

TEXAS TRANSPORTATION COMMISSION

VARIOUS Counties

MINUTE ORDER

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DALLAS AND FT WORTH Districts

The Texas Department of Transportation (department) and the Regional Transportation Council (RTC), the transportation policy council of the North Central Texas Council of Governments (NCTCOG) and a federally designated metropolitan planning organization, have developed a memorandum of understanding regarding the sharing of surplus toll revenue and concession payments within the region served by the NCTCOG. The memorandum of understanding, attached to this order as Exhibit A, establishes procedures for the administration, sharing, and use of surplus toll revenue and comprehensive development agreement (CDA) concession payments within the region served by the NCTCOG, and the selection of projects to be financed with surplus toll revenue and CDA concession payments. The RTC approved the memorandum of understanding at its October 12, 2006 meeting.

The Texas Transportation Commission (commission) has authorized and directed the department to implement a plan for the faster completion of transportation projects needed to respond to identified mobility needs, using all available financial options. The plan is comprised of a number of strategies, including the empowerment of local and regional leaders to solve local and regional transportation problems.

One means to carry out this strategy is the devolution to the local and regional level of responsibility of the majority of regional project selection decisions, subject to commission concurrence.

Transportation Code, §228.0055, provides that payments received by the department under a CDA may be used to finance the construction, maintenance, or operation of a transportation project or air-quality project in the region, defined as a metropolitan statistical area and any county contiguous to that metropolitan statistical area, or two adjacent department districts.

Transportation Code, §228.006, provides that surplus revenue of a toll project or system may be used to pay the costs of a transportation project, highway project, or air quality project within a department district in which any part of the toll project is located.

Pursuant to the commission's devolution, the RTC, has developed a plan for regional sharing of surplus toll revenue and concession payments received under a CDA, based on the location of the toll project from which these revenues are derived and the residential location of toll users in the region served by the NCTCOG.

IT IS THEREFORE ORDERED by the commission that the memorandum of understanding with the Regional Transportation Council, attached as Exhibit A to this order, is approved, and the executive director is authorized and directed to enter into the memorandum of understanding.

Submitted and reviewed by:

Recommended by:

\_\_\_\_\_  
Director, Texas Turnpike Authority Division

\_\_\_\_\_  
Executive Director

\_\_\_\_\_  
Minute Number      Date Passed

MEMORANDUM OF UNDERSTANDING  
REGIONAL REVENUE SHARING FUND  
FOR SURPLUS TOLL REVENUES  
AND CDA CONCESSION PAYMENTS

THIS MEMORANDUM OF UNDERSTANDING (“MOU”) dated as of (date ) is entered into by and between TEXAS DEPARTMENT OF TRANSPORTATION, an agency of the State of Texas (“TxDOT”) and the REGIONAL TRANSPORTATION COUNCIL (“RTC”), the transportation policy council of the transportation department of the NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS (“NCTCOG”) and a federally designated Metropolitan Planning Organization. The purpose of this MOU is to set out the understanding of TxDOT and the RTC regarding sharing of surplus toll revenue and concession payments within the region served by the NCTCOG.

WHEREAS, pursuant to Section 228.0055, Texas Transportation Code, payments received by TxDOT under a comprehensive development agreement (“CDA”) may be used to finance the construction, maintenance, or operation of a transportation project or air quality project in the region, defined as a metropolitan statistical area and any county contiguous to that metropolitan statistical area, or two adjacent TxDOT districts;

WHEREAS, pursuant to Section 228.006, Texas Transportation Code, surplus revenue of a toll project or system may be used to pay the costs of a transportation project, highway project, or air quality project within a TxDOT district in which any part of the toll project is located;

WHEREAS, to promote regional equity, the Texas Transportation Commission (“Commission”) has devolved the responsibility for the majority of regional project selection decisions to the RTC, subject to Commission concurrence;

WHEREAS, pursuant to that devolution, the RTC has developed a plan for regional sharing of surplus toll revenue and concession payments received under a CDA, based on the location of the toll project from which these revenues are derived and the residential location of toll users in the region served by the NCTCOG;

NOW THEREFORE, in consideration of these premises, TxDOT and the RTC agree as follows:

1. In accordance with the restrictions of Sections 228.0055 and 228.006, Texas Transportation Code, TxDOT will account for surplus toll revenue and CDA concession payments derived from projects located in the region served by the NCTCOG, along with interest earned on those revenues, separately from toll revenues and CDA concession payments derived from projects located outside the region.
2. To provide ease of record keeping and assurance to the region, TxDOT intends, provided the Texas Legislature provides the necessary statutory authority, to create a regional revenue sharing account separate from the State Highway Fund that will allow all interest earned on revenue in that account to remain in the account. Until the necessary legislation is enacted, the regional surplus toll revenues and CDA concession payments, along with accrued interest, will remain in the State Highway Fund, but will be accounted for separately.
3. TxDOT will provide the RTC a monthly accounting of the balance by project along with interest earned.
4. Pursuant to the Commission’s previous devolution, the selection of projects to be financed using funds in the account shall be made by the RTC, subject to Commission concurrence.

5. Projects funded with concession payments and surplus toll revenue should be selected in a cooperative TxDOT-RTC selection process which considers the desires of the cities and counties in which the revenue-generating project is located.
  6. The RTC will work with TxDOT and the local entities to incorporate this project selection process into the formal transportation planning process.
  7. TxDOT will, in accordance with applicable laws, regulations, and policies, continue to oversee the procurement of contracts to develop projects that are financed with funds in the regional revenue sharing account, the payout of contractor payments from the regional revenue sharing account according to the schedule contained in those contracts, and all other project responsibilities not outlined in this MOU. To the extent allowed by law and subject to Commission concurrence, and in order to streamline the implementation of projects in the region, TxDOT will transfer a portion of funds in the revenue sharing account to the RTC to implement air quality projects through an RTC administered contracting process. If transportation planning projects are determined to be an eligible use of surplus toll revenue and concession payments under applicable law, such projects will also be implemented through an RTC administered contracting process.
- IN WITNESS WHEREOF, the parties to the MOU have caused this MOU to be executed by their duly authorized representatives to be effective as of date first set forth above.

RTC:

REGIONAL TRANSPORTATION COUNCIL

By: \_\_\_\_\_  
Cynthia White  
Chair, Regional Transportation Council  
Commissioner, Denton County

Date: \_\_\_\_\_

TxDOT:

TEXAS DEPARTMENT OF TRANSPORTATION

By: \_\_\_\_\_  
Michael W. Behrens, P.E.  
Executive Director

Date: \_\_\_\_\_