

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

RESOLUTION NO. 07-03

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 43 TEX. ADMIN. CODE § 26.01, *et. seq.* (the "RMA Rules"); and

WHEREAS, the Board of Directors of the CTRMA has been constituted in accordance with the Transportation Code and the RMA Rules; and

WHEREAS, the CTRMA is charged with improving mobility throughout the Central Texas region; and

WHEREAS, the biennial session of the 80th Texas Legislature convened on January 9, 2007; and

WHEREAS, the 80th Legislature may consider the adoption of legislation relating to tolling, regional mobility authorities, rail relocation, and other areas of potential interest to the CTRMA; and

WHEREAS, CTRMA staff and consultants have developed a list of proposed legislative initiatives, attached hereto as Attachment "A", reflecting the interests of the CTRMA with regard to various legislative issues that may be considered by the 80th Legislature; and

WHEREAS, the Board of Directors of the CTRMA believes that the proposed legislative initiatives are in the best interest of the CTRMA and the residents of Travis and Williamson Counties and the Central Texas region.

NOW THEREFORE, BE IT RESOLVED, that the Board of Directors of the CTRMA approves the list of proposed legislative initiatives, attached hereto as Attachment "A"; and

BE IT FURTHER RESOLVED, that the Board of Directors authorizes CTRMA staff and consultants to work with members of the legislature to advance the issues reflected on Attachment "A".

Adopted by the Board of Directors of the Central Texas Regional Mobility Authority on the 31st day of January, 2007.

Submitted and reviewed by:



Thomas Nielson
General Counsel for the
Central Texas Regional Mobility Authority

Approved:



Robert E. Tesch
Chairman, Board of Directors
Resolution Number 07-03
Date Passed 01/31/07

ATTACHMENT "A"
To Resolution No. 07-03

CTRMA Legislative Issues

Set forth below is a list of potential legislative issues to be considered by the CTRMA (perhaps in conjunction with TxDOT and/or other RMAs) during the 80th legislative session:

1. Clarify definitions of "CDAs" and "Concession CDAs". Currently the phrase "CDA" is being used interchangeably to refer to both types of arrangements. This is causing confusion in an already politically charged environment. Traditional CDA's are design/build contracts (often combined with a public finance model), whereas Concession CDAs add the private finance, operate, and maintain components (the elements of a concession) to the traditional CDA. Therefore, it might be useful to separate the two concepts so that they are not confused in the course of local debate over preferred options.

2. Staggered Terms of Directors. Clarification is needed to Section 370.251(c) concerning two year terms for directors and the requirement that "not more than one half of the directors [terms] expiring on February 1st of each year." With an odd number of directors (including the gubernatorial appointment) this becomes a mathematical impossibility as more than one half of the directors' terms will have to expire during one of the years of a two year cycle. The easiest "fix" is to exclude the gubernatorial appointment from the specific application of the requirement, so that they are not counted for purposes of determining turnover in any particular year. This would not alter or change the term that the gubernatorial appointment would serve.

3. Harmonize Certain CDA provisions between TxDOT and RMA's. (*Combine with item 4 for RMA clean-up bill*) The goal is to resolve discrepancies which could impede the transfer of Concession CDA projects from TxDOT to an RMA. Specific provisions are:

- (a) 370.308(f) – amend to provide that alternate forms of security can be provided "instead of" performance and payment bonds (RMA statute currently provides that alternate forms of security can be provided "in addition" to bonds). Corresponding TxDOT provision: 223.205(f).
- (b) 370.302(i) – amend to allow for 70 year term for CDAs upon meeting the same requirements as the TxDOT statute (RMA statute currently provides for a maximum term of 50 years; TxDOT allows for 70 years upon meeting specified criteria). Corresponding TxDOT provision: 223.208(h).

Note: TxDOT Legislative Issues proposes to repeal limit on terms of CDAs. CTRMA should seek equal treatment.

- (c) 370.311 – amend to expand the types of provisions which may be included in a CDA to include provisions to: (i) purchase the interest of a private participant in a project "and related property", including a highway or

other facility designed, constructed, etc. under the CDA; (ii) identify a methodology for determining the purchase price of a buy-out; (iii) authorize the payment of obligations incurred pursuant to the CDA; (iv) permit a private participant to pledge its rights under a CDA; (v) clarify the private participant's right to operate and collect revenue from the project; and (vi) restrict rights to terminate the CDA without making applicable termination payments. (RMA statute provides for a buy-out but does not include the additional details described above). Corresponding TxDOT provision: 223.208(b)

- (d) Add a section authorizing a private entity to enforce an obligation regarding termination payments through a mandamus action (and waiving sovereign immunity for that purpose). Corresponding TxDOT provision: 223.208(e).
- (e) Amend Texas Tax Code provisions to include RMA highway (toll) facilities leased by an RMA to a private operator as being operated for a "public purpose" and exclude the leasehold interest from taxation (even though it is for more than one (1) year). Affected Tax Code sections: 11.11, 25.07

4. Miscellaneous Cleanup Provisions: (*Combine with item 3 for RMA clean-up bill*)

- (a) Amend 370.306(c) to clarify that a notice "advertising" a request for competing proposals must be published in the Texas Register (current provision provides that the request for competing qualifications must be published - it is easier (and common practice) to publish the advertisement). (See: 223.203(e))
- (b) Amend 370.306(i) to allow for "negotiations" with an apparent best value proposer (current provision limits the scope of discussions with the proposer to specific issues). (See: 223.203(i))
- (c) Amend 370.307(a)(1 & 2) to allow for release of information from a proposer under the PIA if the proposer consents (current provisions preclude disclosure). (See 223.204)
- (d) Create authorization for a private entity contracted by the RMA to operate a toll project to contract for policing and enforcement subject to the approval of the authority. (See 201.907)
- (e) Specifically authorize purchase of a conservation easement for environmental mitigation purposes. (See 201.617 (a-1)).

5. Harmonize Provisions Concerning Utility Relocations. (*No bill filing; follow TxDOT legislation*) Under current law RMA statutes provide for reimbursement of 100% of the cost of utility relocations to affected utilities. Under TxDOT statutes, only 50% of such costs are reimbursed until September 1, 2007, at which point none of the cost of utility relocations are reimbursed (similar to the treatment of most non-tolled projects). (Note that compensable property interests, such as easements, are paid for). This issue will be revisited during the 80th

legislative session, and it would seem appropriate to align the provisions governing TxDOT and RMA projects.

6. Toll Violation and Enforcement. *(No bill filing; follow TxDOT legislation)*
Conform the toll violation enforcement tools and authorization among the different types of operating toll entities (i.e. TxDOT, RMA's, RTA's, and County toll road authorities). Because there will be mandatory interoperability between the different toll agencies, it also makes sense to have uniform procedures and laws governing toll violation enforcement.

Note: TxDOT Legislative Issues includes reforms to toll violation enforcement.