

**GENERAL MEETING OF THE BOARD OF DIRECTORS
OF THE
CENTRAL TEXAS REGIONAL MOBILITY AUTHORITY**

RESOLUTION NO. 04-59

WHEREAS, Texas Transportation Code authorizes the creation of a regional mobility authority for the purposes of constructing, maintaining, and operating one or more turnpike projects in a region of this state; and

WHEREAS, the Central Texas Regional Mobility Authority ("CTRMA") was created pursuant to the request of Travis and Williamson Counties and in accordance with provisions of the Transportation Code and the petition and approval process established in 46 Tex. Admin. Code § 26.01, *et. seq.* (the "RMA Rules"); and

WHEREAS, the CTRMA identified the proposed 183-A turnpike as its initial project in the petition filed under the RMA Rules; and

WHEREAS, pursuant to rules appearing in 46 Tex. Admin. Code § 27.50, *et seq.* (the "Toll Equity Rules"), the CTRMA, on November 10, 2004, filed a request for financial assistance with TxDOT in connection with development of the 183-A turnpike project, as amended on November 17, 2004; and

WHEREAS, on November 18, 2004, the Texas Transportation Commission gave preliminary approval to a grant of up to \$ 65 million to assist the CTRMA in the development of 183-A; and

WHEREAS, CTRMA staff and TxDOT staff have begun negotiations of the terms of a financial assistance agreement for the disbursement of the toll equity funds, a draft of which is attached hereto as Attachment "A"; and

WHEREAS, it is anticipated that the Transportation Commission will give final approval to the CTRMA's toll equity request on December 16, 2004; and

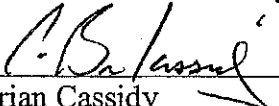
WHEREAS, the CTRMA desires to be in a position to complete negotiations and execute a financial assistance agreement soon after the Transportation Commission's December 16, 2004 meeting (if approval is given);

NOW THEREFORE, BE IT RESOLVED, that the Board of Directors of the CTRMA hereby approves the entry into a Financial Assistance Agreement in substantially the same form as is attached hereto as Attachment "A" providing for a grant of funds to the CTRMA for the development of 183-A; and

BE IT FURTHER RESOLVED, that the Chairman be authorized to execute such agreement on behalf of the CTRMA.

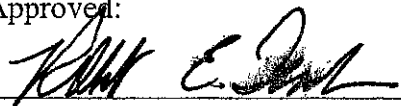
Adopted by the Board of Directors of the Central Texas Regional Mobility Authority on the 8th day of December 2004.

Submitted and reviewed by:



C. Brian Cassidy
Legal Counsel for the Central
Texas Regional Mobility Authority

Approved:



Robert E. Tesch
Chairman, Board of Directors
Resolution Number 04-59
Date Passed 12/08/04

FINANCIAL ASSISTANCE AGREEMENT

183-A TURNPIKE PROJECT

This Agreement is made by and between the Texas Department of Transportation, an agency of the State of Texas ("TxDOT"), and the Central Texas Regional Mobility Authority, a political subdivision ("CTRMA"), for the purpose of providing financial assistance in connection with the study and development of the proposed 183-A Turnpike Project.

RECITALS

The parties acknowledge the following:

A. The CTRMA is a regional mobility authority operating pursuant to Chapter 370 of the Transportation Code and 43 TEX. ADMIN. CODE § 26.01 *et seq.* (the "RMA Rules").

B. The CTRMA has identified the proposed 183-A Turnpike Project, a 12-mile project located in Williamson County as its "initial project" pursuant to the RMA Rules.

C. TxDOT, pursuant to Article III, Section 52-b of the Texas Constitution and Section 222.103 of the Transportation Code, is authorized to participate, through the expenditure of money from any source, in the acquisition, construction, maintenance, or operation of a toll facility of a public entity.

D. TxDOT has adopted rules at 43 TEX. ADMIN. CODE § 27.50 *et seq.* (the "Toll Equity Rules") setting forth the policies and procedures by which it will participate in the financing of a toll facility which is not under its jurisdiction.

E. The Transportation Commission, pursuant to its constitutional and statutory authority and the Toll Equity Rules, previously approved and made available to the CTRMA a grant of financial assistance in the amount of \$12.7 million for the study and development of the 183-A Turnpike Project, as evidenced in Minute Order No. 109227. The CTRMA anticipates that the entire balance of that previous grant will be used for the study and development of the 183-A Turnpike Project.

F. In Minute Order No. _____ approved on November 18, 2004, the Transportation Commission approved the construction of the 183-A Turnpike Project by the CTRMA pursuant to Transportation Code § 370.187.

G. On or about November 10, 2004, the CTRMA submitted a request, pursuant to the Toll Equity Rules, for financial assistance in connection with acquisition, construction, maintenance, and operation of the 183-A Turnpike Project. That request was amended via submittals on November 17, 2004 and December 9, 2004.

H. On November 18, 2004, and December 16, 2004, the Transportation Commission, pursuant to its constitutional and statutory authority and the Toll Equity Rules, gave preliminary

and final approval to the grant by TxDOT of financial assistance in an amount not to exceed \$65 million to facilitate the CTRMA's acquisition, construction, maintenance and operation of the 183-A Turnpike Project, and in Minute Order No. _____ authorized the Executive Director to enter into a financial assistance agreement with the CTRMA.

I. On December 8, 2004, the CTRMA Board of Directors accepted the grant of financial assistance subject to Transportation Commission approval (subsequently granted on December 16, 2004) and, in Resolution No. 04 - 59, authorized the Chairman of the Board to enter into a financial assistance agreement with TxDOT.

AGREEMENT

In light of the foregoing recitals, and for good and other valuable consideration, the parties agree as follows:

1. TxDOT will provide financial assistance, in the form of a grant, to the CTRMA in the amount of \$65 million to be used for the acquisition, construction, maintenance and operation of the 183-A Turnpike Project. This funding is committed by TxDOT and is not subject to future appropriation or discretionary actions of TxDOT or the Transportation Commission. The parties recognize that this funding commitment is an integral part of the overall plan of finance for the 183-A Turnpike Project, and that the rating agencies, capital markets, and other third parties will act in reliance on the availability of the granted funds as reflected herein.

2. Funds to be made available pursuant to this Agreement shall be disbursed within thirty (30) days of receipt of a request from the CTRMA, which request shall include the following:

- A. the amount requested;
- B. a description of the use of the funds requested;
- C. copies of documentation showing the intended use of the funds requested.

Provided that the CTRMA provides the required information indicating that the funds will be utilized for legally permissible purposes, TxDOT shall disburse the funds as requested.

3. The CTRMA shall be fully responsible for the design and construction of the 183-A Turnpike Project, including:

- A. ensuring that all environmental permits, issues, and commitments are addressed in its project design;
- B. addressing field changes for potential environmental impacts and obtaining any necessary, environmental permits, issues, and commitments for such field changes; and

C. ensuring that all construction plans are signed, sealed and dated by a professional engineer licensed in the State of Texas.

4. Plans and specifications developed by the CTRMA for the 183-A Turnpike Project must be in compliance with either the latest version of the design manuals or the latest version of the American Association of State Highway and Transportation Officials ("AASHTO") standards, provided that the CTRMA may request exceptions to the design standards pursuant to 43 TEX. ADMIN. CODE § 27.56(b)(2). The Executive Director of TxDOT may approve an exception after determining that the particular criteria could not reasonably be met due to physical, environmental or other relevant factors, and that the proposed design is a prudent engineering solution. In making this determination, the Executive Director shall consider the fact that the 183-A Turnpike Project will not be part of the state highway system.

5. When design for the 183-A Turnpike Project is 30% complete, the CTRMA shall submit, or shall cause its CDA Developer to submit, to TxDOT the information identified in 43 TEX. ADMIN. CODE § 27.56(c)(2). TxDOT shall complete its review and shall notify the CTRMA of its approval of the information within fifteen (15) business days. In the event TxDOT withholds approval of the information submitted, it shall notify the CTRMA of the reasons therefore within such 15-day period. The CTRMA will have an opportunity to correct or submit additional information to cure any defects or deviations identified by TxDOT. TxDOT shall review and respond to any such re-submittal with five (5) business days.

6. Construction plans and specifications for the 183-A Turnpike Project shall conform to the latest version of TxDOT's standard specifications for construction and maintenance of highways, streets, and bridges, provided that the Executive Director of TxDOT may approve use of alternative specifications if the alternative is determined to be sufficient to ensure the quality and durability of the finished product for its intended use and the safety of the traveling public. In meeting this determination, the Executive Director of TxDOT shall consider that the 183-A Turnpike Project will not be a part of the state highway system.

7. TxDOT acknowledges that the 183-A Turnpike Project is to be designed and constructed through a Comprehensive Development Agreement ("CDA"), and that the CTRMA has completed the CDA procurement process and has secured TxDOT and FHWA concurrence in the execution of the CDA. Any revisions to the CDA affecting prior environmental approvals or significantly affecting project scope or geometric design must be approved by the Executive Director. The Executive Director will grant such approval within ten (10) business days of receipt of the requested revision or the revision will be deemed approved.

8. The CTRMA will be responsible for securing construction oversight and inspection, and materials testing and inspection. Details of the Design and Construction Quality Assurance and Quality Control process shall be provided to TxDOT upon request, as well as any results and reports concerning such testing as it is performed.

9. Upon completion of the 183-A Turnpike Project, the CTRMA will provide to TxDOT a set of as-built plans, signed, sealed and dated by a professional engineer, licensed in the State of Texas, certifying that the project was constructed in accordance with the plans.

10. The CTRMA will comply with applicable state and federal law in the performance of work under the agreement, including obtaining the approval of the Federal Highway Administration or another federal agency, if required, and will comply with any other applicable provision of 43 TEX. ADMIN. CODE § 27.55(b)(1) and 43 TEX. ADMIN. CODE § 27.56 relating to the performance of work.

11. The CTRMA will maintain its books and records relating to the 183-A Turnpike Project and the financial assistance provided under the agreement in accordance with the requirements of 43 TEX. ADMIN. CODE § 27.55(b)(2), and will comply with the audit requirements and other applicable requirements relating to project records in 43 TEX. ADMIN. CODE § 27.55(b).

12. Nothing herein shall excuse compliance by the CTRMA with any or all environmental permits, issues and commitments necessary for development of the 183-A Turnpike Project.

13. Any reference to specific sections of the Toll Equity Rules in this Agreement shall refer to such rules as they existed on the effective date hereof.

This agreement shall be effective as of the _____ day of December 2004.

TEXAS DEPARTMENT OF TRANSPORTATION

By: _____
Michael Behrens, Executive Director

**THE CENTRAL TEXAS
REGIONAL MOBILITY AUTHORITY**

By: _____
Robert E. Tesch, Chairman