

**RESOLUTION AUTHORIZING A PLEDGE AND ASSIGNMENT AGREEMENT WITH
THE TOWN OF HORIZON CITY RELATING TO EASTLAKE PHASE 2
CONSTRUCTION PROJECT AND ENACTING OTHER MATTERS RELATED
THERE TO**

WHEREAS, the Camino Real Regional Mobility Authority (the “Authority”) has been created and organized pursuant to and in accordance with the Constitution and laws of the State of Texas, including, particularly, Chapter 370, Texas Transportation Code, for the purposes of developing, or facilitating the development of, transportation and mobility projects; and

WHEREAS, the County of El Paso, Texas (the “County”), the Authority and the Town of Horizon City, Texas (the “Town”) are entering into a Second Amendment (the “Second Amendment”) to the Interlocal Agreement – VRF Project Development Agreement for the Eastlake Blvd., Phase 2 Roadway Improvement Project dated November __, 2016, which provides for the development and expansion of Eastlake Boulevard as more specifically described therein (the “Project”);

WHEREAS, the Town has formed a transportation reinvestment zone whereby revenues associated with the incremental increase in property values within the zone (the “Tax Increment”) is available to finance transportation projects within the Town such as the Project; and

WHEREAS, pursuant to the Second Amendment, the Authority and the County have committed to fund the development of the Project from certain Special Vehicle Registration Fees and/or debt obligations of the Authority secured thereby; and

WHEREAS, the Town has committed to repay the Authority for a portion of the costs of the Project and the County, the Authority and the Town intend for the Town to pledge and assign its Tax Increment to secure its repayment obligation with respect to the Project; and

WHEREAS, the Town and the Authority wish to enter into a “Pledge and Assignment Agreement Between the Camino Real Regional Mobility Authority and the Town of Horizon City Relating to Eastlake Phase 2 Construction Project” (the “Assignment”), in substantially the form attached hereto as Exhibit A; and

WHEREAS, the Board hereby finds and determines that it is in the best interest of the Authority to enter into the Assignment;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CAMINO REAL REGIONAL MOBILITY AUTHORITY THAT:

SECTION 1.1. Approval of Amendment. The Assignment is hereby approved. The Chair of the Board, or in her absence, the Vice-Chair of the Board, is authorized and directed to execute such agreement on behalf of the Authority, and any other officer of the Authority is authorized to attest, if necessary, to such officer’s signature, with such changes to such agreement as may be approved by such officers, their execution thereof to constitute conclusive evidence of such approval.

SECTION 1.2. Governing Law. This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

SECTION 1.3. Incorporation of Preamble Recitals. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Resolution for all purposes and are adopted as a part of the judgment and findings of the Board.

SECTION 1.4. Public Meeting. It is officially found, determined, and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Chapter 551, as amended, Texas Government Code.

SECTION 1.5. Further Procedures. The Chair of the Board, Vice-Chair of the Board, other officers of the Board and the Executive Director of the Authority are hereby authorized, empowered and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge and deliver in the name and under the corporate seal and on behalf of the Authority all such certificates or other instruments, whether or not herein mentioned, as may be necessary or desirable in order to carry out the terms and provisions of this Resolution or the Assignment. In case any officer of the Authority whose signature shall appear on any certificate shall cease to be such officer before the delivery of such certificate, such signature shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

SECTION 1.6. Effective Date. This Resolution shall be in force and effect from and after its passage on the date shown below.

PASSED AND ADOPTED on the ____ day of _____, 2016.

Chair
Board of Directors

Attest:

Secretary/Alternate Secretary
Board of Directors

EXHIBIT A

**PLEDGE AND ASSIGNMENT AGREEMENT
BETWEEN THE CAMINO REAL REGIONAL MOBILITY AUTHORITY
AND THE TOWN OF HORIZON CITY RELATING TO
EASTLAKE PHASE 2 CONSTRUCTION PROJECT**

(See Attached)

THE STATE OF TEXAS §
 §
COUNTY OF EL PASO §

**PLEDGE AND ASSIGNMENT AGREEMENT
BETWEEN THE CAMINO REAL REGIONAL MOBILITY AUTHORITY
AND THE TOWN OF HORIZON CITY RELATING TO
EASTLAKE PHASE 2 CONSTRUCTION PROJECT**

THIS PLEDGE AND ASSIGNMENT AGREEMENT (this “Assignment”) is entered into effective as of the _____ day of _____, 2016, by and between the **TOWN OF HORIZON CITY, TEXAS** (the “Town”), and the **CAMINO REAL REGIONAL MOBILITY AUTHORITY** (the “Authority”), both political subdivisions of the State of Texas (each a “Party” and, collectively, the “Parties”).

RECITALS

WHEREAS, the County of El Paso, Texas (the “County”), the Authority and the Town have entered into a Second Amendment (the “Second Amendment”) to the Interlocal Agreement – VRF Project Development Agreement for the Eastlake Blvd., Phase 2 Roadway Improvement Project dated November ____, 2016, which provides for the development and expansion of Eastlake Boulevard as more specifically described therein (the “Project”); and

WHEREAS, the Town has formed a transportation reinvestment zone (“TRZ2”) whereby revenues associated with the incremental increase in property values within the zone (the “Tax Increment”) is available to finance transportation projects within the Town such as the Project; and

WHEREAS, pursuant to the Second Amendment, the Authority and the County have committed to fund the development of the Project from certain Special Vehicle Registration Fees and/or debt obligations of the Authority secured thereby; and

WHEREAS, the Town has committed to repay the Authority for a portion of the costs of the Project and the Parties intend for the Town to pledge and assign its Tax Increment to secure its repayment obligation with respect to the Project;

NOW, THEREFORE, in consideration of the respective promises and mutual covenants and benefits hereinafter set forth, the undersigned Parties agree as follows:

**ARTICLE I.
DEFINITIONS**

A. Definitions. Throughout this Assignment, the following terms and expressions shall have the meanings set forth below, unless the context clearly indicates otherwise:

“Authority” shall mean Camino Real Regional Mobility Authority, or its legal successors.

“Bond Trustee” shall mean the bank, trust company or other financial institution designated as trustee or paying agent in the Trust Indenture and any successors and assigns.

“County” shall mean El Paso County, Texas.

“Final Acceptance” shall mean the achievement of final completion of construction of the Project to the satisfaction of the Authority, and the occurrence of all other events and satisfaction of all the other conditions as set forth in the applicable design-build or construction contract for the Project, including payment.

“Special Vehicle Registration Fee” shall mean the additional motor vehicle registration fee levied by the County in the amount of \$10.00 per registered vehicle in the County and remitted to the Authority in accordance with Section 502.402 of the Texas Transportation Code.

“State” shall mean the State of Texas.

“Surplus Revenues” shall mean the Pledged Revenues remaining after payment of all expenses required or permitted by the Trust Indenture, including all debt service payments, reserve fund requirements, fees, expenses and other revenue transfers described in the Trust Indenture.

“Tax Increment” shall have the meaning set forth in the recitals to this Assignment

“Town” shall mean the Town of Horizon City, Texas.

“Town’s Obligation” shall have the meaning set forth in Section II.A of this Assignment.

“Trust Indenture” shall mean collectively one or more trust indentures, supplemental trust indentures, bond resolutions, loan agreements, resolutions and other applicable documents which authorize the issuance, and control the terms, of one or series of bonds, loans, notes or other debt obligations which are secured in whole or part by the Special Vehicle Registration Fees, including the Master Trust Indenture dated as of May 1, 2014, between the Authority and The Bank of New York Mellon Trust Company, N.A. as Trustee, as the same may be amended or supplemented from time to time in accordance with the terms thereof.

“TRZ2” shall have the meaning set forth in the recitals to this Assignment.

B. Interpretations. All terms defined and all pronouns used in this Assignment shall be deemed to apply equally to singular and plural and to all gender. The titles and headings of articles and sections of this Assignment have been inserted for convenience and shall not in any way modify or restrict any of the terms and provisions. This Assignment and all the terms and provisions shall be liberally construed to effectuate the purposes set forth in this Assignment. The recitals to this Assignment are deemed to be statements of fact or representations made

jointly by the Parties and are hereby incorporated by reference; provided however, that the terms and phrases used in the recitals to this Assignment have been included for convenience of reference only and the meaning, construction and interpretation of such words and phrases for purposes of this Assignment shall be determined solely by reference to Article I. Any capitalized terms used herein which are not otherwise defined shall have the meanings ascribed to them in the Second Amendment.

ARTICLE II. OBLIGATIONS OF THE TOWN

A. Financial Obligations of the Town

1. The Town covenants that it shall repay the Authority for 22.7% of the actual cost of the construction of the Project including all costs associated with preparation of the plans and specifications for the Plans of Proposed Roadway Improvements for the Project as prepared by CEA group for the Authority, signed, sealed and dated June 1, 2016, as such plans and specifications may be amended and supplemented throughout the Project construction period, as more specifically described in the Second Amendment.

2. The Town's obligation to repay the actual Town portion of Project costs (the "Town's Obligation") is evidenced by the Second Amendment and this Assignment and shall be payable from the Tax Increment as the Town's primary, but not exclusive reimbursement source. To the extent permitted by applicable law, the Town hereby irrevocably assigns and pledges the Tax Increment to repayment of the Town's Obligation.

3. The Town shall make annual payments to the Authority in the minimum amounts payable in accordance with the payment schedule attached as **EXHIBIT A** to this Assignment. There shall be no penalty imposed upon the Town for an early repayment, in whole or in part, of the Town's Obligation; provided however that early payments may only be made on a Payment Date.

4. The Parties acknowledge that the actual amount of the Town's proportionate share of the Project cannot be determined until such time as the construction of the Project is complete. Therefore, the Authority shall, concurrently with the date of Final Acceptance, determine the exact amount due from each Party, and **EXHIBIT A** shall be amended at that time to provide the amount actually due from the Town.

B. Use of excess TRZ Revenues. The Parties agree that in the event that the Town has or reasonably projects that TRZ revenues will exceed the amounts set forth on **EXHIBIT A**, the Town may negotiate with the County and the Authority for the right to issue or incur, for any lawful purpose and to the extent permitted by law, bonds, notes or other obligations secured in whole or in part by liens on the Tax Increment that are on a parity or junior and subordinate to the lien securing the Town's Obligation.

C. No Rescission of Assignment, Termination of the TRZ2, or Removal of Property from Zone. The Town may not rescind this Assignment until the bonds or other obligations secured by this Assignment have been paid or discharged. The Town will take no action to terminate TRZ2 as long as all or a portion of money deposited to the tax increment account or directed to the repayment of money owed under this Assignment or the Second Amendment remains unpaid. The boundaries of TRZ2 may be amended at any time in accordance with Texas Transportation Code Section 222.106, except that property may not be removed or excluded from TRZ2.

D. No Reduction in TRZ Captured Revenue. The Town shall make annual payments in the amount shown in **EXHIBIT A**. The annual payments reflect projections in the incremental tax revenue from TRZ2. To increase the likelihood that incremental tax revenue from TRZ2 is adequate to make the scheduled payments, the Town agrees that it will not cause a reduction, abatement or exemption in the TRZ or in the amount which is authorized to be collected if any proposed reduction, abatement or exemption would violate any of the terms of this Assignment or the Second Amendment or impair the Town's ability to fully repay the indebtedness shown in **EXHIBIT A** by 2038. Notwithstanding the foregoing, the Town may offset and deduct the amount of any returned checks, declined credit cards and similar deductions for amounts initially received by the Town but ultimately not retained by the Town.

E. Timely payments without demand. The Town further covenants and agrees that, as long as any Town Obligations are outstanding, the Town will pay to the Authority (or the Bond Trustee), in accordance with **EXHIBIT A**, such collected revenues, without demand, notice, counterclaim or offset, including any administrative charges or expenses incurred by the Town in connection with the levy and collection of the Tax Increment, to be used as authorized under this Assignment, the Second Amendment and the Trust Indenture.

ARTICLE III. OBLIGATIONS OF THE AUTHORITY

A. To the extent Surplus Revenues are used to fund Project costs, payments received from the Town to repay the Town's Obligation with respect to such costs shall be deposited into the "VRF General Fund" so designated and created pursuant to Article IV of the Trust Indenture. To the extent proceeds from bonds secured by the Special Vehicle Registration Fee are used to fund Project costs, payments received from the Town to repay the Town's Obligation with respect to such costs shall be deposited into the interest and sinking fund for the bonds which are the funding source for such costs.

B. In furtherance of the deposit of the Town's payments in accordance with paragraph A above, the Authority is authorized to assign this Assignment to the Bond Trustee without the further consent of the Town or the County, and upon such assignment, the payments from the Town may be made directly to the Bond Trustee.

ARTICLE IV. TERMINATION

A. Town's Obligation Fully Paid. This Assignment shall terminate automatically at such time as the Town's reimbursement obligation for the Project has been paid in full, except with respect to any obligation of a Party related to any losses, costs, expenses, penalties, claims and liabilities due to the activities of a Party or any agent, employee, official, or contractor of a Party, which obligations shall survive such termination.

B. Town's Obligations Outstanding. As long as the Town's Obligation is outstanding, a Party may terminate its performance under this Assignment without cause only (i) upon agreement in writing signed by the County, the Authority and the Town to the extent such termination does not adversely affect the outstanding Authority's debt obligations and (ii) with the express written consent of the Bond Trustee (or in the absence of a Bond Trustee, the holder/obligee of all outstanding VRF Bonds from which the Project was funded or refunded) if the Project costs being repaid by the Town were funded in whole or in part by Authority bonds issued under the Trust Indenture.

ARTICLE V. MISCELLANEOUS

A. Remedies. Upon Default by a Party, the non-defaulting Parties or a non-defaulting Party may proceed against the other Party for the purpose of protecting and enforcing its rights, by mandamus or other suit, action or special proceeding in equity or at law, in any court of competent jurisdiction, for any relief permitted by law, including the specific performance of any covenant or agreement, or to enjoin any act or thing that may be unlawful or in violation of any right of the non-defaulting Party hereunder or any combination of such remedies. No remedy conferred or reserved is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given or existing at law or in equity. The exercise of any remedy conferred or reserved shall not be deemed a waiver of any other available remedy.

B. Third Party Beneficiary. The County shall be a direct third party beneficiary of the provisions of this Assignment and shall have full rights to enforce its terms.

C. Assignment to Bond Trustee. The Authority may assign this Assignment to the Bond Trustee as additional security under the Trust Indenture.

D. Governing Law. THIS ASSIGNMENT AND THE ACTIONS OF THE PARTIES SHALL IN ALL RESPECTS BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF TEXAS NOTWITHSTANDING ANY CHOICE-OF-LAW OR CONFLICT-OF-LAW PRINCIPLE THAT MIGHT DICTATE A DIFFERENT GOVERNING LAW.

E. Venue. For any and all disputes arising under this Assignment or the ILA, venue shall be in El Paso County, Texas.

F. Successors and Assigns. This Assignment and all terms and conditions contained herein shall inure to the benefit and be binding upon the successors and permitted assigns of the Parties.

G. Counterparts. This Assignment may be executed in counterparts, each of which when executed and delivered will be deemed an original, and all of which together will constitute one instrument.

[The remainder of this page intentionally left blank.]

EXECUTED in multiple counterparts as of the date first written above.

TOWN OF HORIZON CITY, TEXAS

By: _____

ATTEST:

CAMINO REAL REGIONAL MOBILITY
AUTHORITY

By: _____

ATTEST:

EXHIBIT A