

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

RESOLUTION NO. 04-22

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 US 183-A turnpike project was designated in the petition filed with TxDOT as the initial project to be developed by the CTRMA; and

WHEREAS, Williamson County (the "County") has committed to acquire a significant portion of the right-of-way ("ROW") for US 183-A; and

WHEREAS, a portion of that ROW is located within, and owned by, the City of Cedar Park ("City"); and

WHEREAS, the City is willing to transfer certain ROW within the City limits to the County (for eventual transfer to the CTRMA) subject to various terms and conditions; and

WHEREAS, the terms and conditions also require certain actions on the part of the CTRMA; and

WHEREAS, the terms and conditions agreed to among the County, the City, and the CTRMA are set forth in the interlocal agreement attached hereto as Attachment "A";

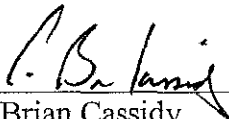
NOW THEREFORE, BE IT RESOLVED, that the Board of Directors of the CTRMA hereby approves the entry into the interlocal agreement attached hereto as Attachment "A", or an agreement in substantially similar form, providing for the transfer of ROW related to US 183-A and the performance of certain obligations by the CTRMA; and

BE IT FURTHER RESOLVED, that the Chairman be authorized to execute such interlocal agreement, in the form attached hereto as Attachment "A", on behalf of the CTRMA; and

BE IT FURTHER RESOLVED, that any further revisions to Attachment "A" be reviewed and approved by the Executive Committee prior to execution on behalf of the CTRMA.

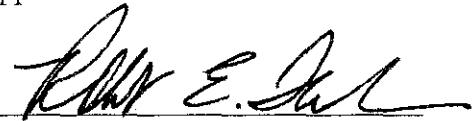
Adopted by the Board of Directors of the Central Texas Regional Mobility Authority on the 26th day of May, 2004.

Submitted and reviewed by:



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

Approved:



Chairman, Board of Directors
Resolution Number 04-22
Date Passed 5/26/04

INTERLOCAL AGREEMENT

This Interlocal Agreement ("**Agreement**") is made and entered into and effective this _____ day of _____, 2004, by and between the CITY OF CEDAR PARK, TEXAS ("**City**"), a home rule municipal corporation of the State of Texas, WILLIAMSON COUNTY ("**County**"), a political subdivision of the State of Texas and the CENTRAL TEXAS REGIONAL MOBILITY AUTHORITY, a political subdivision of the State of Texas (the "**CTRMA**").

RECITALS

WHEREAS, the Texas Interlocal Cooperation Act allows public agencies to contract with one another to perform governmental functions and services; and

WHEREAS, the City, the County and the CTRMA mutually desire to be subject to the provisions of the Texas Government Code, Chapter 791, the Interlocal Cooperation Act, specifically §791.011 regarding contracts to perform governmental functions and services; and

WHEREAS, the City and the County desire to co-operate with the CTRMA to facilitate the construction of the proposed US Highway 183A turnpike project (US 183A); and

WHEREAS, the City and the County have assumed the responsibility of acquiring right-of-way for US 183A; and

WHEREAS, the City has, throughout the years, acquired several tracts of land within the alignment of US 183A, such tract being described via metes and bounds on Exhibit "A" attached hereto ("**Right-of-Way Property**"); and

WHEREAS, the City now desires to transfer the Right-of-Way Property to the County for eventual transfer to the CTRMA conditioned upon compliance with the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the parties agree as follows:

1. The City agrees to transfer to the County the Right-of-Way Property described in Exhibit "A", attached hereto and incorporated herein, subject to the conditions listed in this Agreement.
2. The County agrees to acquire all additional right-of-way within the city limits of Cedar Park necessary for the construction of US 183A, and to transfer such Right-of-Way Property to the CTRMA for the development of US 183A.

3. The County agrees to accept the Right-of-Way Property with reversionary language in the transfer document which states that the Right-of-way Property will revert to the City if the construction of the main lanes (excluding frontage roads) between FM 1431 south to Avery Ranch Boulevard is not commenced within three (3) years of the signing of this Agreement. "Commenced" shall mean that a contract has been awarded for the construction of said main lanes (excluding frontage roads) from 1431 south to Avery Ranch Boulevard.

4. Further, the County agrees, subject to the conditions below, to accept the Right-of-Way Property with reversionary language in the transfer document which states that the Right-of-Way Property will revert to the City if the western frontage road of US 183A between FM 1431 and the existing location of New Hope Road as of the effective date of this Agreement (the "Existing New Hope Road Location") is not completed by or on behalf of the CTRMA on or before November 1, 2005 (the "Completion Deadline"). "Completed" shall mean said western frontage road is substantially complete and is open to traffic in whole or in part. The preceding obligation is subject to the City acquiring the seventy-five (75') feet of right-of-way for the said western frontage road and conveying same to the County on or before September 30, 2004 (the "Western Frontage Road ROW Deadline"). In the event the City does not timely acquire such right-of-way, the Completion Deadline for the western frontage road shall be extended by the same number of days that the City exceeds the Western Frontage Road ROW Deadline, provided that if the City fails to provide all or part of the western frontage road right-of-way by September 30, 2005, the obligation to construct the western frontage road shall terminate and the Right-of-Way Property shall fully vest in the County or its successors or assigns without condition or possibility of reversion. Notwithstanding the foregoing, non-performance or delayed performance of the CTRMA's obligation to construct the western frontage road shall be excused upon the occurrence of any force majeure event, which shall include, but not be limited to, any act of God (including tornadoes, hurricanes, or any other extraordinary weather event), strikes, material shortages, injunctive actions related to the frontage road or the US 183A project, and discovery of karst features and/or threatened or endangered species previously unknown to the CTRMA. In the event of a force majeure occurrence, the Completion Deadline shall be extended day-for-day for the duration of the event for a maximum of 365 days, after which this Agreement shall terminate and the Right-of-Way Property shall revert to the City unless otherwise agreed to by the parties.

Contingent upon receiving title to the Right-of-Way Property, the CTRMA agrees to design and construct (or to cause to be constructed) the intersection of FM 1431 and US 183A to provide a grade-separated interconnectivity between FM 1431 and US 183A and access from all four quadrants of said intersection.

5. Further, unless prohibited by any governmental body with jurisdiction over roadway development or usage, the US 183A western frontage road between 1431 and the Existing New Hope Road Location shall be utilized as a two-way road. Unless prohibited by any governmental body with jurisdiction over roadway development or usage, the western frontage road shall convert to a one-way road after the eastern US 183A frontage road between FM 1431 and the Existing New Hope Road Location is open to the public. The two frontage roads must be connected with "Texas U-turns" near the intersections of US 183A and FM 1431 and US 183A and the future New Hope Road location as generally depicted on the schematic drawing attached hereto as Exhibit "B". The CTRMA's obligations relating to the eastern and western frontage roads, once designed and open to traffic, shall be limited to the maintenance of traffic. The City shall be responsible for all other maintenance and operations obligations.
6. In connection with the construction of US 183A, and conditioned on the CTRMA receiving the Right-of-Way Property, the City is to be provided a reasonable means of ingress and egress to and from the existing City wastewater reclamation plant and field operations south of Brushy Creek Road via the US 183A frontage road or any other reasonable access point.
7. The CTRMA will use all reasonable efforts to minimize the extent of required utility relocations within the Right-of-Way Property so as to ease the financial burden on the City of utility relocation costs. The City shall diligently pursue its rights under existing utility franchise agreements to cause required relocations within the Right-of-Way Property to be accomplished as expeditiously as possible and at no cost to the CTRMA. Representatives of the City and the CTRMA will coordinate their efforts and work in good faith in pursuit of these objectives.
8. Subject to the CTRMA's receipt of the Right-of-Way Property, the CTRMA shall design and construct (or cause to be constructed) a US 183A bridge over south Brushy Creek to accommodate the future extension by the City of Little Elm Trail under the main lanes of US 183A.
9. **TERMINATION**

Termination for Cause. A party may terminate the Agreement for breach of any provision of this Agreement after providing written notice of the alleged breach to the other party, and allowing the other party at least thirty (30) days after receipt of the written notice in which to cure the alleged breach.

10. **NOTICES**

10.1 Notices. All notices, demands and requests, including invoices which may be given or which are required to be given by either party to the other, and any exercise of a right of termination provided by this Agreement, shall be in writing and shall be deemed effective when: (i) personally delivered to the intended recipient; (ii) two (2) days after being sent, by certified or registered mail, return receipt requested, addressed to the intended recipient at the address specified below; (iii) delivered in person to the address set forth below for the party to whom the notice was given; (iv) deposited into the custody of a recognized overnight delivery service such as Federal Express Corporation, Emery, or Lone Star Overnight, addressed to such party at the address specified below; or (v) sent by facsimile, telegram or telex, provided that receipt for such facsimile, telegram or telex is verified by the sender and followed by a notice sent in accordance with one of the other provisions set forth above. For purposes of this Section, the addresses of the parties for all notices are as follows (unless changed by similar notice in writing given by the particular person whose address is to be changed):

City of Cedar Park

Attn: City Manager
600 N. Bell Blvd
Cedar Park, Texas 78613
Phone: (512) 258-4121
Fax: (512) 258-6083

Williamson County

Attn: John Doerfler, County Judge
710 Main Street, Suite 201
Georgetown, Texas 78626
Phone: (512) 943-1577
Fax: (512) 943-1662

Central Texas Regional Mobility Authority

Attn: Mike Heiligenstein, Executive Director
13640 Briarwick Drive, Suite 200
Austin, TX 78729
Phone: (512) 996-9778
Fax: (512) 996-9784

11. **MISCELLANEOUS**

11.1 Entire Agreement. This Agreement constitutes the entire agreement of the parties regarding the subject matter contained herein. The parties may not modify or amend this Agreement, except by written agreement approved by the governing bodies of each party and duly executed by both parties.

11.2 Approval. This Agreement has been duly and properly approved by each party's governing body and constitutes a binding obligation on each party.

11.3 Assignment. Except as otherwise provided in this Agreement, a party may not assign this Agreement or subcontract the performance of services without first obtaining the written consent of the other party. Notwithstanding the foregoing, nothing in this Agreement shall preclude the CTRMA from contracting with third parties, through a comprehensive development agreement or other public-private partnership arrangement, for the development of US 183A in a manner which includes construction of items described as CTRMA obligations in this Agreement.

11.4 Non-Waiver. A party's failure or delay to exercise right or remedy does not constitute a waiver of the right or remedy. An exercise of a right or remedy under this Agreement does not preclude the exercise of another right or remedy. Rights and remedies under this Agreement are cumulative and are not exclusive of other rights or remedies provided by law.

11.5 Paragraph Headings. The various paragraph headings are inserted for convenience of reference only, and shall not affect the meaning or interpretation of this Agreement or any section thereof.

11.6 Attorneys' Fees. In any lawsuit concerning this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees from the nonprevailing party, plus all out-of-pocket expense such as deposition costs, telephone calls, travel expenses, expert witness fees, court costs, and other reasonable expenses.

11.7 Severability. The parties agree that in the event any provision of this Agreement is declared invalid by a court of competent jurisdiction that part of the Agreement is severable and the decree shall not affect the remainder of the Agreement. The remainder of the Agreement shall be in full force and effect.

11.8 Venue. The parties agree that all disputes that arise out of this Agreement are governed by the laws of the State of Texas and venue for all purposes herewith shall be in Williamson County, Texas.

CITY OF CEDAR PARK, TEXAS

By: _____,
_____, Mayor
Cedar Park, Texas

WILLIAMSON COUNTY

By: _____
JOHN DOERFLER, County Judge

**CENTRAL TEXAS REGIONAL
MOBILITY AUTHORITY**

By: _____
Printed Name: Robert E. Tesch
Title: Chairman, CTRMA Board of Directors

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