

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

RESOLUTION NO. 07-39

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, in Resolution No. 05-06, dated January 26, 2005, the Board of Directors approved entering into a Project Development Agreement with the Texas Department of Transportation ("TxDOT") regarding the various project development issues related to construction, completion and operation of the 183-A Project; and

WHEREAS, on March 3, 2007, the 183-A Project was opened to traffic; and

WHEREAS, all toll authorities and agencies within the State of Texas are required to have interoperability of their respective toll collection systems; and

WHEREAS, currently TxDOT, Harris County through the Harris County Toll Road Authority ("Harris County"), the North Texas Tollway Authority ("NTTA") and the CTRMA have operating projects with toll collection systems that are interoperable with each other; and

WHEREAS, the CTRMA staff has negotiated a proposed Interlocal Agreement ("Interlocal Agreement") with TxDOT, Harris County and NTTA which sets forth the various terms and Interoperability Business Requirements necessary to insure continuing interoperability of each party's respective toll systems, such proposed Interlocal Agreement being attached hereto as "Attachment "A""; and

WHEREAS, the CTRMA staff recommends that the CTRMA enter into the Interlocal Agreement with TxDOT, Harris County and NTTA to insure continuing interoperability of each party's respective toll systems.

NOW THEREFORE, BE IT RESOLVED, that the CTRMA Board of Directors approves the final negotiation and execution of the Interlocal Agreement to insure continuing interoperability of each party's respective toll systems, the final terms, scope and conditions of such Interlocal Agreement to be mutually agreed to between the CTRMA and the other parties; and

BE IT FURTHER RESOLVED, that the Executive Director and staff are directed to finalize the Interlocal Agreement consistent with all applicable rules, regulations, statutes, and this

Resolution and that such Interlocal Agreement may be executed by the Executive Director upon its completion under the terms hereof.

Adopted by the Board of Directors of the Central Texas Regional Mobility Authority on the 25th day of July, 2007.

Submitted and reviewed by:



Tom Nielson
General Counsel for the Central
Texas Regional Mobility Authority

Approved:



Robert E. Tesch
Chairman, Board of Directors
Resolution Number 07-39
Date Passed 7/25/07

ATTACHMENT "A"
To
Resolution No. 07-39
Proposed Interoperability Interlocal Agreement

THE STATE OF TEXAS §

THE COUNTY OF TRAVIS §

INTERLOCAL AGREEMENT

THIS AGREEMENT is entered into by the Contracting Parties under Government Code, Chapter 791.

I. CONTRACTING PARTIES:

The Texas Department of Transportation	TxDOT
Harris County	Local Government (Harris County)
North Texas Tollway Authority	NTTA
Central Texas Regional Mobility Authority	CTRMA

Any other party that elects to execute this Agreement, with the consent of the other entities then Parties hereto, as described below in Section VII – Additional Parties.

II. PURPOSE: INTEROPERABILITY OF TOLL COLLECTION SYSTEMS in furtherance of the agreements set forth in that certain Memorandum of Understanding (Interoperability) dated the 23rd of November, 2004, among the Texas Department of Transportation, the North Texas Tollway Authority, and Harris County (the "Interoperability MOU").

III. STATEMENT OF SERVICES TO BE PERFORMED: This Agreement, by and among the North Texas Tollway Authority ("NTTA"), a regional tollway authority, and the Texas Department Of Transportation ("TxDOT"), an agency of the State of Texas, Harris County ("Harris County"), a body corporate and politic under the laws of the State of Texas, and the Central Texas Regional Mobility Authority ("CTRMA"), a body corporate and politic under the laws of the State of Texas, and collectively known as the "Parties" is effective upon full execution of all of the Parties.

IV. CONTRACT PAYMENT: Notwithstanding anything to the contrary contained in this Agreement, nothing herein shall impose an obligation on any party hereto that would be considered a debt (as that term is used in the Texas Constitution with respect to governmental entities) or that exceeds that party's authority to assume such obligation under applicable law or its current agreements with its bondholders.

V. TERM OF AGREEMENT: This Agreement begins when fully executed by all Parties. Any Party may withdraw from this Agreement as provided in Section 4 of Attachment A. This Agreement shall remain in effect as to the remaining parties (the "Remaining Parties"), in which case the Agreement shall be terminated only as to the Party that delivers a withdrawal notice.

VI. LEGAL AUTHORITY:

This agreement is entered into by the Parties under Government Code, Chapter 791 and Texas Transportation Code, Chapters 366 and 370, and incorporates the provisions of **Attachment A, which sets forth in greater detail the Parties' agreements hereunder, and the Interoperability Business Requirements** (including a schedule of Transaction Fees and Interface Control Documents attached thereto) described in such Attachment A. Any capitalized term used in this Agreement that is not expressly defined herein shall have the meaning given to that term under the Interoperability Business Requirements.

The Commissioners Court of Harris County, by order, dated _____, has authorized Harris County to enter into this Agreement and perform its obligations hereunder (**Exhibit A**).

The Board of Directors of the NTTA, by resolution, dated _____, has authorized the NTTA to enter into this Agreement and perform its obligations hereunder (**Exhibit B**).

The Board of Directors of the CTRMA, by resolution, dated _____, has authorized the CTRMA to enter into this Agreement and perform its obligations hereunder (**Exhibit C**).

The party executing and delivering this Agreement on behalf of TxDOT certifies that he or she has the authority to enter into this Agreement on behalf of TxDOT and that TxDOT is authorized to enter into this Agreement and perform its obligation hereunder.

VII. Additional Parties:

TxDOT, Harris County, the CTRMA, and the NTTA (the "Original Parties") anticipate that additional toll authorities in the State of Texas may hereafter desire to enter into this Agreement and be bound by and enjoy the benefits set forth herein. The Original Parties, and any subsequent Party that enters into this Agreement pursuant to this Section VII agree that if the Statewide Interoperability Committee (hereinafter defined) certifies that a toll authority that desires to enter into this Agreement satisfies all criteria established by the Statewide Interoperability Committee to ensure that the subject toll authority is capable of meeting the interoperability business requirements and the requirements of the interface control documents promulgated by the Statewide Interoperability Committee, then upon issuance of such certification and the toll authority's governing body taking all necessary action to authorize its entry into this Agreement, such toll authority may enter into this Agreement and become a Party hereto by executing a counterpart of this Agreement that contains an acknowledgement and commitment by such toll authority to be bound by and comply with all of the terms hereof and to which is attached a copy of the resolution or other authorization adopted by the toll authority's governing body.

The "Statewide Interoperability Committee" is the Interoperability Committee appointed by the Board of Directors of the Transportation and Expressway Authority Membership of Texas to formulate and serve as the custodian of all interoperability business rules, interoperability information control documents, and interoperability standards applicable to interoperable toll authorities in the State of Texas and to be solely responsible for evaluating any proposed amendment to such rules, documents and standards

FOR HARRIS COUNTY

By _____ Date _____

Ed Emmett
County Judge

APPROVED AS TO FORM:
County Attorney

By: _____
Assistant County Attorney

FOR THE NORTH TEXAS TOLLWAY AUTHORITY

By _____ Date _____

Jerry Hiebert
Acting Executive Director
North Texas Tollway Authority

APPROVED AS TO FORM:
Locke Liddell & Sapp LLP
General Counsel to the NTTA

ATTEST:
By:

By: _____
James T. Rain

Deborah Smith, Secretary

FOR THE CENTRAL TEXAS REGIONAL MOBILITY AUTHORITY

By _____ Date _____

Mike Heiligenstein
Executive Director
Central Texas Regional Mobility Authority

APPROVED AS TO FORM:
General Counsel to the CTRMA

By: _____
Thomas C. Nielson

FOR THE STATE OF TEXAS

Executed for the Executive Director and approved for the Texas Transportation Commission for the purpose and effect of activating and/or carrying out the orders, established policies or work programs heretofore approved and authorized by the Texas Transportation Commission.

By _____ Date _____

Janice Mullenix
Director, Contract Services Section
Office of General Counsel

ATTACHMENT A AGREEMENTS

RECITALS

Harris County, TxDOT, the NTTA, and the CTRMA are governmental entities authorized to design, construct and operate turnpikes and other toll facilities in the State of Texas. The use of electronic toll collection on such facilities is essential to their efficient operation and to maximizing their mobility benefits. Harris County, TxDOT, the NTTA, and the CTRMA are committed to ensuring that the transponder technologies utilized to effectuate electronic toll collection on their respective facilities are interoperable so as to further enhance the current and potential benefits of those technologies for the citizens of the State of Texas. The foundation of an interoperability network includes a data-transfer and communications architecture (the "Architecture") that provides a high level of efficiency in light of the anticipated expansion of interoperable transportation payment services to toll and non-toll authorities within the State of Texas. The Parties desire to utilize an Architecture that processes and distributes shared interoperable information between service provider authorities. For and in consideration of these premises, Harris County, TxDOT, the NTTA, and the CTRMA agree as follows:

AGREEMENT

- 1. Installation, Integration and Operation.** The Parties agree to install and integrate a system including a set of interoperable interfaces as part of their respective toll collection systems. The Parties further agree to operate the interoperable components of their toll collections systems in accordance with the Interoperability Business Requirements (including a Schedule of Transaction Fees) and the Interface Control Documents ("ICDs") agreed upon by the parties in connection with the adoption of this Agreement, as they may be amended periodically in accordance with this Agreement.
- 2. Interoperability Business Requirements and ICDs.** The Interoperability Business Requirements contain specific parameters that are derived from current business policies. Each party agrees to review such policies periodically and for possible modifications as their business needs change. Proposed changes to the Interoperability Business Requirements or ICDs shall be submitted to the Statewide Interoperability Committee for consideration. Any changes to the Interoperability Business Requirements or ICDs must be promulgated and approved by the Statewide Interoperability Committee and will be effective one hundred eighty (180) days following the promulgation of the final approved version thereof by the Statewide Interoperability Committee; provided, however, that any two or more of the Parties may by mutual agreement agree to implement such changes as between themselves at an earlier date.
- 3. Physical network.** The Parties agree to establish network connectivity with sufficient capacity to satisfy the requirements of the Interoperability Business Requirements. This network infrastructure

may be modified; however, any network infrastructure modification affecting more than one party shall be made only if agreed to by all affected parties.

4. **Termination.** Any party's participation in this Agreement may be cancelled by any party at any time with or without cause one hundred and twenty (120) days after that Party provides written notice of its intent to terminate to all other Parties. Such termination shall not release either the terminating or remaining Parties from any liability for events occurring or obligations arising prior to the date of the termination.

5. **Notices to TxDOT.** All written notices, demands, and other papers or documents to be delivered to TxDOT under this Agreement shall be delivered to:

**Texas Department of Transportation
Texas Turnpike Authority Division
Dewitt C. Greer Building
125 East 11th Street
Austin, Texas 78701-2483
Attention: Turnpike Information Technology Director**

6. **Notices to the NTTA.** All written notices, demands, and other papers or documents to be delivered to the NTTA under this Agreement shall be delivered as follows, or at such other place or places as the NTTA may designate by written notice delivered to the CTRMA, Harris County and TxDOT:
if by courier, hand delivery, or overnight service, to:

**North Texas Tollway Authority
5900 West Plano Parkway, Suite 100
Plano, Texas 75093
Attention: Director of Business Administration**

if by any other service, to:

**North Texas Tollway Authority
P.O. Box 260729
Plano, Texas 75026
Attention: Director of Business Administration**

7. **Notices to Harris County.** All written notices, demands, and other papers or documents to be delivered to Harris County under this Agreement shall be delivered to:

**The Harris County Commissioners Court
1001 Preston, 9th Floor
Houston, Texas 77002
Attention: Clerk of Commissioners Court**

or at such other place or places as it may from time to time designate by written notice delivered to the CTRMA, the NTTA and TxDOT. For purposes of notice under this Agreement, a copy of any notice or communication to Harris County hereunder shall also be forwarded to the following address:

**Harris County Toll Road Authority
330 Meadowfern, Suite 200
Houston, Texas 77067
Attention: INSERT TITLE**

8. **Notices to CTRMA.** All written notices, demands, and other papers or documents to be delivered to CTRMA under this Agreement shall be delivered to:

**Central Texas Regional Mobility Authority
301 Congress Ave., Suite 650
Austin, Texas 78701
Attention: Director of Operations**

or at such other place or places as it may from time to time designate by written notice delivered to the Harris County, NTTA and TxDOT.

9. **Relationship of the Parties.** Nothing in this Agreement is intended to create, nor shall be deemed or construed by the Parties or by any third party as creating, (1) the relationship of principal and agent, partnership or joint venture between the Parties or (2) a joint enterprise between the Parties and/or any other party. Without limiting the foregoing, the purposes for which the Parties have entered into this Agreement are separate and distinct, and there are no pecuniary interests, common purposes and/or equal rights of control among the Parties hereto.

10. **Successors and Assigns.** This Agreement shall bind, and shall be for the sole and exclusive benefit of, the respective Parties and their legal successors. Other than as provided in the preceding sentence, neither Harris County, TxDOT, the CTRMA, nor the NTTA shall assign, sublet or transfer its respective interests in this Agreement without the prior written consent of the other Parties to this Agreement, unless otherwise provided by law.

11. **Severability.** If any provision of this Agreement, or the application thereof to any entity or circumstance, is rendered or declared illegal for any reason and shall be invalid or unenforceable, the remainder of this Agreement and the application of such provision to other entities or circumstances shall not be affected thereby, but shall be enforced to the greatest extent permitted by applicable law.

12. **Written Amendments.** Any change in the agreements, terms and/or responsibilities of the Parties hereto must be enacted through a written amendment. No amendment to this Agreement shall be of any effect unless in writing and executed by all the Parties. Provided, however, that nothing in this paragraph shall impair or limit the effectiveness of any changes to the Interoperability Business Requirements or ICDs promulgated by the Statewide Interoperability Committee in accordance with Paragraph 2 above.

13. **Limitations.** All covenants and obligations of Harris County, TxDOT, the CTRMA, and the NTTA under this Agreement shall be deemed valid covenants and obligations of said entities, and no officer,

director, or employee of Harris County, TxDOT, the CTRMA, or the NTTA shall have any personal obligations or liability hereunder.

14. **Sole Benefit.** This Agreement is entered into for the sole benefit of Harris County, TxDOT, the CTRMA, the NTTA and their respective legal successors, and nothing in this Agreement or in any approval subsequently provided by a party hereto shall be construed as giving any benefits, rights, remedies or claims to any other person, firm, corporation or other entity, including, without limitation, the public in general.
15. **Authorization.** Each party to this Agreement represents to the others that it is fully authorized to enter into this Agreement and to perform its obligations hereunder, and that no waiver, consent, approval, or authorization from any third party is required to be obtained or made in connection with the execution, delivery or performance of this Agreement. Each signatory on behalf of Harris County, TxDOT, the CTRMA, and the NTTA, as applicable, represents that he or she is fully authorized to bind that entity to the terms of this Agreement.
16. **Governing Law.** The provisions of this Agreement shall be construed in accordance with the laws and court decisions of the State of Texas.
17. **Interpretation.** No provision of this Agreement shall be construed against or interpreted to be to the disadvantage of any party hereto by any court, other governmental or judicial authority, or arbitrator by reason of such party having or being deemed to have drafted, prepared, structured or dictated such provision.
18. **Waiver.** No delay or omission by a party hereto to exercise any right or power hereunder shall impair such right or power or be construed as a waiver thereof. A waiver by any of the Parties hereto of any of the covenants, conditions or agreements to be performed by the others or any breach thereof shall not be construed to be a waiver of any succeeding breach thereof or of any other covenant, condition or agreement herein contained.
19. **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof. There are no representations, understandings or agreements relative hereto which are not fully expressed in this Agreement.
20. **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all such counterparts shall constitute one single agreement between the Parties.
21. **Headings.** The article and section headings used in this Agreement are for reference and convenience only, and shall not enter into the interpretation hereof.

- 22. Conflicts Between Agreements.** If the terms of this Agreement conflict with the terms of any other agreement between all of these Parties, the most recent agreement shall prevail.
- 23. Gratuities.** Any person who is doing business with or who reasonably speaking may do business with TxDOT under this agreement may not make any offer of benefits, gifts, or favors to employees of TxDOT. The only exceptions allowed are ordinary business lunches and items that have received the advanced written approval of the Executive Director of TxDOT.
- 24. Conflict of Interest.** TxDOT, Harris County, the CTRMA, and the NTTA shall not assign an employee to a project if the employee:
- A. owns an interest in or is an officer or employee of a business entity that has or may have a contract with the state, Harris County, the CTRMA, or the NTTA relating to the project;
 - B. has a direct or indirect financial interest in the outcome of the project;
 - C. has performed services regarding the subject matter of the project for an entity that has a direct or indirect financial interest in the outcome of the project or that has or may have a contract with TxDOT, Harris County, the CTRMA, or the NTTA; or
 - D. is a current part-time or full-time employee of any other Party.
- 25. Continuing Cooperation.** In their (a) development and implementation of technologies for their facilities, (b) promulgation of rules or standards, and (c) contracting with other toll authorities or with vendors, the Parties agree to support and advance the interoperability (as defined in the Interoperability MOU) of their electronic toll collection systems and shall work collaboratively in determining the modifications that are necessary to support and advance interoperability (as so defined).
- 26. No Election of Remedies.** In the event of a default by one Party hereunder, each other Party shall have the right to pursue any and all remedies available to that other Party under applicable law.
- 27. State Auditor's Provision.** The State Auditor may conduct an audit of investigation of any entity receiving funds from the State directly under this Agreement or indirectly through a subcontract under this Agreement. Acceptance of funds directly under this Agreement or indirectly through a subcontract under this Agreement acts as acceptance of the authority of the State Auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the State Auditor with access to any information the State Auditor considers relevant to the investigation or audit.

