

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

RESOLUTION NO. 19-004

**APPROVE AMENDMENT NO. 1 TO THE AGREEMENT FOR THE PAYOFF
AND TERMINATION OF THE PASS-THROUGH TOLL AGREEMENT FOR
THE 183A INTERSECTION PROJECT**

WHEREAS, on or about January 10, 2012, the Mobility Authority and the Texas Department of Transportation ("TxDOT") executed that certain "Pass-Through Agreement for Payment of Pass-Through Tolls by the Department" (the "Pass-Through Agreement") providing for the reimbursement of certain costs related to the 183/183A Intersection Project; and

WHEREAS; pursuant to the Pass-Through Agreement TxDOT was to make periodic payments to the Mobility Authority totaling \$1,500,000.00 over a period of several years; and

WHEREAS, by Resolution No. 18-037 dated July 25, 2018, the Board authorized the Executive Director to execute the Payoff and Termination of Pass-Through Agreement for Payment of Pass-Through Tolls by the Department in order to allow TxDOT to pay the entire outstanding balance due as a lump sum at a 6% discount factor; and

WHEREAS, TxDOT's remaining obligation to the Mobility Authority under the Pass-Through Agreement is currently \$1,650,000; and

WHEREAS, the Chief Financial Officer and TxDOT have negotiated Amendment No. 1 to the Payoff and Termination of Pass-Through Agreement for Payment of Pass-Through Tolls by the Department which is attached hereto as Exhibit A, in order to account for the increased payoff amount due based on the current outstanding balance; and

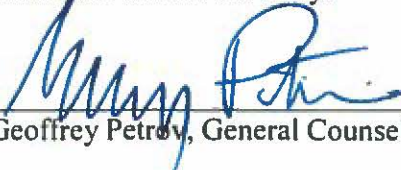
WHEREAS, applying the agreed upon discount rate to the current remaining balance owed results in a net present value payoff amount of \$1,531,854.57; and

NOW THEREFORE, BE IT RESOLVED that accepting an early payoff of amounts owed under the Pass-Through Agreement under terms described above is hereby approved; and

BE IT FURTHER RESOLVED that the Executive Director or Chief Financial Officer may finalize and execute Amendment No. 1 to the Payoff and Termination of Pass-Through Agreement for Payment of Pass-Through Tolls by the Department in the form or in substantially the same form as is attached hereto as Exhibit A.

Adopted by the Board of Directors of the Central Texas Regional Mobility Authority on the 27th day of February 2019.

Submitted and reviewed by:



Geoffrey Petrov, General Counsel

Approved:



Ray A. Wilkerson
Chairman, Board of Directors

Exhibit A

STATE OF TEXAS §

COUNTY OF TRAVIS §

**PASS-THROUGH AGREEMENT FOR PAYMENT OF PASS-THROUGH TOLLS BY
THE DEPARTMENT**

AMENDMENT # 1

THIS AMENDMENT is made by and between the State of Texas, acting through the Texas Department of Transportation (the “Department”), and Central Texas Regional Mobility Authority (CTRMA) (the “Developer”), and becomes effective when fully executed by both parties.

BACKGROUND

The Department and the Developer executed a “Pass-Through Agreement for Payment of Pass-Through Tolls by the Department” on January 19, 2012, Contract No. PT2011-001-01 (“Pass-Through Agreement”), under which the Department is obligated to make certain pass-through payments to the Developer as reimbursement of the costs of constructing improvements to the state highway system at the intersection of US 183/183A (the “Project”).

The Project has been completed and is open to traffic, and under Section 12 of the Pass-Through Agreement, the Department is obligated to pay to the Developer no less than \$75,000 and no more than \$150,000 annually.

Under Section 15 of the Pass-Through Agreement, the Department and the Developer may terminate the Pass-Through Agreement by mutual consent.

The Department and the Developer have determined that it is in the best interest of the parties for the Department to provide a lump sum payment to the Developer in satisfaction of the Department’s obligations under the Pass-Through Agreement and to terminate the Pass-Through Agreement.

Pursuant to Minute Order No.115265 dated July 26, 2018, the Texas Transportation Commission approved the payoff of the Department’s obligations under the Pass-Through Agreement in a lump sum payment at a discounted rate of 6% per annum net present value in satisfaction of the Department’s obligations under the Pass-Through Agreement and termination of the Pass-Through Agreement.

Pursuant to Resolution ____ dated_____, the Developer approved the payoff of the Department’s obligations under the Pass-Through Agreement through the acceptance of a lump sum payment at a discounted rate of 6% per annum net present value in satisfaction of the Department’s obligations under the Pass-Through Agreement and

termination of the Pass-Through Agreement. This Resolution is attached to and made part of this Amendment as Attachment G-1.

AMENDMENT

The Department and the Developer hereby agree as follows:

1. Payoff

The Department shall pay the Developer the amount of \$1,531,854.57 (the "Payoff Amount"). This amount is the total cumulative amount of the remaining pass-through payments owed by the Department to the Developer under the Pass-Through Agreement at the maximum amount per year allowed in Section 12 of the Pass-Through Agreement, with each maximum payment discounted at six (6) percent per annum on an actual/actual basis as shown in Attachment I. Attachment I is attached and made part of this Amendment.

- A.** The Developer will execute and deliver to the Department a receipt and such additional receipts and release documents and instruments as the Department may reasonably request relating to the payoff and termination of the Pass-Through Toll Agreement.
- B.** The Developer warrants that it shall use the Department's lump-sum payment in conformance with the requirements of any obligations and applicable law.

2. Termination

Upon delivery of the Payoff Amount from the Department to the Developer all of the Department obligations shall be satisfied in full and the Pass-Through Agreement shall be terminated.

3. Survival of Terms and Conditions

Termination of the Pass-Through Agreement, as set forth in this Amendment, shall not release either party from any liabilities or obligations set forth in the Pass-Through Agreement that the parties have expressly agreed shall survive any such termination, if any, or by their nature, would be intended to be applicable following any such termination. The parties expressly agree that the following terms and conditions survive the termination of the Pass-Through Agreement:

- 1. Section 18. Development Contracts, Subcontracts, and Assignment. Subsections(c) and (d);
- 2. Section 19. Ownership of Property; and
- 3. Section 25. Hold Harmless;
- 4. Section 32. Audit. Subsection (c); and
- 5. Section 33. Retention and Inspection of Books and Records.

4. Signatory Warranty

Each signatory warrants that the signatory has necessary authority to execute this Amendment on behalf of the entity represented.

THIS AMENDMENT IS EXECUTED by the Department and the Developer in duplicate.

THE DEPARTMENT

THE DEVELOPER

Signature

Signature

Marc Williams
Deputy Executive Director

Bill Chapman
Chief Financial Officer

Date

Date

Contract No. PT2011-001-01
CSJ No.0151-04-066
Federal Highway Administration
CFDA No.:20.205
Not Research and Development

Attachment G-1

Attachment I

Central Texas RMA
 NPV Calculation for PT Agreement

		1,650,000.00	Discount
			6%
Proposed NPV		\$1,531,855	
<u>N</u>	Remaining		NPV
0	2018	-900,000.00	900,000.00
1	2019	-150,000.00	141,509.43
2	2020	-150,000.00	133,499.47
3	2021	-150,000.00	125,942.89
4	2022	-150,000.00	118,814.05
5	2023	-150,000.00	112,088.73
Total			NPV= 1,531,854.57