Attachment 2

Availability Payments

A. Estimated Semi-Annual Availability Payments

All values in YOE$, Millions				
Payment Number	Avavilability Payment Date	Assumed fixed 85% portion*	Assumed 15% O&M portion indexed to inflation*	Total Estimated Availabilty Payment* in the Analysis
1	12/31/13	$15.05	$2.76	$17.80
2	06/30/14	$15.05	$2.76	$17.80
3	12/31/14	$15.05	$2.81	$17.86
4	06/30/15	$15.05	$2.81	$17.86
5	12/31/15	$15.05	$2.87	$17.92
6	06/30/16	$15.05	$2.87	$17.92
7	12/31/16	$15.05	$2.93	$17.98
8	06/30/17	$15.05	$2.93	$17.98
9	12/31/17	$15.05	$3.00	$18.04
10	06/30/18	$15.05	$3.00	$18.04
11	12/31/18	$15.05	$3.06	$18.11
12	06/30/19	$15.05	$3.06	$18.11
13	12/31/19	$15.05	$3.13	$18.17
14	06/30/20	$15.05	$3.13	$18.17
15	12/31/20	$15.05	$3.19	$18.24
16	06/30/21	$15.05	$3.19	$18.24
17	12/31/21	$15.05	$3.26	$18.30
18	06/30/22	$15.05	$3.26	$18.30
19	12/31/22	$15.05	$3.33	$18.37
20	06/30/23	$15.05	$3.33	$18.37
21	12/31/23	$15.05	$3.40	$18.45
22	06/30/24	$15.05	$3.40	$18.45
23	12/31/24	$15.05	$3.47	$18.52
24	06/30/25	$15.05	$3.47	$18.52
25	12/31/25	$15.05	$3.55	$18.59
26	06/30/26	$15.05	$3.55	$18.59
27	12/31/26	$15.05	$3.62	$18.67
28	06/30/27	$15.05	$3.62	$18.67
29	12/31/27	$15.05	$3.70	$18.75
30	06/30/28	$15.05	$3.70	$18.75
31	12/31/28	$15.05	$3.78	$18.82
32	06/30/29	$15.05	$3.78	$18.82
33	12/31/29	$15.05	$3.86	$18.91
34	06/30/30	$15.05	$3.86	$18.91
35	12/31/30	$15.05	$3.94	$18.99
36	06/30/31	$15.05	$3.94	$18.99
37	12/31/31	$15.05	$4.03	$19.07
38	06/30/32	$15.05	$4.03	$19.07
39	12/31/32	$15.05	$4.11	$19.16
40	06/30/33	$15.05	$4.11	$19.16
41	12/31/33	$15.05	$4.20	$19.25
42	06/30/34	$15.05	$4.20	$19.25
43	12/31/34	$15.05	$4.29	$19.34
44	06/30/35	$15.05	$4.29	$19.34
45	12/31/35	$15.05	$4.39	$19.43
46	06/30/36	$15.05	$4.39	$19.43
47	12/31/36	$15.05	$4.48	$19.52
48	06/30/37	$15.05	$4.48	$19.52
49	12/31/37	$15.05	$4.58	$19.62
50	06/30/38	$15.05	$4.58	$19.62
51	12/31/38	$15.05	$4.67	$19.72
52	06/30/39	$15.05	$4.67	$19.72
53	12/31/39	$15.05	$4.78	$19.82
54	06/30/40	$15.05	$4.78	$19.82
55	12/31/40	$15.05	$4.88	$19.92
56	06/30/41	$15.05	$4.88	$19.92
57	12/31/41	$15.05	$4.98	$20.03
58	06/30/42	$15.05	$4.98	$20.03
59	12/31/42	$15.05	$5.09	$20.14
60	06/30/43	$15.05	$5.09	$20.14
Total Estimated Availabilty Payments in the Analaysis				$1,131.00

* See the Analysis in Attachment - 1 for details. The Analysis used a 2.2% CPI inflation estimate by HIS Global Insight (USA) Inc.

* Above schedule assumes no deductions due to poor performance or closures.

B. Payment Mechanism Principles

Introduction

The Sponsors intend to develop a performance based payment mechanism to cover all the regular scheduled payments made by them to the Developer to cover all services related to the Project. Payments to the Developer are based on delivery of service outputs provided under the contract. Partial payments will be made if the Developer provides operations and maintenance of the highway under Phase 1 during construction of Phase 2. Full payment to the Developer will not commence until Phase 2 of the facility is available to road users and/or completion of the Design Build of Phase 2 has occurred.

Payments will be at risk for deductions if the Developer fails to make highway lanes available (e.g. unplanned lane closures) or does not meet operating and maintenance performance standards developed by the Sponsors. The payment mechanism will be calibrated so that the severity of the failure (e.g., duration, time of day, number of lanes affected, etc.) will correlate with the level of deductions and non-compliance points the Developer suffers.

Deductions must meet the requirements of California law for liquidating damages resulting from breach of contract obligations. A provision liquidating damages will be enforced unless it is unreasonable under the circumstances existing at the time the contract is made. If the deductions are a reasonable forecast of the probable damages that would result from the breach, then they will be enforceable. The damages being liquidated through the deductions probably can include loss or harm to the public whose interests are a subject of the contract and would be affected by the breach. Deductions that do not meet these criteria for liquidating damages would constitute a penalty for breach of contract. Penalties are not enforceable under contract law.

High level principles driving the development of the Payment Mechanism

The performance based payment mechanism needs to consider the following factors in its development:

- Payment performance criteria is based upon items that are within the control and responsibility of the Developer;
- It is beneficial for the payment mechanism to be based on previous precedent to ensure market acceptance from private developer market and financiers;
- Mechanism incentivizes the Developer to minimize disruption to road users and place an emphasis on whole life maintenance of the road;
- Develop a structure that strikes a balance between delivery a high quality facility and service and best value to the Sponsors; and
- Mechanism is practical to implement for the life of the Project – to ensure fewer delays in negotiations and easier management during operations.

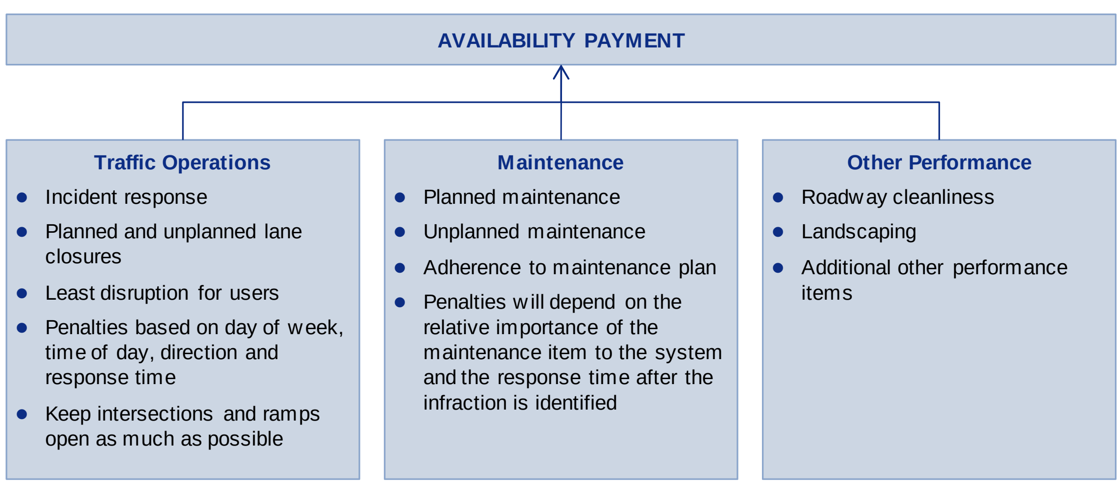
Overview of the Availability Payment

The Public-Private Partnership Agreement will provide for an Availability Payment (AP) to be paid in periodic installments commencing upon availability of facility to road users and/or status of project completion. The payment will typically commence at the end of construction although in Presidio Parkway a proportion of the AP may be paid earlier, if, as is currently assumed, the Developer is responsible for operations and maintenance of Phase I commencing prior to completion of Phase II.

The AP should cover all the Developer's costs associated with delivering the P3 Project (e.g., design, construction, financing, operations and maintenance). The payment itself will be base dated for indexation purposes and a proportion of the AP will be adjusted on an annual basis for changes in the general rate of inflation (e.g., CPI). The proportion of the payment that inflates is linked to the proportion of the costs of the P3 Project that are subject to movements in inflation such as operations and maintenance – typically debt used to finance the capital expenditure is a fixed cost and therefore the portion of the AP corresponding to debt repayment does not inflate.

The Public-Private Partnership Agreement typically will divide the AP into smaller payments linked to sections of highway, days of the week and time of day so that there is a precise incentive to maintain availability. Each time a non-availability event occurs, the individual payment is lost, so the actual AP in each period is reduced.

The AP will also be at risk for deductions for failure to achieve other performance standards and requirements that are the responsibility of the Developer and are within its control, including operating performance, asset condition, safety, operation/maintenance of surveillance systems, scheduled maintenance, unscheduled maintenance (including repair of deficient elements), and incident response times.



The performance standards and technical specifications will also need to consider traffic growth on the facility which could have an impact on the operation and maintenance costs of the Developer as more traffic uses the highway. This may have an impact on the structure of the AP which could involve as a solution banding of the AP to take impact of volume of traffic into account.

Development of availability and performance standards

Prior to issuing the Request for Proposals to the market, the Sponsors, in conjunction with their advisors, will develop output specifications and performance standards which will be used as the basis for calibrating the payment mechanism (e.g., sizing the individual availability payments and deductions associated with non-availability and poor performance).

- Definition of the minimum operating performance and maintenance performance;
- Determine the relative priority of holidays vs. non-holiday periods and peak hours vs. off-peak hours;
- Determine, if appropriate, the relative priority of road sections that are more important than others;
- Determine policies re: shoulder lanes, contra-flow arrangements, narrow lanes, intersections and ramps, maximum length of road works, minimum distance between road works, minimum number of lanes available;
- Determine monitoring requirements including self monitoring requirements and remedies (which must be easy to monitor and measure); and
- Determine hand back conditions of the Presidio Parkway Facility at the end of the agreement.

Milestone payment

The Sponsors may also opt to pay a milestone payment to the Developer. This payment is typically made when the facility is available to receive traffic and all outstanding work in relation to the construction of the facility has been completed.

The milestone payment will be conditional on achieving completion criteria on the construction contract and may be linked to performance of the construction contract (e.g., failure to comply with design-build performance standards).

Non-financial contractual remedies

In addition to financial remedies, the accumulation of certain availability and performance failures by the Developer will lead to other remedies

- For minor failures, for example, a warning letter would be sent and the Developer would be required to put in place a remedial plan and correct within a certain time frame;
- For major failures or repeated minor failures the remedies could eventually lead to termination of the Developer; and
- As termination is the last resort it is important for the Public-Private Partnership Agreement to be structured in a way that there is enough opportunity for the parties to work together to avoid termination.