a) days, hours billed, and a description of activities performed during each day in that billing period; and (b) direct non-salary costs incurred, supported by copies of the original bills, invoices, expense accounts and other supporting data.

(c) Payment by Parties. The Department and the Concessionaire will each be responsible and make payment for one-half of all fees, costs and expenses of the TR Dispute Panel Members' service on the TR Dispute Panel. Each TR Dispute Panel Member will be paid within thirty (30) Days of the Department and the Concessionaire's receipt and acceptance of invoices therefor. If either the Department or the Concessionaire disputes a TR Dispute Panel Member's invoice, such disputing party will notify such member and the non-disputing party in writing of such dispute promptly after receipt of such invoice. If either the Department or the Concessionaire fails to pay its share of the amount owing to any TR Dispute Panel Member at the time required for payment, then, unless the non-paying party has promptly disputed the amount due: (a) the other party may make payment in lieu of the non-paying party; and (b) the paying party will be entitled to recover (or offset) the amount paid on behalf of the non-paying party. Any TR Panel Member payment disputes will be resolved by the Steering Committee.

(d) Retention of Cost Records and Accounts. TR Dispute Panel Members will keep available for inspection by representatives of the Department and the Concessionaire, for a period of three (3) years after the issuance of a TR Dispute Decision, the cost records and accounts pertaining to the TR Three Party Agreement under which the services were performed.

(e) No Compensation After Termination. If the TR Dispute Panel Member's appointment to the TR Dispute Panel is terminated, the TR Dispute Panel Member will not be entitled to receive payment for any services rendered or costs and expenses incurred after the date of termination of such appointment.

Section 5. General Provisions.

(a) Nonassignability. The TR Dispute Panel Member will not assign or delegate any of the services to be rendered in connection with this TR Three Party Agreement without the prior written consent of both the Department and the Concessionaire.

(b) TR Dispute Panel Member as Independent Contractor. Each TR Dispute Panel Member is acting in the capacity of an independent contractor and not as an employee or agent of the Department or the Concessionaire. No TR Dispute Panel Member will be entitled to any employee benefits or rights from either the Department or the Concessionaire.

(c) Party Limitation of Liability. In no event will the Department or the Concessionaire have any liability to the TR Dispute Panel Member other than for payment of the TR Dispute Panel Member's fees, costs and expenses as provided hereunder.

(d) Damages Waiver. Neither the Department nor the Concessionaire will hold any TR Dispute Panel Member responsible for claims, damages, losses and expenses, including, but not limited to, attorneys fees and expenses, arising out of or resulting from the actions and TR Dispute Decisions of the TR Dispute Panel, and the Department and the Concessionaire expressly waive any right to the foregoing, except as a result of fraud, willful misconduct or criminal actions of the applicable TR Dispute Panel Member.

(e) No Testimony/Subpoenas. Neither the Department nor the Concessionaire will call or subpoena a TR Dispute Panel Member to testify in any subsequent proceedings in connection with a TR Dispute that the TR Dispute Panel Member heard and decided.

(f) Governing Law. This TR Three Party Agreement will be governed by and construed in accordance with the Laws of the Commonwealth of Virginia, without regard to conflicts of law principles that would refer one to the laws of another State.

(g) Entire Agreement. This TR Three Party Agreement, and the documents referenced herein, contain the entire understanding of the Parties with respect to the subject matter hereof and supersede all prior agreements, understandings, statements, representations and negotiations among the Parties with respect to its subject matter.

(h) Amendment in Writing. This TR Three Party Agreement may be altered, amended or revoked only by an instrument in writing signed by each Party. No verbal agreement or implied covenant or agreement will be held to vary the terms hereof, any statute, law or custom to the contrary notwithstanding.

(i) Survival. This TR Three Party Agreement will automatically terminate upon expiration or termination of the TR Dispute Panel Member's service hereunder.

(j) Counterparts. This instrument may be executed in two or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

(k) Notices. Notices hereunder will be sent as provided in Section 25.05 of the Agreement. The address for each TR Dispute Panel Member will be set forth on the signature page of each TR Three Party Agreement.

[Signature Page Immediately Follows]

EXECUTION VERSION – DECEMBER 5, 2011

IN WITNESS WHEREOF, the Parties hereto, intending to be legally bound, have executed this TR Dispute Panel Member Three Party Agreement as of the day and year first set forth above.

Virginia Department of Transportation:

TR Dispute Panel Member:

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Address: _____

Elizabeth River Crossings Opco LLC:

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

Annex 1

To

TR Dispute Panel Member Three Party Agreement

TR Dispute Description

[to be filled in]

Annex 2

To

TR Dispute Panel Member Three Party Agreement

Fees, Costs and Expenses

[to be attached]