

**EQUITY FUNDING GUARANTY**

**dated as of December 20, 2007**

**among**

**TRANSURBAN HOLDINGS LIMITED, and**

**TRANSURBAN INTERNATIONAL LIMITED, and**

**TRANSURBAN INFRASTRUCTURE MANAGEMENT LIMITED, in its capacity as  
responsible entity of the Transurban Holding Trust, jointly and severally**

**CAPITAL BELTWAY EXPRESS LLC,**

**VIRGINIA DEPARTMENT OF TRANSPORTATION,**

**GOLDMAN SACHS CAPITAL MARKETS, L.P.,**

**DEPFA BANK plc,**

**and**

**WELLS FARGO BANK, N.A.,  
as Trustee**

## EQUITY FUNDING GUARANTY

This Equity Funding Guaranty (this “Guaranty”), dated as of December 20, 2007, is entered into by TRANSURBAN HOLDINGS LIMITED (“Holdings”), TRANSURBAN INTERNATIONAL LIMITED (“International”), TRANSURBAN INFRASTRUCTURE MANAGEMENT LIMITED in its capacity as responsible entity of the Transurban Holding Trust (“Trust”, and together with Holdings and International, “Transurban Company”), in favor of CAPITAL BELTWAY EXPRESS LLC, a Delaware limited liability company (the “Borrower”), the VIRGINIA DEPARTMENT OF TRANSPORTATION, an agency of the Commonwealth of Virginia (the “Department”), GOLDMAN SACHS CAPITAL MARKETS, L.P., a Delaware limited partnership, DEPFA BANK plc, an Irish corporation, and WELLS FARGO BANK, N.A. (the “Trustee”), as trustee under the Indenture.

### RECITALS

A. Pursuant to a Master Indenture of Trust, dated as of December 1, 2007 (as amended, supplemented or otherwise modified from time to time, the “Indenture”), Capital Beltway Funding Corporation of Virginia, a nonstock, nonprofit Virginia corporation, as Issuer (the “Issuer”), has authorized the issuance of Bonds from time to time the proceeds of which will be used to finance a portion of the cost of the design, renovation, construction and expansion of the Project.

B. Pursuant to a First Supplemental Indenture of Trust to be entered into between the Issuer and the Trustee, the Issuer has authorized the issuance of the Capital Beltway Funding Corporation of Virginia Senior Lien Multi-Modal Toll Revenue Bonds (I-495 HOT Lanes Project) Series 2008A and Series 2008B, the proceeds from the sale of which will be loaned to the Borrower pursuant to the terms of a Loan Agreement to be executed between the Issuer and the Borrower, to be used to finance the GP Project Costs (as defined in such Loan Agreement).

C. Pursuant to a Second Supplemental Indenture of Trust, dated as of December 1, 2007, between the Issuer and the Trustee, the Issuer has authorized the issuance of the \$588,734,000 Capital Beltway Funding Corporation of Virginia Subordinate Lien TIFIA Bond (I-495 HOT Lanes Project), Series 2007-1, the proceeds from the sale of which will be loaned to the Borrower pursuant to the terms of a TIFIA Loan Agreement, dated as of December 1, 2007, among the Issuer, the Borrower and the United States Department of Transportation acting by and through the Federal Highway Administration, to be used to finance a portion of the Eligible Costs (as defined in such TIFIA Loan Agreement) of the Project.

D. Holdings, International and Trust are entities whose securities are “triple-stapled” and traded together on the Australian Securities Exchange. International is the indirect holder of 75% of the outstanding membership interests in Transurban DRIVE USA LLC, a Delaware limited liability company, which, in turn, is the direct holder of 90% of the outstanding membership interests of the Borrower.

E. As of the date hereof, Transurban DRIVE USA LLC (the “DRIVE Member”), the Borrower, the Trustee, the Pre-Issuance Hedging Banks and the DRIVE Member have entered

into the Equity Funding Agreement (the “Equity Funding Agreement”) pursuant to which the DRIVE Member shall, among other things, make, or cause to be made through one or more of its Affiliates, the Equity Contributions (as defined in the Equity Funding Agreement) to the Borrower.

F. It is a condition to the financing described above that Transurban Company agrees concurrently to guarantee all obligations of the DRIVE Member to fund the Equity Contributions pursuant to the Equity Funding Agreement and that the Borrower’s rights hereunder be assigned to the Trustee as part of the Trust Estate under the Indenture (other than the rights of the Pre-Issuance Hedging Banks).

G. Transurban Company agrees concurrently to guarantee all obligations of the DRIVE Member to fund the Equity Contributions pursuant to the Equity Funding Agreement.

## **AGREEMENT**

In consideration of the foregoing premises and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, Transurban Company hereby agrees as follows:

**Section 1. Definitions.** All capitalized terms used but not otherwise defined herein shall have the respective meanings given to such terms in the Equity Funding Agreement. In addition, the following capitalized terms used herein shall have the respective definitions set forth below:

“Minimum Rating” means a rating assigned by a Nationally Recognized Rating Agency which is no lower than BBB or Baa2.

“Nationally Recognized Rating Agency” means Standard & Poor’s Rating Group, Moody’s Investors Services, Inc., Fitch Ratings or another national rating agency approved by the Trustee (at the direction of the Instructing Controlling Party).

“Rating Categories” means the generic rating categories of a Nationally Recognized Rating Agency without regard to any refinement or gradation of such rating by a numerical modifier or otherwise.

### **Section 2. Guaranty by Transurban Company.**

2.1 Guaranty. Transurban Company unconditionally and irrevocably guarantees to the Trustee, the Pre-Issuance Hedging Banks and the Department, the due and punctual payment of the Equity Contributions payable by the DRIVE Member under the Equity Funding Agreement (but with respect to the Pre-Issuance Hedging Banks, limited to the payments owing by the DRIVE Member under Section 2.2 of the Equity Funding Agreement), when and as the same shall become due and payable.

## 2.2 Nature of Guaranty.

(a) Transurban Company agrees that its obligations hereunder are primary obligations and in all events are an absolute, unconditional, continuing and irrevocable guaranty of payment and not of collectibility or performance. If at any time, for any reason (i) the Equity Contributions payable by the DRIVE Member under the Equity Funding Agreement, or any part thereof, shall not be paid promptly when due, then, in each such instance, Transurban Company hereby agrees to cause any such payment to be made on demand by the Trustee, the Pre-Issuance Hedging Banks (but limited to the payments owing by the DRIVE Member under Section 2.2 of the Equity Funding Agreement) or the Department punctually when and as the same shall become due and payable and in accordance with the provisions of the Equity Funding Agreement, regardless of any defenses or rights of set-off or counterclaim, and regardless of whether steps shall have been taken by the Trustee, the Pre-Issuance Hedging Banks or the Department to enforce their rights against Transurban Company, the DRIVE Member, the Borrower, or any other Person, to collect such sums, or any part thereof, and regardless of any other condition or contingency, or (ii) any payment received by the Trustee or the Pre-Issuance Hedging Banks in respect of the obligations guaranteed pursuant to Section 2.1 or Section 2.2, respectively, is rescinded or avoided or must otherwise be restored or returned by the Trustee or the Pre-Issuance Hedging Banks, as applicable, this Guaranty will continue to be effective or will be reinstated, if necessary, as if that payment had not been made. Each failure by the DRIVE Member to pay any of its obligations and liabilities with respect to the Equity Contributions under the Equity Funding Agreement shall give rise to a separate cause of action hereunder, and separate suits may be brought hereunder as each such cause of action arises.

(b) Transurban Company's obligations under this Guaranty are independent of any obligation of the DRIVE Member or any other person, and a separate action or actions may be brought and prosecuted against any of Holdings, International or Trust under this Guaranty whether or not any action is brought or prosecuted against the DRIVE Member or any other person and whether or not the DRIVE Member or any other person is joined in any action under this Guaranty. This is a guaranty of payment and not merely of collection.

(c) Transurban Company hereby unconditionally and irrevocably (i) waives any requirement that the Trustee, the Pre-Issuance Hedging Banks or the Department first make demand upon, or seek to enforce remedies against, any other Person or any of the collateral or property of such other Person before demanding payment from, or seeking to enforce this Guaranty against, Transurban Company; (ii) covenants that this Guaranty shall not be discharged except by complete satisfaction of all payment obligations of the DRIVE Member with respect to the Equity Contributions under the Equity Funding Agreement, subject to Section 5.2 hereof; (iii) agrees that this Guaranty shall remain in full effect without regard to, and shall not be affected or impaired by, any invalidity, illegality, irregularity, or unenforceability in whole or in part of any of the Finance Documents, the Pre-Issuance Hedges or the Equity Funding Agreements (and Transurban Company hereby waives any defense relating to the enforceability of the Finance Documents, the Pre-Issuance Hedges or the Equity Funding Agreement, or any provisions contained therein) or except as expressly set forth herein or in the Equity Funding Agreement or the Finance Documents, or any limitation of the liability of the DRIVE Member or the Borrower thereunder or any limitation on the method or terms of payment thereunder which may now or hereafter be caused or imposed in any manner whatsoever; (iv) waives diligence,

presentment, demand of payment, notice of dishonor, or non-payment, protest, or notice of protest, notice of the creation or incurrence of new or additional indebtedness of the DRIVE Member to the Secured Parties, notice of acceptance of this Guaranty and notices of any other kind whatsoever, with respect to, and except as expressly provided herein or in the Equity Funding Agreement or the Finance Documents, any notice of default in, the Equity Funding Agreement, or any filing of claims with a court in the event of insolvency or bankruptcy of the DRIVE Member or any right to require a proceeding first against the DRIVE Member; and (v) agrees that each and every right, power and remedy given under this Guaranty shall be cumulative and not exclusive, and be in addition to all other rights, powers and remedies now or hereafter granted or otherwise existing.

(d) Each of Holdings, International and Trust agrees that its obligations hereunder are, and until the termination of this Guaranty pursuant to the terms hereof shall remain, a joint and several general obligation of each of Holdings, International and Trust, payable from any legally available monies. Each of Holdings, International and Trust will at all times be jointly and severally liable for each representation, warranty, covenant, agreement and other obligation of Transurban Company under this Guaranty.

2.3 Fees and Expenses. In addition to the obligations under Section 2.2 of this Guaranty, Transurban Company agrees to pay on demand to the Trustee or the Pre-Issuance Hedging Banks, as applicable, such further amounts as shall be sufficient to cover all costs and expenses incurred to collect such sums, or a part thereof, or of otherwise enforcing the Equity Funding Agreement and this Guaranty, including attorney's fees and expenses. The obligation to pay the Trustee's or Pre-Issuance Hedging Banks' costs and expenses pursuant to this Section 2.3 shall survive the termination of this Guaranty.

2.4 Certain Waivers. Until all liabilities and obligations of the DRIVE Member under the Equity Funding Agreement shall have been indefeasibly paid in full, Transurban Company hereby waives, to the extent permitted by applicable law, any claim, remedy or right that it may now have or hereafter acquire against the DRIVE Member that arises from the existence, payment, performance or enforcement of the obligations of Transurban Company under this Guaranty, including any right of subrogation, reimbursement, exoneration, contribution or indemnification and any right to participate in any claim or remedy of the Trustee, the Pre-Issuance Hedging Banks or the Department against the DRIVE Member, whether or not such claim, remedy or right arises in equity or under contract, statute or common law, including the right to take or receive from the DRIVE Member directly or indirectly, in cash or other property or by set-off or in any other manner, payment or security on account of such claim, remedy or right. If any amount shall be paid to Transurban Company in violation of the preceding sentence at any time prior to the indefeasible cash payment in full of all amounts payable under this Guaranty, such amount shall be held in trust for the benefit of the Trustee (or, if prior to the issuance of the Senior Lien Bonds, for the benefit of the Pre-Issuance Hedging Banks with respect to the payments owing by the DRIVE Member under Section 2.2 of the Equity Funding Agreement), and shall forthwith be paid to the Trustee (or, if prior to the issuance of the Senior Lien Bonds, to the Pre-Issuance Hedging Banks with respect to the payments owing by the DRIVE Member under Section 2.2 of the Equity Funding Agreement) and be credited and applied to the amounts payable under this Guaranty, whether matured or unmatured. Transurban Company acknowledges that it will receive direct and indirect benefits from the financing

arrangement contemplated by the Finance Documents and that the waiver set forth in this Section 2.4 is knowingly made in contemplation of such benefits. Notwithstanding the foregoing, the obligation to hold amounts in trust shall not have effect to the extent that it would otherwise create or take effect as a charge or security interest over such amounts.

2.5 Non-Impairment of Obligations. Prior to the issuance of the Senior Lien Bonds, the Pre-Issuance Hedging Banks may, and following the issuance of the Senior Lien Bonds, the Trustee may (at the direction of the Instructing Controlling Party), at any time and from time to time, without the consent of or notice to Transurban Company (except such notice as may be required by applicable law which cannot be waived), without incurring responsibility to Transurban Company, and without impairing or releasing the obligations of Transurban Company hereunder, upon or without any terms or conditions and in whole or in part: (i) change the manner, place and terms of payment or change or extend the time of payment of, renew, or alter any obligation of the DRIVE Member under the Equity Funding Agreement, or any obligation incurred directly or indirectly in respect thereof, or in any manner modify, amend, or supplement the terms of the Equity Funding Agreement and the guarantee herein made shall apply to such obligations of the DRIVE Member as changed, extended, renewed, modified, amended, supplemented, or altered in any manner; (ii) exercise or refrain from exercising any rights against the Borrower, the DRIVE Member, or any other Person (including Transurban Company), or otherwise act or refrain from acting; (iii) release any guarantor (other than Transurban Company) from its obligations without obtaining the consent of Transurban Company and without affecting or impairing the obligations of Transurban Company hereunder; (iv) settle or compromise any obligations hereby guaranteed and/or any obligations (including any obligations hereunder) incurred directly or indirectly in respect thereof or hereof, and may subordinate the payment of all or any part thereof to the payment of any obligations which may be due to such Secured Party or any other Person; (v) sell, exchange, release, surrender, realize upon, or otherwise deal with in any manner or in any order any property by whomsoever pledged or mortgaged to secure or howsoever securing the liabilities or obligations hereby guaranteed or any liabilities or obligations (including any obligations hereunder) incurred directly or indirectly in respect thereof or hereof and/or offset there against; (vi) consent to or waive any breach of, or any act, omission or default under, the Equity Funding Agreement or otherwise amend, modify, or supplement the Equity Funding Agreement; (vii) act or fail to act in any manner referred to in this Guaranty which may deprive Transurban Company of its right to subrogation or reimbursement against the DRIVE Member to recover full indemnity for any payments made pursuant to the Equity Funding Agreement or of its right of contribution against any other party; (viii) take any other action in respect of this Guaranty or any collateral or guaranties securing the obligations hereunder or any other action that might otherwise be deemed a legal or equitable discharge of a surety, without notice to or the consent of Transurban Company and irrespective of any change in the financial condition of the DRIVE Member, and/or (ix) until all amounts which may be or become payable by the DRIVE Member under or in connection with the Equity Funding Agreement have been irrevocably and indefeasibly paid in full, prior to the issuance of the Senior Lien Bonds, the Pre-Issuance Hedging Banks may, and following the issuance of the Senior Lien bonds, the Trustee (at the instructions of the Instructing Controlling Party) may: (A) refrain from applying or enforcing any other moneys, security, guaranties or rights held or received by the Trustee or the Pre-Issuance Hedging Banks in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and Transurban Company shall not be entitled to the benefit of the same; and (B) hold

in a suspense account any moneys received from Transurban Company or on account of Transurban Company's liability under this Guaranty, without liability to pay interest on those moneys. No invalidity, irregularity, or unenforceability of, or any change in or amendment to, the Equity Funding Agreement or the Finance Documents shall affect, impair, or be a defense to this Guaranty.

2.6 Additional Security. This Guaranty is in addition to and is not in any way prejudiced by any other guaranty or security now or subsequently held by any Secured Party or any Pre-Issuance Hedging Banks.

2.7 Waiver of Defenses. The obligations of Transurban Company under this Guaranty will not be affected by, and Transurban Company irrevocably waives any defense it might have by virtue of, any act, omission, matter or thing which, but for this Section 2.7, would reduce, release or prejudice any of its obligations under this Guaranty.

2.8 Equity Credit Support.

(a) Prior to the issuance of Senior Lien Bonds, to secure the obligations of the Equity Contributions, Transurban Company shall furnish to the Pre-Issuance Hedging Banks an irrevocable standby letter of credit, from a financial institution with a long-term credit rating in one of the top three Rating Categories, in the amount equal to the Maximum Equity Swap Contribution and containing terms and conditions satisfactory to the Pre-Issuance Hedging Banks, or cash collateral in such amount or other liquidity arrangement satisfactory to the Pre-Issuance Hedging Banks, not later than 60 days after Transurban Company's long-term credit rating is reduced below the Minimum Rating by any Nationally Recognized Rating Agency then rating Transurban Company.

(b) Following the issuance of the Senior Lien Bonds, to secure the obligations of the Equity Contributions, Transurban Company shall furnish to the Trustee an irrevocable standby letter of credit, from a financial institution with a long-term credit rating in one of the top three Rating Categories, in the amount of the then remaining amount of the Equity Contributions of the DRIVE Member and containing terms and conditions satisfactory to the Trustee (as determined by the Instructing Controlling Party), or cash collateral in such amount or other liquidity arrangement satisfactory to the Trustee (as determined by the Instructing Controlling Party), not later than 60 days after Transurban Company's long-term credit rating is reduced below the Minimum Rating by any Nationally Recognized Rating Agency then rating Transurban Company.

**Section 3. Representations and Warranties of Transurban Company.** Transurban Company makes the following representations and warranties, as applicable, as of the date hereof.

3.1 (a) Each of Holdings and Limited is a company duly formed, validly existing and in good standing under the laws of Australia and has full organizational power and authority, and possesses all necessary government authorizations and approvals to carry on its business as now conducted, to own or hold under lease its properties, and to enter into and perform its obligations under this Guaranty.

(b) International is a company duly formed, validly existing and in good standing under the laws of Bermuda and has full organizational power and authority, and possesses all necessary government authorizations and approvals to carry on its business as now conducted, to own or hold under lease its properties, and to enter into and perform its obligations under this Guaranty.

3.2 Transurban Company has taken all necessary action to authorize its execution and delivery of this Guaranty and the performance of its obligations under this Guaranty.

3.3 This Guaranty has been duly executed and delivered by Transurban Company, and constitutes the legal, valid and binding obligation of Transurban Company, enforceable against it in accordance with the terms hereof and thereof, subject to applicable bankruptcy, insolvency and other similar laws affecting creditors' rights generally and subject to general equitable principles.

3.4 All governmental authorizations and actions necessary in connection with the execution and delivery by Transurban Company of this Guaranty and the performance of its obligations hereunder have been obtained or performed and remain valid and in full force and effect.

3.5 Execution, delivery and performance of this Guaranty (i) do not and will not contravene any provisions of Transurban Company's constitutional documents, or any law, rule, regulation, order, judgment or decree applicable to or binding on Transurban Company or any of its properties, (ii) do not and will not contravene, or result in any breach of or constitute any default under, any agreement or instrument to which Transurban Company is a party or by which Transurban Company or any of its properties may be bound or affected, or (iii) do not and will not require the consent of any Person under any existing law or agreement which has not already been obtained.

3.6 There is no pending or, to the best of Transurban Company's knowledge, threatened action or proceeding affecting Transurban Company before any court, governmental agency or arbitrator that would reasonably be expected to materially and adversely affect the financial condition, results of operations or business of Transurban Company or the ability of Transurban Company to perform its obligations under this Guaranty.

3.7 Transurban Company possesses all franchises, certificates, licenses, permits and other governmental authorizations and approvals necessary for it to own its properties, conduct its business as now being conducted and perform its obligations under this Guaranty.

**Section 4. Covenants of Transurban Company.** Transurban Company hereby agrees that:

4.1 It will maintain in full force and effect all consents of any governmental or other authority that are required to be obtained by it with respect to this Guaranty, and it will obtain any consents that may become necessary in the future.

4.2 It will comply in all material respects with all governmental laws to which it may be subject if failure so to comply would materially impair its ability to perform its obligations under this Guaranty.

4.3 Until all amounts which may be or become payable by the DRIVE Member under or in connection with the Equity Funding Agreement have been irrevocably and indefeasibly paid in full, Transurban Company shall not, after a claim has been made or by virtue of any payment or performance by it under this Guaranty claim, rank, prove or vote as a creditor of the DRIVE Member or its estate in competition with any Secured Party (or the Trustee on its behalf) following the issuance of the Senior Lien Bonds, or any Pre-Issuance Hedging Bank prior to the issuance of the Senior Lien Bonds, with respect to the transactions contemplated under the Finance Documents unless the Trustee or the Pre-Issuance Hedging Banks, as applicable, otherwise consent or direct in writing.

### **Section 5. Termination**

5.1 Termination. In the absence of any termination of this Guaranty, Transurban Company agrees that nothing shall discharge or satisfy its obligations created hereunder except for the full and irrevocable payment by the DRIVE Member of all obligations with respect to the Equity Contributions under the Equity Funding Agreement. Subject to the provisions of Section 5.2 hereof, this Guaranty shall automatically terminate on the date following such irrevocable payment in full of all amounts due with respect to the Equity Contributions under the Equity Funding Agreement.

5.2 Reinstatement of Guaranty. Notwithstanding Section 5.1 hereof, this Guaranty shall be reinstated if at any time following the termination of this Guaranty pursuant to Section 5.1 hereof, any payment by Transurban Company hereunder or by the DRIVE Member with respect to the Equity Contributions under the Equity Funding Agreement or pursuant hereto or thereto is rescinded or must otherwise be returned by the Trustee, the Pre-Issuance Hedging Banks or other Person upon the insolvency, bankruptcy, reorganization, dissolution, or liquidation of the Borrower, the DRIVE Member, Transurban Company, or otherwise, and is so rescinded or returned to the party or parties making such payment, all as though such payment had not been made. Such period of reinstatement shall continue until such satisfaction of the conditions contained in, and shall continue subject to, the provisions of this Section 5.

**Section 6. Separate Right of Action**. Transurban Company acknowledges and agrees that (i) the provisions of and rights created by this Guaranty shall inure to, and are intended for, the benefit of the Trustee, on behalf of the Secured Parties (subject to the Intercreditor Provisions), the Pre-Issuance Hedging Banks and the Department, and (ii) the Trustee (at the direction of the Instructing Controlling Party), for and on behalf of the Secured Parties, the Pre-Issuance Hedging Banks and the Department, may be entitled to enforce directly and in its own name any rights or claims it may have against Transurban Company to enforce Transurban Company's obligations hereunder (but with respect to the Pre-Issuance Hedging Banks, limited to the payments owing by the DRIVE Member under Section 2.2 of the Equity Funding Agreement); provided that any moneys that are payable to the Trustee under this Guaranty or the Equity Funding Agreement in respect of the Equity Contributions shall be paid over to the Trustee for deposit in accordance with its instructions provided, however, that any moneys that

are paid under this Guaranty or the Equity Funding Agreement in respect of amounts due and payable to a Pre-Issuance Hedging Bank under Section 2.1 or 2.2 of the Equity Funding Agreement shall be payable to the Pre-Issuance Hedging Banks). The grant to the Trustee and the Pre-Issuance Hedging Banks under this Guaranty of any right or power does not impose upon the Trustee or the Pre-Issuance Hedging Banks any duty to exercise that right or power.

## **Section 7. Miscellaneous.**

### **7.1 Amendments and Waivers.**

(a) This Guaranty may not be amended, supplemented, waived or otherwise modified except in accordance with the provisions of this Section 7.1. Prior to the issuance of the Senior Lien Bonds, the Pre-Issuance Hedging Banks may (but limited to the payments owing by the DRIVE Member under Section 2.2 of the Equity Funding Agreement), and following the issuance of the Senior Lien Bonds and with the written consent of the Instructing Controlling Party, the Trustee, may, from time to time, (i) enter into with the Borrower and/or Transurban Company written amendments, supplements or modifications hereto for the purpose of adding any provisions to this Guaranty or changing in any manner the rights of the Trustee, the Pre-Issuance Hedging Banks, the Borrower or Transurban Company hereunder or (ii) waive, on such terms and conditions as the Trustee (as directed by the Instructing Controlling Party) or the Pre-Issuance Hedging Banks, as applicable, may specify in such instrument, any of the requirements of this Guaranty or the consequences thereof; provided, however, that no such waiver and no such amendment, supplement or modification shall (i) reduce the amount or extend the scheduled date of maturity of any Equity Contribution, without the consent of the Instructing Controlling Party affected thereby or the Pre-Issuance Hedging Banks, as applicable, or (ii) amend, modify or waive any provision of this Section 7.1, or consent to the assignment or transfer by Transurban Company of any of their rights and obligations under this Guaranty, in each case without the written consent of the Instructing Controlling Party or the Pre-Issuance Hedging Banks, as applicable.

(b) No delay or failure to exercise any right, power or privilege accruing to the Trustee, the Pre-Issuance Hedging Banks and the Secured Parties under this Guaranty shall impair any such right, power or privilege, nor shall it be construed to be a waiver thereof. No single or partial exercise of any right, power or privilege under this Guaranty shall preclude any other or further exercise thereof or the exercise of any other right, power or privilege. All remedies hereunder, under the Pre-Issuance Hedges and under the other Security Documents are cumulative and are not exclusive of any other remedies that may be available to the Trustee and the Pre-Issuance Hedging Banks, whether at law, in equity, or otherwise.

7.2 Notices. All notices, requests and demands to or upon the respective parties hereto to be effective shall be in writing (including by facsimile) and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when delivered by hand or, in the case of notice given by mail, private courier, overnight delivery service or facsimile, when received, addressed as follows, or to such other address as may be hereafter notified in accordance with this Section 7.2 by the respective parties hereto:

The Borrower:

The President  
Capital Beltway Express LLC  
565 5th Avenue, 18th Floor  
New York, NY, 10017  
Phone: 646-278-0870  
Facsimile: 646-278-0839

with a copy to:

The Vice-President Development  
Capital Beltway Express LLC  
1421 Prince Street, Suite 200  
Alexandria, VA, 23231  
Phone: 571-527-2050  
Facsimile: 571-527-2060

The Trustee:

Wells Fargo Bank, N.A.  
Four Gateway Center, Suite 1400  
444 Liberty Avenue  
Pittsburgh, PA 15222  
Attention: Corporate, Municipal and Escrow Solutions  
Telephone: 412-454-4612  
Facsimile: 412-454-4610

Virginia Department of Transportation:

1401 E. Broad Street  
Richmond, VA 23219  
Attention: Chief Engineer  
Facsimile: (804) 786-2940

with copies to:

Office of the Attorney General  
900 E. Main Street  
Richmond, VA 23219  
Attention: Chief Transportation Section  
Facsimile: (804) 786-9136

Transurban Company:

Transurban Holdings Limited, and  
Transurban International Limited, and  
Transurban Infrastructure Management Limited in its capacity as responsible  
entity of the Transurban Holding Trust,  
Level 43, Rialto South Tower  
525 Collins Street  
Melbourne, Victoria 3000  
Attention: Group Financial Controller  
Telephone: +613-9612-6999  
Facsimile: +613-9649-7380

Pre-Issuance Hedging Banks:

Goldman Sachs Capital Markets, L.P.:

85 Broad Street  
New York, New York 10004  
Attention: Swap Administration  
Telephone: 212-902-1000  
Facsimile: 212-902-5692

DEPFA Bank plc

IFU Loans Administration  
DEPFA BANK plc  
623 5th Avenue 22nd Floor  
NY NY 10022  
Telephone: +353-1-792-2374  
Facsimile: +353-1-792-2164  
ifuloansadministration@depfa.com

7.3 Successors and Assigns. This Guaranty shall be binding upon and inure to the benefit of Transurban Company, the Borrower, the Trustee, the Pre-Issuance Hedging Banks and the Department and their respective successors and assigns, except that neither Transurban Company nor the Borrower may assign or transfer any of their respective rights or obligations under this Guaranty without the written consent of the Trustee (acting at the direction of the Instructing Controlling Party) and the Department and, prior to the issuance of the Senior Bonds, the Pre-Issuance Hedging Banks.

7.4 Governing Law. This Guaranty shall be governed by and construed and interpreted in accordance with the law of the State of New York.

7.5 Submission To Jurisdiction; Waiver of Jury Trial. Transurban Company hereby irrevocably and unconditionally:

(a) submits for itself and its property in any legal action or proceeding relating to this Guaranty, or for recognition and enforcement of any judgment in respect thereof, to the non-exclusive jurisdiction of the courts of the State of New York, the courts of the United States of America for the Southern District of New York, and appellate courts from any thereof;

(b) consents that any such action or proceeding may be brought in such courts and waives any objection that it may now or hereafter have to the venue of any such action or proceeding in any such court or that such action or proceeding was brought in an inconvenient court and agrees not to plead or claim the same; and

(c) agrees that nothing herein shall affect the right to effect service of process in any manner permitted by law or shall limit the right to sue in any other jurisdiction.

(d) TRANSURBAN COMPANY, THE BORROWER AND THE TRUSTEE HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVE TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS GUARANTY AND FOR ANY COUNTERCLAIM THEREIN.

7.6 Severability. Any provision of this Guaranty (other than Sections 2.1, 2.2 and 2.3) which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

7.7 Headings. The table of contents and the headings of Articles, Sections, Exhibits and Schedules have been included herein for convenience only and should not be considered in interpreting this Guaranty.

7.8 Limitation of Recourse. Transurban Company shall have no other obligations or liabilities other than the obligations or liabilities set forth in this Guaranty. The obligations and liabilities of Transurban Company are not in excess of the payment obligations with respect to the Equity Contributions under the Equity Funding Agreement.

7.9 Counterparts. This Guaranty may be executed by one or more of the parties to this Guaranty on any number of separate counterparts, and all of said counterparts taken together shall be deemed to constitute one and the same instrument. A set of the copies of this Guaranty signed by all the parties shall be maintained by Transurban Company, the Borrower, the Trustee, the Pre-Issuance Hedging Banks and the Department.

7.10 Limitation of Liability.

(a) Transurban Infrastructure Management Limited (ABN 27 098 147 678) in its capacity as trustee (the "TIML Trustee") of the Transurban Holdings Trust enters into this Guaranty in its capacity as responsible entity of the Transurban Holding Trust and in no other capacity. Subject to paragraph (e) below, the parties acknowledge that the Obligations (as defined in paragraph (g) below) are incurred or given by the TIML Trustee to the Trustee, the

Pre-Issuance Hedging Banks and the Department only in its capacity as trustee for the Transurban Holding Trust.

(b) Subject to paragraph (e) below, the TIML Trustee is not liable to pay or satisfy any of its Obligations except out of the Assets of out of which it is entitled to be indemnified as trustee of the Transurban Holding Trust.

(c) Subject to paragraph (e) below, a party may enforce its rights against the TIML Trustee arising from non-performance of any Obligation only to the extent of the TIML Trustee's right of indemnity out of the Assets of the Transurban Holding Trust.

(d) Subject to paragraph (e) below, if a party does not recover all moneys owing to it arising from the non-performance of any Obligation by enforcing the rights referred to in paragraph (c) above, it may not seek to recover the shortfall by:

(i) bringing proceedings against the TIML Trustee in its personal capacity;

(ii) applying to have the TIML Trustee wound up or proving in the winding up of the TIML Trustee; or

(iii) seeking to set off against the TIML Trustee the relevant amount.

(e) Each party (other than the TIML Trustee) waives its rights and releases the TIML Trustee from any personal liability whatsoever, in respect of any loss or damage which it may suffer as a result of:

(i) any breach or non-performance by the TIML Trustee of any of its Obligations; or

(ii) acting upon any parties instructions; and

which cannot be paid out of the Assets out of which the TIML Trustee is entitled to be indemnified in respect of any liability incurred by it as TIML Trustee of the Transurban Holding Trust, except in the case of, and to the extent that, such breach or non-performance is attributable to gross negligence, fraud, breach of trust or breach of duty on the part of the TIML Trustee.

(f) Nothing in paragraphs (c) or (d) above is to be taken as derogating from the limitation of the TIML Trustee's liability contained in paragraphs (b) and (e) above. To the extent of any inconsistency between this paragraph and the other provisions of this Section 7.11, this paragraph prevails. .

(g) For the purposes of this Section 14:

“Assets” means all assets, property and rights, real or personal, of any nature whatsoever of the Transurban Holding Trust. “Obligations” means any or all obligations or liabilities of whatever kind undertaken or incurred by the TIML Trustee under the Guaranty.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, Transurban Company has caused this EQUITY FUNDING GUARANTY to be duly executed and delivered as of the day and year first written above.

**TRANSURBAN HOLDINGS LIMITED**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**TRANSURBAN INTERNATIONAL LIMITED**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**TRANSURBAN INFRASTRUCTURE  
MANAGEMENT LIMITED** in its capacity as  
responsible entity of the Transurban Holding Trust

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**Accepted by:**

**CAPITAL BELTWAY EXPRESS LLC**

By: \_\_\_\_\_

Name:

Title:

**WELLS FARGO BANK, N.A.**, as Trustee

By: \_\_\_\_\_

Name:

Title:

**VIRGINIA DEPARTMENT OF TRANSPORTATION,**  
an agency of the Commonwealth of Virginia

By: \_\_\_\_\_

Name:

Title: Commonwealth Transportation Commissioner

**GOLDMAN SACHS CAPITAL MARKETS, L.P.**

By: Goldman Sachs Capital Markets, L.L.C., General Partner

Name: \_\_\_\_\_  
Title:  
Date:

**DEPFA BANK plc**

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**EQUITY FUNDING GUARANTY**

**dated as of December 20, 2007**

**among**

**FLUOR CORPORATION,**

**CAPITAL BELTWAY EXPRESS LLC,**

**VIRGINIA DEPARTMENT OF TRANSPORTATION,**

**GOLDMAN SACHS CAPITAL MARKETS, L.P.,**

**DEPFA BANK plc,**

**and**

**WELLS FARGO BANK, N.A.,**

**as Trustee**

## **EQUITY FUNDING GUARANTY**

This Equity Funding Guaranty (this "Guaranty"), dated as of December 20, 2007, is entered into by FLUOR CORPORATION, a Delaware corporation ("Fluor") in favor of CAPITAL BELTWAY EXPRESS LLC, a Delaware limited liability company (the "Borrower"), the VIRGINIA DEPARTMENT OF TRANSPORTATION, an agency of the Commonwealth of Virginia (the "Department"), GOLDMAN SACHS CAPITAL MARKETS, L.P., a Delaware limited partnership, DEPFA BANK plc, an Irish corporation, and WELLS FARGO BANK, N.A. (the "Trustee"), as trustee under the Indenture.

### **RECITALS**

A. Pursuant to a Master Indenture of Trust, dated as of December 1, 2007 (as amended, supplemented or otherwise modified from time to time, the "Indenture"), Capital Beltway Funding Corporation of Virginia, a nonstock, nonprofit Virginia corporation, as Issuer (the "Issuer"), has authorized the issuance of Bonds from time to time the proceeds of which will be used to finance a portion of the cost of the design, renovation, construction and expansion of the Project.

B. Pursuant to a First Supplemental Indenture of Trust, to be entered into between the Issuer and the Trustee, the Issuer has authorized the issuance of the Capital Beltway Funding Corporation of Virginia Senior Lien Multi-Modal Toll Revenue Bonds (I-495 HOT Lanes Project) Series 2008A and Series 2008B, the proceeds from the sale of which will be loaned to the Borrower pursuant to the terms of a Loan Agreement to be executed between the Issuer and the Borrower, to be used to finance the GP Project Costs (as defined in such Loan Agreement).

C. Pursuant to a Second Supplemental Indenture of Trust, dated as of December 1, 2007, between the Issuer and the Trustee, the Issuer has authorized the issuance of the \$588,734,000 Capital Beltway Funding Corporation of Virginia Subordinate Lien TIFIA Bond (I-495 HOT Lanes Project), Series 2007-1, the proceeds from the sale of which will be loaned to the Borrower pursuant to the terms of a TIFIA Loan Agreement, dated as of December 1, 2007, among the Issuer, the Borrower and the United States Department of Transportation acting by and through the Federal Highway Administration, to be used to finance a portion of the Eligible Costs (as defined in such TIFIA Loan Agreement) of the Project.

D. Fluor is the direct holder of 100% of the outstanding capital stock of Fluor Enterprises, Inc., who in turn is the direct holder of 10% of the outstanding membership interests in the Borrower.

E. As of the date hereof, Fluor Enterprises, Inc. (the "Fluor Member"), the Borrower, the Trustee, and the Pre-Issuance Hedging Banks have entered into the Equity Funding Agreement (the "Equity Funding Agreement") pursuant to which the Fluor Member shall, among other things, make, or cause to be made through one or more of its Affiliates, the Equity Contributions (as defined in the Equity Funding Agreement) to the Borrower.

F. It is a condition to the financing described above that Fluor agrees concurrently to guarantee all obligations of the Fluor Member to fund the Equity Contributions pursuant to the

Equity Funding Agreement and that the Borrower's rights hereunder be assigned to the Trustee as part of the Trust Estate under the Indenture (other than the rights of the Pre-Issuance Hedging Banks).

G. Fluor agrees concurrently to guarantee all obligations of the Fluor Member to fund the Equity Contributions pursuant to the Equity Funding Agreement.

## **AGREEMENT**

In consideration of the foregoing premises and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, Fluor hereby agrees as follows:

**Section 1. Definitions.** All capitalized terms used but not otherwise defined herein shall have the respective meanings given to such terms in the Equity Funding Agreement. In addition, the following capitalized terms used herein shall have the respective definitions set forth below:

“Minimum Rating” means a rating assigned by a Nationally Recognized Rating Agency which is no lower than BBB or Baa2.

“Nationally Recognized Rating Agency” means Standard & Poor's Rating Group, Moody's Investors Services, Inc., Fitch Ratings or another national rating agency approved by the Trustee (at the direction of the Instructing Controlling Party).

“Rating Categories” means the generic rating categories of a Nationally Recognized Rating Agency without regard to any refinement or gradation of such rating by a numerical modifier or otherwise.

### **Section 2. Guaranty by Fluor.**

2.1 Guaranty. Fluor unconditionally and irrevocably guarantees to the Trustee, the Pre-Issuance Hedging Banks and the Department, the due and punctual payment of the Equity Contributions payable by the Fluor Member under the Equity Funding Agreement (but with respect to the Pre-Issuance Hedging Banks, limited to the payments owing by the Fluor Member under Section 2.2 of the Equity Funding Agreement), when and as the same shall become due and payable.

#### 2.2 Nature of Guaranty.

(a) Fluor agrees that its obligations hereunder are primary obligations and in all events are an absolute, unconditional, continuing and irrevocable guaranty of payment and not of collectibility or performance. If at any time, for any reason (i) the Equity Contributions payable by the Fluor Member under the Equity Funding Agreement, or any part thereof, shall not be paid promptly when due, then, in each such instance, Fluor hereby agrees to cause any such payment to be made on demand by the Trustee, the Pre-Issuance Hedging Banks (but limited to the payments owing by the Fluor Member under Section 2.2 of the Equity Funding Agreement) or the Department punctually when and as the same shall become due and payable and in accordance with the provisions of the Equity Funding Agreement, regardless of any defenses or

rights of set-off or counterclaim, and regardless of whether steps shall have been taken by the Trustee, the Pre-Issuance Hedging Banks or the Department to enforce their rights against Fluor, the Fluor Member, the Borrower, or any other Person, to collect such sums, or any part thereof, and regardless of any other condition or contingency, or (ii) any payment received by the Trustee or the Pre-Issuance Hedging Banks in respect of the obligations guaranteed pursuant to Section 2.1 or Section 2.2, respectively, is rescinded or avoided or must otherwise be restored or returned by the Trustee or the Pre-Issuance Hedging Banks, as applicable, this Guaranty will continue to be effective or will be reinstated, if necessary, as if that payment had not been made. Each failure by the Fluor Member to pay any of its obligations and liabilities with respect to the Equity Contributions under the Equity Funding Agreement shall give rise to a separate cause of action hereunder, and separate suits may be brought hereunder as each such cause of action arises

(b) Fluor's obligations under this Guaranty are independent of any obligation of the Fluor Member or any other person, and a separate action or actions may be brought and prosecuted against Fluor under this Guaranty whether or not any action is brought or prosecuted against the Fluor Member or any other person and whether or not the Fluor Member or any other person is joined in any action under this Guaranty. This is a guaranty of payment and not merely of collection.

(c) Fluor hereby unconditionally and irrevocably (i) waives any requirement that the Trustee, the Pre-Issuance Hedging Banks or the Department first make demand upon, or seek to enforce remedies against, any other Person or any of the collateral or property of such other Person before demanding payment from, or seeking to enforce this Guaranty against, Fluor; (ii) covenants that this Guaranty shall not be discharged except by complete satisfaction of all payment obligations of the Fluor Member with respect to the Equity Contributions under the Equity Funding Agreement, subject to Section 5.2 hereof; (iii) agrees that this Guaranty shall remain in full effect without regard to, and shall not be affected or impaired by, any invalidity, illegality, irregularity, or unenforceability in whole or in part of any of the Finance Documents, the Pre-Issuance Hedges or the Equity Funding Agreements (and Fluor hereby waives any defense relating to the enforceability of the Finance Documents, the Pre-Issuance Hedges or the Equity Funding Agreement, or any provisions contained therein) or except as expressly set forth herein or in the Equity Funding Agreement or the Finance Documents, or any limitation of the liability of the Fluor Member or the Borrower thereunder or any limitation on the method or terms of payment thereunder which may now or hereafter be caused or imposed in any manner whatsoever; (iv) waives diligence, presentment, demand of payment, notice of dishonor, or non-payment, protest, or notice of protest, notice of the creation or incurrence of new or additional indebtedness of the Fluor Member to the Secured Parties, notice of acceptance of this Guaranty and notices of any other kind whatsoever, with respect to, and except as expressly provided herein or in the Equity Funding Agreement or the Finance Documents, any notice of default in, the Equity Funding Agreement, or any filing of claims with a court in the event of insolvency or bankruptcy of the Fluor Member or any right to require a proceeding first against the Fluor Member; and (v) agrees that each and every right, power and remedy given under this Guaranty shall be cumulative and not exclusive, and be in addition to all other rights, powers and remedies now or hereafter granted or otherwise existing.

2.3 Fees and Expenses. In addition to the obligations under Section 2.2 of this Guaranty, Fluor agrees to pay on demand to the Trustee or the Pre-Issuance Hedging Banks, as

applicable, such further amounts as shall be sufficient to cover all costs and expenses incurred to collect such sums, or a part thereof, or of otherwise enforcing the Equity Funding Agreement and this Guaranty, including attorney's fees and expenses. The obligation to pay the Trustee's or Pre-Issuance Hedging Banks' costs and expenses pursuant to this Section 2.3 shall survive the termination of this Guaranty.

2.4 Certain Waivers. Until all liabilities and obligations of the Fluor Member under the Equity Funding Agreement shall have been indefeasibly paid in full, Fluor hereby waives, to the extent permitted by applicable law, any claim, remedy or right that it may now have or hereafter acquire against the Fluor Member that arises from the existence, payment, performance or enforcement of the obligations of Fluor under this Guaranty, including any right of subrogation, reimbursement, exoneration, contribution or indemnification and any right to participate in any claim or remedy of the Trustee, the Pre-Issuance Hedging Banks or the Department against the Fluor Member, whether or not such claim, remedy or right arises in equity or under contract, statute or common law, including the right to take or receive from the Fluor Member directly or indirectly, in cash or other property or by set-off or in any other manner, payment or security on account of such claim, remedy or right. If any amount shall be paid to Fluor in violation of the preceding sentence at any time prior to the indefeasible cash payment in full of all amounts payable under this Guaranty, such amount shall be held in trust for the benefit of the Trustee (or, if prior to the issuance of the Senior Lien Bonds, for the benefit of the Pre-Issuance Hedging Banks with respect to the payments owing by the Fluor Member under Section 2.2 of the Equity Funding Agreement), and shall forthwith be paid to the Trustee (or, if prior to the issuance of the Senior Lien Bonds, to the Pre-Issuance Hedging Banks with respect to the payments owing by the Fluor Member under Section 2.2 of the Equity Funding Agreement) and be credited and applied to the amounts payable under this Guaranty, whether matured or unmatured. Fluor acknowledges that it will receive direct and indirect benefits from the financing arrangement contemplated by the Finance Documents and that the waiver set forth in this Section 2.4 is knowingly made in contemplation of such benefits. Notwithstanding the foregoing, the obligation to hold amounts in trust shall not have effect to the extent that it would otherwise create or take effect as a charge or security interest over such amounts.

2.5 Non-Impairment of Obligations. Prior to the issuance of the Senior Lien Bonds, the Pre-Issuance Hedging Banks may, and following the issuance of the Senior Lien Bonds, the Trustee may (at the direction of the Instructing Controlling Party), at any time and from time to time, without the consent of or notice to Fluor (except such notice as may be required by applicable law which cannot be waived), without incurring responsibility to Fluor, and without impairing or releasing the obligations of Fluor hereunder, upon or without any terms or conditions and in whole or in part: (i) change the manner, place and terms of payment or change or extend the time of payment of, renew, or alter any obligation of the Fluor Member under the Equity Funding Agreement, or any obligation incurred directly or indirectly in respect thereof, or in any manner modify, amend, or supplement the terms of the Equity Funding Agreement and the guarantee herein made shall apply to such obligations of the Fluor Member as changed, extended, renewed, modified, amended, supplemented, or altered in any manner; (ii) exercise or refrain from exercising any rights against the Borrower, the Fluor Member, or any other Person (including Fluor), or otherwise act or refrain from acting; (iii) release any guarantor (other than Fluor) from its obligations without obtaining the consent of Fluor and without affecting or impairing the obligations of Fluor hereunder; (iv) settle or compromise any obligations hereby

guaranteed and/or any obligations (including any obligations hereunder) incurred directly or indirectly in respect thereof or hereof, and may subordinate the payment of all or any part thereof to the payment of any obligations which may be due to such Secured Party or any other Person; (v) sell, exchange, release, surrender, realize upon, or otherwise deal with in any manner or in any order any property by whomsoever pledged or mortgaged to secure or howsoever securing the liabilities or obligations hereby guaranteed or any liabilities or obligations (including any obligations hereunder) incurred directly or indirectly in respect thereof or hereof and/or offset there against; (vi) consent to or waive any breach of, or any act, omission or default under, the Equity Funding Agreement or otherwise amend, modify, or supplement the Equity Funding Agreement; (vii) act or fail to act in any manner referred to in this Guaranty which may deprive Fluor of its right to subrogation or reimbursement against the Fluor Member to recover full indemnity for any payments made pursuant to the Equity Funding Agreement or of its right of contribution against any other party; (viii) take any other action in respect of this Guaranty or any collateral or guaranties securing the obligations hereunder or any other action that might otherwise be deemed a legal or equitable discharge of a surety, without notice to or the consent of Fluor and irrespective of any change in the financial condition of the Fluor Member, and/or (ix) until all amounts which may be or become payable by the Fluor Member under or in connection with the Equity Funding Agreement have been irrevocably and indefeasibly paid in full, prior to the issuance of the Senior Lien Bonds, the Pre-Issuance Hedging Banks may, and following the issuance of the Senior Lien bonds, the Trustee (on the instructions of the Instructing Controlling Party) may: (A) refrain from applying or enforcing any other moneys, security, guaranties or rights held or received by the Trustee or the Pre-Issuance Hedging Banks in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and Fluor shall not be entitled to the benefit of the same; and (B) hold in a suspense account any moneys received from Fluor or on account of Fluor's liability under this Guaranty, without liability to pay interest on those moneys. No invalidity, irregularity, or unenforceability of, or any change in or amendment to, the Equity Funding Agreement or the Finance Documents shall affect, impair, or be a defense to this Guaranty.

2.6 Additional Security. This Guaranty is in addition to and is not in any way prejudiced by any other guaranty or security now or subsequently held by any Secured Party or any Pre-Issuance Hedging Banks.

2.7 Waiver of Defenses. The obligations of Fluor under this Guaranty will not be affected by, and Fluor irrevocably waives any defense it might have by virtue of, any act, omission, matter or thing which, but for this Section 2.7, would reduce, release or prejudice any of its obligations under this Guaranty.

2.8 Equity Credit Support.

(a) Prior to the issuance of Senior Lien Bonds, to secure the obligations of the Equity Contributions, Fluor shall furnish to the Pre-Issuance Hedging Banks an irrevocable standby letter of credit, from a financial institution with a long-term credit rating in one of the top three Rating Categories, in the amount equal to the Maximum Equity Swap Contribution and containing terms and conditions satisfactory to the Pre-Issuance Hedging Banks, or cash collateral in such amount or other liquidity arrangement satisfactory to the Pre-Issuance Hedging

Banks, not later than 60 days after Fluor's long-term credit rating is reduced below the Minimum Rating by any Nationally Recognized Rating Agency then rating Fluor.

(b) Following the issuance of the Senior Lien Bonds, to secure the obligations of the Equity Contributions, Fluor shall furnish to the Trustee an irrevocable standby letter of credit, from a financial institution with a long-term credit rating in one of the top three Rating Categories, in the amount of the then remaining amount of the Equity Contributions of the Fluor Member and containing terms and conditions satisfactory to the Trustee (as determined by the Instructing Controlling Party), or cash collateral in such amount or other liquidity arrangement satisfactory to the Trustee (as determined by the Instructing Controlling Party), not later than 60 days after Fluor's long-term credit rating is reduced below the Minimum Rating by any Nationally Recognized Rating Agency then rating Fluor.

**Section 3. Representations and Warranties of Fluor.** Fluor makes the following representations and warranties, as applicable, as of the date hereof.

3.1 Fluor is a company duly formed, validly existing and in good standing under the laws of Australia and has full organizational power and authority, and possesses all necessary government authorizations and approvals to carry on its business as now conducted, to own or hold under lease its properties, and to enter into and perform its obligations under this Guaranty.

3.2 Fluor has taken all necessary action to authorize its execution and delivery of this Guaranty and the performance of its obligations under this Guaranty.

3.3 This Guaranty has been duly executed and delivered by Fluor, and constitutes the legal, valid and binding obligation of Fluor, enforceable against it in accordance with the terms hereof and thereof, subject to applicable bankruptcy, insolvency and other similar laws affecting creditors' rights generally and subject to general equitable principles.

3.4 All governmental authorizations and actions necessary in connection with the execution and delivery by Fluor of this Guaranty and the performance of its obligations hereunder have been obtained or performed and remain valid and in full force and effect.

3.5 Execution, delivery and performance of this Guaranty (i) do not and will not contravene any provisions of Fluor's constitutional documents, or any law, rule, regulation, order, judgment or decree applicable to or binding on Fluor or any of its properties, (ii) do not and will not contravene, or result in any breach of or constitute any default under, any agreement or instrument to which Fluor is a party or by which Fluor or any of its properties may be bound or affected, or (iii) do not and will not require the consent of any Person under any existing law or agreement which has not already been obtained.

3.6 There is no pending or, to the best of Fluor's knowledge, threatened action or proceeding affecting Fluor before any court, governmental agency or arbitrator that would reasonably be expected to materially and adversely affect the financial condition, results of operations or business of Fluor or the ability of Fluor to perform its obligations under this Guaranty.

3.7 Fluor possesses all franchises, certificates, licenses, permits and other governmental authorizations and approvals necessary for it to own its properties, conduct its business as now being conducted and perform its obligations under this Guaranty.

**Section 4. Covenants of Fluor.** Fluor hereby agrees that:

4.1 It will maintain in full force and effect all consents of any governmental or other authority that are required to be obtained by it with respect to this Guaranty, and it will obtain any consents that may become necessary in the future.

4.2 It will comply in all material respects with all governmental laws to which it may be subject if failure so to comply would materially impair its ability to perform its obligations under this Guaranty.

4.3 Until all amounts which may be or become payable by the Fluor Member under or in connection with the Equity Funding Agreement have been irrevocably and indefeasibly paid in full, Fluor shall not, after a claim has been made or by virtue of any payment or performance by it under this Guaranty claim, rank, prove or vote as a creditor of the Fluor Member or its estate in competition with any Secured Party (or the Trustee on its behalf) following the issuance of the Senior Lien Bonds, or any Pre-Issuance Hedging Bank prior to the issuance of the Senior Lien Bonds, with respect to the transactions contemplated under the Finance Documents unless the Trustee or the Pre-Issuance Hedging Banks, as applicable, otherwise consent or direct in writing.

**Section 5. Termination.**

5.1 Termination. In the absence of any termination of this Guaranty, Fluor agrees that nothing shall discharge or satisfy its obligations created hereunder except for the full and irrevocable payment by the Fluor Member of all obligations with respect to the Equity Contributions under the Equity Funding Agreement. Subject to the provisions of Section 5.2 hereof, this Guaranty shall automatically terminate on the date following such irrevocable payment in full of all amounts due with respect to the Equity Contributions under the Equity Funding Agreement.

5.2 Reinstatement of Guaranty. Notwithstanding Section 5.1 hereof, this Guaranty shall be reinstated if at any time following the termination of this Guaranty pursuant to Section 5.1 hereof, any payment by Fluor hereunder or by the Fluor Member with respect to the Equity Contributions under the Equity Funding Agreement or pursuant hereto or thereto is rescinded or must otherwise be returned by the Trustee, the Pre-Issuance Hedging Banks or other Person upon the insolvency, bankruptcy, reorganization, dissolution, or liquidation of the Borrower, the Fluor Member, Fluor, or otherwise, and is so rescinded or returned to the party or parties making such payment, all as though such payment had not been made. Such period of reinstatement shall continue until such satisfaction of the conditions contained in, and shall continue subject to, the provisions of this Section 5.

**Section 6. Separate Right of Action.** Fluor acknowledges and agrees that (i) the provisions of and rights created by this Guaranty shall inure to, and are intended for, the benefit of the Trustee, on behalf of the Secured Parties (subject to the Intercreditor Provisions) , the Pre-

Issuance Hedging Banks and the Department, and (ii) the Trustee (at the direction of the Instructing Controlling Party), for and on behalf of the Secured Parties, the Pre-Issuance Hedging Banks and the Department may be entitled to enforce directly and in its own name any rights or claims it may have against Fluor to enforce Fluor's obligations hereunder (but with respect to the Pre-Issuance Hedging Banks, limited to the payments owing by the Fluor Member under Section 2.2 of the Equity Funding Agreement); provided that any moneys that are paid under this Guaranty or the Equity Funding Agreement in respect of the Equity Contributions shall be paid over to the Trustee for deposit in accordance with its instructions; provided, however, that any moneys that are paid under this Guaranty or the Equity Funding Agreement in respect of amounts due and payable to a Pre-Issuance Hedging Bank under Section 2.1 or 2.2 of the Equity Funding Agreement shall be payable to the Pre-Issuance Hedging Banks). The grant to the Trustee and the Pre-Issuance Hedging Banks under this Guaranty of any right or power does not impose upon the Trustee or the Pre-Issuance Hedging Banks any duty to exercise that right or power

## **Section 7. Miscellaneous.**

### **7.1 Amendments and Waivers.**

(a) This Guaranty may not be amended, supplemented, waived or otherwise modified except in accordance with the provisions of this Section 7.1. Prior to the issuance of the Senior Lien Bonds, the Pre-Issuance Hedging Banks may (but limited to the payments owing by the Fluor Member under Section 2.2 of the Equity Funding Agreement), and following the issuance of the Senior Lien Bonds and with the written consent of the Instructing Controlling Party, the Trustee may, from time to time, (i) enter into with the Borrower and/or Fluor written amendments, supplements or modifications hereto for the purpose of adding any provisions to this Guaranty or changing in any manner the rights of the Trustee, the Pre-Issuance Hedging Banks, the Borrower or Fluor hereunder or (ii) waive, on such terms and conditions as the Trustee (as directed by the Instructing Controlling Party) or the Pre-Issuance Hedging Banks, as applicable, may specify in such instrument, any of the requirements of this Guaranty or the consequences thereof; provided, however, that no such waiver and no such amendment, supplement or modification shall (i) reduce the amount or extend the scheduled date of maturity of any Equity Contribution, without the consent of the Instructing Controlling Party affected thereby or the Pre-Issuance Hedging Banks, as applicable, or (ii) amend, modify or waive any provision of this Section 7.1, or consent to the assignment or transfer by Fluor of any of their rights and obligations under this Guaranty, in each case without the written consent of the Instructing Controlling Party or the Pre-Issuance Hedging Banks, as applicable.

(b) No delay or failure to exercise any right, power or privilege accruing to the Trustee, the Pre-Issuance Hedging Banks and the Secured Parties under this Guaranty shall impair any such right, power or privilege, nor shall it be construed to be a waiver thereof. No single or partial exercise of any right, power or privilege under this Guaranty shall preclude any other or further exercise thereof or the exercise of any other right, power or privilege. All remedies hereunder, under the Pre-Issuance Hedges and under the other Security Documents are cumulative and are not exclusive of any other remedies that may be available to the Trustee and the Pre-Issuance Hedging Banks, whether at law, in equity, or otherwise.

7.2 Notices. All notices, requests and demands to or upon the respective parties hereto to be effective shall be in writing (including by facsimile) and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when delivered by hand or, in the case of notice given by mail, private courier, overnight delivery service or facsimile, when received, addressed as follows, or to such other address as may be hereafter notified in accordance with this Section 7.2 by the respective parties hereto:

The Borrower:

The President  
Capital Beltway Express LLC  
565 5th Avenue, 18th Floor  
New York, NY, 10017  
Phone: 646-278-0870  
Facsimile: 646-278-0839

with a copy to:

The Vice-President, Development  
Capital Beltway Express LLC  
1421 Prince Street, Suite 200  
Alexandria, VA, 23231  
Phone: 571-527-2050  
Facsimile: 571-527-2060

The Trustee:

Wells Fargo Bank, N.A.  
Four Gateway Center, Suite 1400  
444 Liberty Avenue  
Pittsburgh, PA 15222  
Attention: Corporate, Municipal and Escrow Solutions  
Telephone: 412-454-4612  
Facsimile: 412-454-4610

Virginia Department of Transportation:

1401 E. Broad Street  
Richmond, VA 23219  
Attention: Chief Engineer  
Facsimile: (804) 786-2940

with copies to:

Office of the Attorney General  
900 E. Main Street  
Richmond, VA 23219  
Attention: Chief Transportation Section  
Facsimile: (804) 786-9136

Fluor:

Fluor Corporation  
100 Fluor Daniel Drive  
Greenville, SC 29607  
Attention: Richard A. Fierce, Managing General Counsel  
Telephone: 864-281-8096  
Facsimile: 864-281-6868

Pre-Issuance Hedging Banks:

Goldman Sachs Capital Markets, L.P.:

85 Broad Street  
New York, New York 10004  
Attention: Swap Administration  
Telephone: 212-902-1000  
Facsimile: 212-902-5692

DEPFA Bank plc

IFU Loans Administration  
DEPFA BANK plc  
623 5th Avenue 22nd Floor  
NY NY 10022  
Telephone: +353-1-792-2374  
Facsimile: +353-1-792-2164  
ifuloansadministration@depfa.com

7.3 Successors and Assigns. This Guaranty shall be binding upon and inure to the benefit of Fluor, the Borrower, the Trustee, the Pre-Issuance Hedging Banks and the Department and their respective successors and assigns, except that neither Fluor nor the Borrower may assign or transfer any of their respective rights or obligations under this Guaranty without the written consent of the Trustee (acting at the direction of the Instructing Controlling Party) and the Department and, prior to the issuance of the Senior Bonds, the Pre-Issuance Hedging Banks.

7.4 Governing Law. This Guaranty shall be governed by and construed and interpreted in accordance with the law of the State of New York.

7.5 Submission To Jurisdiction; Waiver of Jury Trial. Fluor hereby irrevocably and unconditionally:

(a) submits for itself and its property in any legal action or proceeding relating to this Guaranty, or for recognition and enforcement of any judgment in respect thereof, to the non-exclusive jurisdiction of the courts of the State of New York, the courts of the United States of America for the Southern District of New York, and appellate courts from any thereof;

(b) consents that any such action or proceeding may be brought in such courts and waives any objection that it may now or hereafter have to the venue of any such action or proceeding in any such court or that such action or proceeding was brought in an inconvenient court and agrees not to plead or claim the same; and

(c) agrees that nothing herein shall affect the right to effect service of process in any manner permitted by law or shall limit the right to sue in any other jurisdiction.

FLUOR, THE BORROWER AND THE TRUSTEE HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVE TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS GUARANTY AND FOR ANY COUNTERCLAIM THEREIN.

7.6 Severability. Any provision of this Guaranty (other than Sections 2.1, 2.2 and 2.3) which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

7.7 Headings. The table of contents and the headings of Articles, Sections, Exhibits and Schedules have been included herein for convenience only and should not be considered in interpreting this Guaranty.

7.8 Limitation of Recourse. Fluor shall have no other obligations or liabilities other than the obligations or liabilities set forth in this Guaranty. The obligations and liabilities of Fluor are not in excess of the payment obligations with respect to the Equity Contributions under the Equity Funding Agreement.

7.9 Counterparts. This Guaranty may be executed by one or more of the parties to this Guaranty on any number of separate counterparts, and all of said counterparts taken together shall be deemed to constitute one and the same instrument. A set of the copies of this Guaranty signed by all the parties shall be maintained by Fluor, the Borrower, the Trustee, the Pre-Issuance Hedging Banks and the Department.

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IN WITNESS WHEREOF, Fluor has caused this EQUITY FUNDING GUARANTY to be duly executed and delivered as of the day and year first written above.

**FLUOR CORPORATION**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**Accepted by:**

**CAPITAL BELTWAY EXPRESS LLC**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**WELLS FARGO BANK, N.A.**, as Trustee

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**VIRGINIA DEPARTMENT OF TRANSPORTATION,**  
an agency of the Commonwealth of Virginia

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: Commonwealth Transportation Commissioner

**GOLDMAN SACHS CAPITAL MARKETS, L.P.**

By: Goldman Sachs Capital Markets, L.L.C., General Partner

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**DEPFA BANK plc**

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_