

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

RESOLUTION NO. 04-60

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 US 183-A turnpike as its initial project in the petition filed under the RMA Rules; and

WHEREAS, in Resolution No. 04-58, dated December 8, 2004, the CTRMA approved entry into a financial assistance agreement with TxDOT for the disbursement of up to \$65 million in funds in connection with the development of US 183-A; and

WHEREAS, it is contemplated that the TxDOT grant will be funded from federal funds; and

WHEREAS, the CTRMA also anticipates securing a loan in the amount of \$66 million from the U.S. Department of Transportation under the Transportation Infrastructure Finance and Innovation Act ("TIFIA"); and

WHEREAS, Section 129(a) of Title 23 of the United States Code places certain restrictions on the use of federal funds for the construction of tolled highways, requiring that the toll authority enter into an agreement concerning the use of toll revenues; and


WHEREAS, the CTRMA has agreed to comply with Section 129(a) and has negotiated the terms and provisions of a Section 129 agreement to be entered into by and among CTRMA, TxDOT, and the Federal Highway Administration ("FHWA");

NOW THEREFORE, BE IT RESOLVED, that the Board of Directors of the CTRMA hereby approves the entry into the Section 129 Agreement, attached hereto as Attachment "A", with TxDOT and the FHWA; and

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

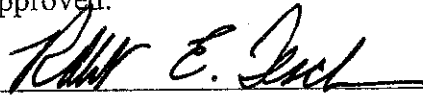
Adopted by the Board of Directors of the Central Texas Regional Mobility Authority on the 8th day of December 2004.

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 04-60
Date Passed 12/08/04

ATTACHMENT "A"
TO RESOLUTION NO. 04-60

Section 129 Agreement

AGREEMENT BETWEEN THE CENTRAL TEXAS REGIONAL MOBILITY AUTHORITY, THE TEXAS DEPARTMENT OF TRANSPORTATION, AND THE FEDERAL HIGHWAY ADMINISTRATION FOR FUNDING FOR THE DEVELOPMENT, DESIGN, AND CONSTRUCTION OF THE 183-A TURNPIKE PROJECT

THIS AGREEMENT, made and entered into as of this _____ day of _____, 2004, by and between the CENTRAL TEXAS REGIONAL MOBILITY AUTHORITY, a political subdivision of the State of Texas, hereinafter referred to as the "Authority", the TEXAS DEPARTMENT OF TRANSPORTATION, an agency of the State of Texas, hereinafter referred to as "TxDOT"; and the FEDERAL HIGHWAY ADMINISTRATION, UNITED STATES DEPARTMENT OF TRANSPORTATION, hereinafter referred to as the "FHWA";

WITNESSETH:

WHEREAS, the Authority desires to construct a toll highway, designated as 183-A, a turnpike project from US 183 at SH 45/RM620, extending northward and reconnecting with US 183 at the San Gabriel River in Williamson County, Texas (hereinafter referred to as the "Project" or the "toll facility"); and

WHEREAS, pursuant to Chapter 370 of the Texas Transportation Code (the "RMA Act"), the Authority is authorized and empowered to finance, construct, operate, maintain, improve, and modify turnpike projects; and

WHEREAS, pursuant to the RMA Act, the Authority has requested that TxDOT participate in the funding of the Project; and

WHEREAS, Article III, Section 52-b of the Texas Constitution and Section 222.103 of the Texas Transportation Code authorize the State to grant funds to assist in the development of turnpike projects; and

WHEREAS, TxDOT has previously made a grant of \$12.7 million in state funds to the Authority for use in connection with development of the Project; and

WHEREAS, the Authority has submitted a request to TxDOT for an additional grant of up to \$65 million to assist in funding the construction of the Project, and it is contemplated that this grant will be funded from federal funds; and

WHEREAS, the Authority also anticipates securing a loan in the amount of \$66 million from the U.S. Department of Transportation under the Transportation Infrastructure Finance and Innovation Act ("TIFIA") program; and

WHEREAS, Section 129(a)(1) of Title 23, United States Code, as amended, permits Federal participation in the initial construction of toll highways; and

WHEREAS, the Authority, TxDOT, and FHWA have agreed to be bound by and to comply with provisions of Section 129(a) of Title 23, United States Code, as amended, for the Project; and

WHEREAS, paragraph 3 of Section 129(a) of Title 23, United States Code, as amended, restricts the use of revenues:

“(3) Limitations on use of revenues – Before the Secretary may permit Federal participation under this subsection in construction of a highway, bridge or tunnel located in a State, the public authority (including the State transportation department) having jurisdiction over the highway, bridge or tunnel must enter into an agreement with the Secretary which provides that all toll revenues received from operation of the toll facility will be used first for debt service, for reasonable return on investment of any private person financing the project, and for the costs necessary for the proper operation and maintenance of the toll facility, including reconstruction, resurfacing, restoration, and rehabilitation. If the State certifies annually that the tolled facility is being adequately maintained, the State may use any toll revenues in excess of amounts required under the preceding sentence for any purpose for which Federal funds may be obligated by a State under this title.”

NOW, THEREFORE, TxDOT, the Authority, and FHWA hereto agree as follows:

1. The Authority will use the toll revenues from the operation of the Project first for debt service (including the funding of reasonable reserves), for reasonable return on investment of any private person financing the Project, and for the costs necessary for the proper operation and maintenance of the toll facility, including reconstruction, resurfacing, restoration, and rehabilitation, as provided in paragraph 3 of Section 129(a) of Title 23, United States Code, as amended.

2. In accordance with Section 129(a) of Title 23, United States Code, as amended, TxDOT and the Authority hereby certify that they can and will comply with the following requirements provided in paragraph 3 of Section 129(a), Title 23, United States Code, as amended:

The Authority will certify annually that the toll facility is being adequately maintained. The Authority is entitled to use any toll revenues in excess of amounts required under paragraph 3 of Section 129(a), as amended, for any purpose for which Federal funds may be obligated by a State under Title 23, United States Code.

3. The Authority agrees, upon reasonable notice, to make all of its records pertaining to the toll facility subject to audit by TxDOT and the FHWA. The Authority and TxDOT agree to annually audit said records for compliance with the provisions of this Agreement and report the results thereof to FHWA. In lieu of performing such audit, a report of an independent auditor furnished to FHWA and TxDOT by the Authority will satisfy the requirements of this section.

4. This Agreement shall bind and benefit the parties' successors and assigns, including any party that succeeds to the interests or obligations of a party, and will be prepared in multiple counterparts so that each signatory will have an original Agreement.

IN WITNESS WHEREOF, the Authority, TxDOT and FHWA hereunto have caused this Agreement to be duly executed in four (4) counterparts as of this day and year first written above.

CENTRAL TEXAS REGIONAL MOBILITY AUTHORITY

ROBERT TESCH
Chairman, Board of Directors

TEXAS DEPARTMENT OF TRANSPORTATION

MICHAEL W. BEHRENS, P.E.
Executive Director

FEDERAL HIGHWAY ADMINISTRATION

KING W. GEE
Associate Administrator for Infrastructure