

**CAMINO REAL REGIONAL MOBILITY AUTHORITY
BOARD RESOLUTION**

WHEREAS, the Camino Real Regional Mobility Authority (CRRMA), Town of Horizon City and El Paso County have entered into an Interlocal Agreement – VRF Project Development Agreement for the Eastlake Blvd., Phase 2 Roadway Improvement Project, as subsequently amended (the “Agreement”), which provided the CRRMA with vehicle registration fee bond proceeds for the development of the Eastlake Phase 2 Project (the “Project”); and

WHEREAS, the Town of Horizon City created a transportation reinvestment zone (TRZ) in order to use the anticipated revenues to finance one or more transportation projects; and

WHEREAS, the Town of Horizon City, through the Agreement, has committed to repay the CRRMA for a portion of the costs of the Eastlake Phase 2 Project through an assignment of its TRZ revenues to secure its repayment obligation and the parties now desire to memorialize such commitment through a Term Assignment Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE CAMINO REAL REGIONAL MOBILITY AUTHORITY:

THAT the CRRMA Executive Director is authorized to execute a Term Assignment Agreement with the Town of Horizon City relating to the Eastlake Phase 2 Construction Project.

PASSED AND APPROVED THIS 11TH DAY OF JANUARY 2017.

**CAMINO REAL REGIONAL
MOBILITY AUTHORITY**

Susan A. Melendez, Chair

ATTEST:

Joe R. Fernandez, Board Secretary

APPROVED AS TO CONTENT:

Raymond L. Telles
Executive Director

THE STATE OF TEXAS §
 §
COUNTY OF EL PASO §

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

THIS TERM ASSIGNMENT AGREEMENT (this “Assignment”) is entered into effective as of the _____ day of _____, 2017, 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 an Interlocal Agreement – VRF Project Development Agreement for the Eastlake Blvd., Phase 2 Roadway Improvement Project, as amended by a First Amendment dated September 12, 2016 and Second Amendment (the “Second Amendment”) dated November 14, 2016, which provides for the development and expansion of Eastlake Boulevard as more specifically described therein (the “Project”); and

WHEREAS, on December 16, 2014, by Ordinance No. 0219, the Town created Transportation Reinvestment Zone Number Two for the Town of Horizon City, Texas (“TRZ2”) whereby revenues associated with the incremental increase in property values within the zone (the “Tax Increment”) are 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 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.

“Construction Costs” shall have the meaning set forth in §370.004, Texas Transportation Code.

“Final Acceptance” shall mean the achievement of final completion of construction activities required by the plans developed for the Project to the satisfaction of the Authority, and the occurrence of all other events and satisfaction of all conditions as set forth in the applicable 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 VRF 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 Construction Cost 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 Construction Cost and any other Project costs specified by the Second Amendment (the "Town's Obligation") 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 the Tax Increment to Authority for the repayment of the Town's Obligation for the period during which any portion of the Town's Obligation remains outstanding.

3. The Town shall make annual payments to the Authority in the minimum amounts on 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 and the total Construction Cost has been determined. 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.

5. The Town shall pay the amounts to the Authority set forth in EXHIBIT A, with annual payments commencing on May 1, 2020 and on May 1st of each year thereafter until the final Payment Date in 2038 when any remaining Outstanding Balance shall be due and payable.

B. Interest Accrual. The Parties agree that the applicable interest rate payable by the Town shall be 3.73% simple, per annum. Interest shall accrue and be paid on the outstanding balance of the Town's Obligation until its maturity or earlier repayment, with interest to begin to accrue on the Final Acceptance Date, as defined in Article I.A. Interest shall be computed on the basis of a 360-day year of twelve 30 day months.

C. 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.

D. No Rescission of Assignment, Termination of the TRZ2, or Removal of Property from Zone. The Town may not rescind this Assignment until the Town's Obligations hereunder and 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 .

E. 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 TRZ2 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 amortize 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.

F. 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, 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**

The Authority shall use Surplus Revenues as the sole source of revenues used to fund the Town's pro rata share of the 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.

**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 upon agreement in writing signed by the County, the Authority and the Town to the extent such termination does not adversely affect the Authority's outstanding debt obligations.

**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. Default by the Town. In the event of default by the Town in making the scheduled payments, the Authority may direct the Tax Collector for the Town to pay all TRZ2 funds directly to the Authority until the Town's Obligation is fully paid, provided that this shall not preclude the Authority from pursuit of other remedies to enforce its rights under this Assignment.

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

TOWN OF HORIZON CITY PAYMENT SCHEDULE

Year	TRZ Cash Flow Captured (Undiscounted)
2020	\$0
2021	\$29,011
2022	\$60,097
2023	\$92,622
2024	\$128,440
2025	\$168,241
2026	\$212,359
2027	\$260,768
2028	\$310,654
2029	\$350,493
2030	\$391,898
2031	\$434,923
2032	\$479,618
2033	\$526,037
2034	\$574,235
2035	\$624,071
2036	\$675,671
2037	\$729,267
2038	\$784,950
2039	\$842,816 *

***Final Year will be adjusted to reflect the actual payment due.**