

## **THIRD AMENDMENT TO AGREEMENT REGARDING INTEROPERABILITY OF TOLL SYSTEMS AND TRANSPONDERS**

**THIS THIRD AMENDMENT** (this “Amendment”) by and between North Texas Tollway Authority, a regional tollway authority (“NTTA”), the Texas Department of Transportation, an agency of the State of Texas (“TxDOT”), Harris County, a body corporate and politic under the laws of the State of Texas (“Harris County”), the Central Texas Regional Mobility Authority, a regional mobility authority (“CTRMA”), Fort Bend Grand Parkway Toll Road Authority, a body corporate and politic under the laws of the State of Texas (“GPTRA”), the Kansas Turnpike Authority, an instrumentality of the State of Kansas (“KTA”), and the Oklahoma Turnpike Authority, an instrumentality of the State of Oklahoma (“OTA”), is to be effective as of \_\_\_\_\_, 2020 (the “Effective Date”). Capitalized terms used but not defined herein shall have the meanings assigned to such terms in the Interoperability Agreement (as hereinafter defined).

### **RECITALS**

The parties hereto are Parties to that certain Agreement Regarding Interoperability of Toll Systems and Transponders, which was fully executed and effective as to all Parties on March 7, 2017 (as previously amended, the “Interoperability Agreement”).

The Parties desire to amend the Interoperability Agreement to add covenants regarding the confidentiality of certain information shared between them under the Interoperability Agreement and provide greater clarity regarding the process for considering the addition of Additional Parties as Parties to the Interoperability Agreement.

### **AGREEMENT**

**NOW, THEREFORE**, in consideration of these premises and the mutual covenants and agreements of the Parties hereto to be by them respectively kept and performed as hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which being hereby acknowledged, the Parties agree as follows:

**1. Amendment of Section VII.** Section VII of the Interoperability Agreement is hereby amended to read in full as follows:

#### **VII. ADDITIONAL PARTIES:**

Additional toll entities may hereafter desire to enter into this Agreement and be bound by and enjoy the benefits set forth herein. A toll entity may apply to enter into this Agreement by completing, executing, and delivering an Application and Agreement (“Application”) in the form set forth in **Appendix J** (form of Application and Agreement), which must be accompanied by a resolution or other authorization adopted by the applicant’s governing body authorizing the applicant toll entity to submit the Application and enter into and carry out the agreements and obligations contained therein. If a supermajority of the Interoperability Committee (as defined in Section VIII) determines that a toll entity that desires to enter into this Agreement and has executed, delivered, and performed its obligations under an Application, (A) satisfies all criteria established by the Interoperability Committee to ensure that the subject toll entity is capable of

meeting the Interoperability Business Requirements and the requirements of the interface control documents promulgated by the Interoperability Committee, (B) meets the requirements to be a Party (either a Provider or Subscriber, as applicable), as set out in Section I, (C) has paid reasonable costs of testing, analysis, integration, and other costs as set forth in the Application and determined by the Interoperability Committee, and (D) satisfies any other criteria that the Interoperability Committee may establish from time to time in accordance with the terms of this Agreement, then, upon the toll entity's (i) delivery to the Interoperability Committee of evidence that all necessary action has been taken by the toll entity's governing body to authorize its entry into this Agreement, and (ii) execution of this Agreement by such toll entity, the toll entity shall enter into this Agreement and become a Party hereto and will operate as a Provider or Subscriber, as applicable. No additional action by the governing body of any other Party shall be required in order for a toll entity to become an additional Party. In connection with this process, the Interoperability Committee and the additional Party shall utilize the forms set forth at **Appendix K** (form of Certification re: New Party) and **Appendix L** (form of Counterpart Agreement for Adding New Parties).

**2. Amendment of Appendix J and Appendix K; Addition of New Appendix L.**

Appendix J attached to the Interoperability Agreement is deleted, and Appendix J attached to this Amendment is substituted therefor as a new Appendix J to the Interoperability Agreement. Appendix K attached to the Interoperability Agreement is deleted, and Appendix K attached to this Amendment is substituted therefor as a new Appendix K to the Interoperability Agreement. Appendix L attached to this Amendment is added as a new Appendix L to the Interoperability Agreement.

**3. Amendment of Section 1 to Attachment A.** Section 1 on Attachment A attached to and made a part of the Interoperability Agreement is amended to read in full as follows:

**1. Installation, Integration and Operation; Confidentiality of Information.** 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 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. Information shared between the Parties under this Agreement, including, without limitation, Tag Validation Lists and License Validation Lists, respectively, and all information contained therein, is referred to as "IOP Information." Without limiting the generality of the foregoing, IOP Information also includes the date, time, and location of a toll transaction incurred on a Party's facility by a vehicle associated with an account maintained with another Party. Each Party covenants that all IOP Information it obtains or collects will be (a) kept confidential; (b) used solely for (i) customer service, (ii) toll collection, (iii) toll collection enforcement, (iv) reporting requirements, or (v) law enforcement purposes on request by a law enforcement agency (collectively, "Permitted Purposes"); (c) securely stored and accessed according to security protocols that are reasonably expected to prevent its release, copying, modification, or use for any purpose, except for Permitted Purposes by a Party or

its consultants that provide services to a Party in connection with carrying out the Permitted Purposes; and (d) destroyed by the Party and its consultants as soon as it is no longer needed for the Permitted Purposes. Notwithstanding the foregoing, a Party may disclose IOP Information, without breach of the foregoing covenant, if required under applicable law or pursuant to a court order or other legal process requiring disclosure. In such circumstances, a disclosing Party may release IOP Information ten (10) business days after the date notice is provided to all other Parties, unless a non-disclosing Party has, within the ten-day period, secured a protective order, injunctive relief or other appropriate order from a court of competent jurisdiction, enjoining the release of the IOP Information.

**4. Section 37 Added to Attachment A.** A new Section 37, which reads as follows, is hereby added to Attachment A attached to and made a part of the Interoperability Agreement:

**37. Compliance with Invoicing and Transponder Laws.** Without limiting any other provisions of this Agreement regarding the Parties' compliance with applicable laws, the Parties acknowledge and agree that the Business Rules, ICDs, and/or the Parties' respective operating procedures shall comply with applicable laws governing the form, content, and sending of invoices and notifications, prohibitions against multiple Parties' invoicing the same transaction, and the installation, use, and operation of transponders.

**5. Miscellaneous.**

(a) Ratification. The Parties acknowledge, ratify and affirm the provisions of the Interoperability Agreement not specifically amended by this Amendment as if such provisions were expressly set forth herein. The Interoperability Agreement, as amended by this Amendment, is fully valid, binding and enforceable in accordance with its terms.

(b) Entire Agreement. The Interoperability Agreement, as amended by this Amendment, 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 the Interoperability Agreement, as amended hereby.

(c) No Default. The Parties acknowledge that there is no default under the Interoperability Agreement, as amended by this Amendment, nor is there any condition or event which with the passage of time or the giving of notice would constitute a default by any party.

(d) Sole Benefit. This Amendment is entered into for the sole benefit of the Parties and their respective successors, and nothing in this Amendment or in any approval subsequently provided by any party hereto shall be construed as giving any benefits, rights, remedies or claims to any other person or other entity, including, without, limitation, the public in general.

(e) Authorization. Each Party to this Amendment represents to the other that it is fully authorized to enter into this Amendment 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 Amendment. Each signatory on behalf of a Party represents that he or she is fully authorized to bind that entity to the terms of this Amendment.

(f) Interpretation. No provision of this Amendment shall be construed against or interpreted to the disadvantage of any Party 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.

(g) Counterparts. This Amendment 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.

(h) Headings. The article and section headings used in this Amendment are for reference and convenience only, and shall have no bearing on the interpretation hereof.

(i) Attachments. Appendix J, Appendix K, and Appendix L attached to this Amendment are hereby made a part of this Amendment for all purposes.

**[SIGNATURE PAGES FOLLOW]**

**IN WITNESS WHEREOF**, the undersigned have executed this Amendment as of the date first set both above.

**NORTH TEXAS TOLLWAY AUTHORITY**

By \_\_\_\_\_  
James Hofmann  
Executive Director  
North Texas Tollway Authority

**ATTEST:**

By \_\_\_\_\_  
Lorelei Griffith, Secretary

**HARRIS COUNTY**

By \_\_\_\_\_  
Lina Hidalgo  
County Judge

**APPROVED AS TO FORM:**

Vince Ryan, County Attorney

By: \_\_\_\_\_  
Jacqueline Lentz  
Assistant County Attorney

**CENTRAL TEXAS REGIONAL MOBILITY AUTHORITY**

By \_\_\_\_\_  
Mike Heiligenstein  
Executive Director  
Central Texas Regional Mobility Authority

**APPROVED AS TO FORM:**

General Counsel to the CTRMA

By \_\_\_\_\_

**FORT BEND GRAND PARKWAY TOLL ROAD AUTHORITY**

By *Shoukat Dhannai*  
Shoukat Dhannai (Aug 20, 2020 15:26 CDT)

Shoukat Dhanani  
Chairman, Board of Directors  
Fort Bend Grand Parkway Toll Road Authority

**APPROVED AS TO FORM:**  
General Counsel to the GPTRA

By *Richard Muller*  
Richard Muller (Aug 20, 2020 15:24 CDT)

**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 \_\_\_\_\_  
James M. Bass  
Executive Director  
Texas Department of Transportation

**KANSAS TURNPIKE AUTHORITY**

By \_\_\_\_\_  
Steve Hewitt  
Chief Executive Officer

**APPROVED AS TO FORM:**  
General Counsel to the KTA

By: \_\_\_\_\_

**OKLAHOMA TURNPIKE AUTHORITY**

By \_\_\_\_\_  
Tim J. Gatz  
Executive Director

**APPROVED AS TO FORM:**  
General Counsel to the OTA

By: \_\_\_\_\_

## APPENDIX J

### APPLICATION AND AGREEMENT REGARDING REQUEST TO BECOME AN ADDITIONAL PARTY TO THE AGREEMENT REGARDING INTEROPERABILITY OF TOLL SYSTEMS AND TRANSPONDERS

This Application and Agreement (this "Application") is executed by \_\_\_\_\_  
\_\_\_\_\_ ("Applicant Agency"), a \_\_\_\_\_  
\_\_\_\_\_, to be effective as of the date of execution on  
the signature page hereof.

The Texas Department of Transportation ("TxDOT"), Harris County, the North Texas Tollway Authority ("NTTA"), Central Texas Regional Mobility Authority ("CTRMA"), and Fort Bend Grand Parkway Toll Road Authority ("GPTRA") (collectively, the "Original Parties") and Kansas Turnpike Authority ("KTA"), an instrumentality of the State of Kansas, created and authorized under Kansas Statutes 68-2003 et seq., and the Oklahoma Turnpike Authority ("OTA"), an instrumentality of the State of Oklahoma have duly approved an Agreement Regarding Interoperability of Toll Collection Systems (the "Agreement") to provide for interoperability of toll collection systems through connection to the Central US IOP Hub (such term and any other capitalized term used, but not defined in, this Certification, having the meaning given to that term under the Agreement and any attachments thereto).

Applicant Agency desires to become an Additional Party to the Agreement, and in connection therewith, will submit, in accordance with the terms of the Agreement, all information required by the Interoperability Committee regarding its electronic tag toll collection system, licenseplate toll collection system, data-transfer and communications architecture, and other materials and systems for testing, analysis, and integration as required by the Interoperability Committee (collectively, "Testing"). Testing requires that one or more Parties to the agreement shall provide to Applicant Agency lists of transponders or license plates (or both) that are associated with accounts maintained with such Party or Parties by their account holders. Such lists are referred to as Tag Validation Lists ("TVLs") and License Validation Lists ("LVLs"), respectively. TVLs and LVLs, together with all information contained therein, including, without limitation, tag or account status, vehicle type and class, and account start and end dates, as well as all other information provided to or collected by Applicant Agency in connection with Testing, regardless of its form or content, is referred to as "Testing Information." Without limiting the generality of the foregoing, Testing Information also includes the date, time, and location of a toll transaction incurred by a vehicle associated with an account maintained by a Party or Applicant Agency, as applicable.

As a condition to the Interoperability Committee's consideration of Applicant Agency's becoming a Party to the Agreement, Applicant Agency covenants that all Testing Information it obtains or collects will be (a) kept confidential; (b) used solely for Testing purposes; (c) securely stored and accessed according to security protocols that are reasonably expected to prevent its release, copying, modification, or use for any purpose, except for Testing by Applicant Agency or its consultants that provide services to Applicant Agency in connection with Testing; and (d) destroyed by the Applicant Agency and its consultants as soon as it is no longer needed for Testing. Furthermore, Applicant Agency agrees to be responsible for all costs, expenses, liability, and claims, including reasonable attorneys' fees, incurred by any Party in connection with Applicant

Agency's breach of the foregoing covenant. Furthermore, to the greatest extent permitted by applicable law, Applicant Agency agrees to indemnify, defend, and hold harmless each Party to the

Appendix J - Application and Agreement

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Agreement from and against all costs, expenses, liability, and claims asserted against any Party by any third party in connection with the Testing or the use or release of Testing Information, except for costs, expenses, liability, or claims caused by the gross negligence or willful misconduct of the Party asserting a right to be indemnified, defended, or held harmless under this paragraph.

As used in this Application, the Party responsible for paying the Central US IOP Hub's system integrator is called the "Hub Party." Applicant Agency agrees to be responsible for and upon demand reimburse the Hub Party for all costs and expenses incurred by the Hub Party in connection with Testing required for direct communications and processing with the Central US IOP Hub. Applicant Agency also agrees to be responsible for its share of costs and expenses incurred in connection with end-to-end Testing between Applicant Agency and any or all of the Parties, with such end-to-end Testing costs being shared as determined by the Interoperability Committee.

Applicant Agency acknowledges receipt of the copies of the (1) Agreement and the amendments thereto, (2) Business Requirements, and (3) Interface Control Document that are attached to this Application as Exhibit A. Applicant Agency's governing body has adopted a resolution or other authorization, a copy of which is attached as Exhibit B to this Application, which authorizes Applicant Agency to submit this Application and enter into and carry out the agreements and obligations contained herein.

Applicant Agency

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

\_\_\_\_\_  
[legal name of Applicant Agency]

By: \_\_\_\_\_

Print name: \_\_\_\_\_

Print title: \_\_\_\_\_

Exhibit A

Copies of  
Agreement Regarding Interoperability of Toll Systems and Transponders, Business  
Requirements, and Interface Control Document

[follows this cover page]



Exhibit B

Resolution of Applicant Agency's Governing Body

[follows this cover page]

**APPENDIX K CERTIFICATION RE: ADDITIONAL PARTY**

WHEREAS, the Texas Department of Transportation ("TxDOT"), Harris County, the North Texas Tollway Authority ("NTTA"), Central Texas Regional Mobility Authority ("CTRMA"), and Fort Bend Grand Parkway Toll Road Authority ("GPTRA") (collectively, the "Original Parties") and Kansas Turnpike Authority ("KTA"), an instrumentality of the State of Kansas, created and authorized under Kansas Statutes 68-2003 et seq., and the Oklahoma Turnpike Authority ("OTA") have duly approved an Agreement Regarding Interoperability of Toll Collection Systems (the "Agreement") to provide for interoperability of toll collection systems through connection to the Central USIOP Hub (such term and any other capitalized term used, but not defined in, this Certification, having the meaning given to that term under the Agreement and any attachments thereto); and

WHEREAS, as required by and in accordance with Section VII (Additional Parties) of the Agreement, \_\_\_\_\_ ("Applicant Agency") submitted its electronic tag toll collection system, data-transfer and communications architecture, and other materials and systems for testing, analysis, and integration as required by the Interoperability Committee; and

WHEREAS, in the written testing report and confirmation attached as Exhibit A to this Certification (the "Report"), the Interoperability Committee's testing team confirms that the Applicant Agency's toll system is capable of meeting the Interoperability Business Requirements, the requirements of the ICDs, and all other requirements promulgated by the Interoperability Committee with respect to Applicant Agency; and

WHEREAS, after due consideration and discussion concerning the Report, a supermajority of the Interoperability Committee determined that the Applicant Agency satisfies all criteria established to ensure that it is capable of meeting the Interoperability Business Requirements, the requirements of the ICDs, and all other requirements promulgated by the Interoperability Committee with respect to Applicant Agency, and that Applicant Agency has satisfied its payment obligations in connection with the testing, analysis, and integration referenced above.

NOW, THEREFORE, BE IT RESOLVED that the Interoperability Committee hereby certifies that the Applicant Agency has satisfied all criteria required to accept Applicant Agency as an Additional Party to the Agreement upon its due authorization, execution, and delivery of the Counterpart to Agreement Regarding Interoperability of Toll Systems and Transponders called for under the Agreement.

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

\_\_\_\_\_

Print name: \_\_\_\_\_

Chair, Interoperability Committee

**EXHIBIT A TESTING REPORT AND CONFIRMATION**

[follows this cover page]

[after this cover page, attach a copy of  
the testing report and confirmation issued  
by the Interoperability Committee's testing team]



**APPENDIX L**

**COUNTERPART TO AGREEMENT REGARDING INTEROPERABILITY OF TOLL SYSTEMS AND TRANSPONDERS**

**THIS COUNTERPART TO AGREEMENT REGARDING INTEROPERABILITY OF TOLL SYSTEMS AND TRANSPONDERS** (this "Counterpart") is executed by \_\_\_\_\_

\_\_\_\_\_ ("Applicant Agency") in accordance with Section VII of that certain Agreement Regarding Interoperability of Toll Systems and Transponders (Interoperability of Toll Collection Systems) (the "Agreement") dated to be effective as of March 7, 2017, initially executed by and among the Texas Department of Transportation ("TxDOT"), Harris County, the North Texas Tollway Authority ("NTTA"), Central Texas Regional Mobility Authority ("CTRMA"), Fort Bend Grand Parkway Toll Road Authority ("GPTRA"), Kansas Turnpike Authority ("KTA"), and the Oklahoma Turnpike Authority ("OTA").

Any capitalized term used in this Counterpart that is not expressly defined herein will have the meaning given to that term under the Agreement.

WHEREAS, a copy of the Agreement is attached as Exhibit A to this Counterpart and is incorporated herein for all purposes; and

WHEREAS, Section VII (Additional Parties) of the Agreement establishes the procedure by which additional toll authorities can enjoy the benefits of having interoperable toll systems and become Parties to the Agreement; and

WHEREAS, Applicant Agency operates one or more toll lanes (on one or more toll roads, toll bridges, or other toll facilities), directly and/or by contract, in \_\_\_\_\_,

[Applicant Agency's state]

and  does /  does not [select one] maintain a minimum of 200,000 active customer tag accounts, and wishes to be bound by and enjoy the benefits of the Agreement; and

WHEREAS, as required by Section VII of the Agreement, Applicant Agency has submitted its electronic toll collection system and data-transfer, communications architecture, and other materials and systems for testing and analysis as required by the Interoperability Committee; and

WHEREAS, by its execution of the Certification in the form attached to the Agreement as Appendix K, the Interoperability Committee has certified that Applicant Agency's toll system is capable of meeting the Interoperability Business Requirements, the requirements of the ICDs, and all other testing protocols required of Applicant Agency by the Interoperability Committee; and

WHEREAS, Applicant Agency's governing body has adopted a resolution or other authorization, a copy of which is attached as Exhibit B to this Counterpart, that authorizes Applicant Agency to enter into the Agreement and to be bound as an Additional Party by executing this Counterpart.

NOW, THEREFORE, Applicant Agency acknowledges and commits as follows:

1. By executing this Counterpart, Applicant Agency hereby becomes an Additional Party to the Agreement in the capacity of a  Provider /  Subscriber [select one] as defined in the Agreement and is bound by and will comply with all of the terms of the Agreement, including without

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limitation the Interoperability Business Requirements and ICDs as currently promulgated and as those requirements and documents may, from time to time, be modified or amended by the Interoperability Committee.

2. All written notices, demands, and other papers or documents to be delivered to the Applicant Agency under the Agreement shall be delivered to the following address, or at such other place or places as Applicant Agency may designate by written notice delivered to the Original Parties and any additional Parties who subsequently join the Agreement under Section VII:

Applicant Agency's address for notices: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attn:\_\_\_\_\_

IN WITNESS WHEREOF, Applicant Agency has executed this Counterpart in multiple copies, each of which shall be deemed an original, on the date shown below, and in consequence thereof, Applicant Agency is an Additional Party to the Agreement, with all rights and obligations appertaining thereto, as of said date.

Applicant Agency / Additional Party:

Date: \_\_\_\_\_  
\_\_\_\_\_ [legal name of Additional Party]

By: \_\_\_\_\_  
Print name: \_\_\_\_\_  
Print title: \_\_\_\_\_

**EXHIBIT A**

**COPY OF AGREEMENT REGARDING INTEROPERABILITY OF TOLL SYSTEMS AND  
TRANSPONDERS**

[follows this cover page]

[attach copy of CUSIOP Agreement, including all amendments thereto,  
current Business Rules and ICDs, and all other exhibits after this cover page]

**EXHIBIT B**

**COPY OF RESOLUTION OR OTHER AUTHORIZATION BY APPLICANT AGENCY'S  
GOVERNING BODY AUTHORIZING APPLICANT AGENCY TO ENTER INTO THE  
AGREEMENT AS AN ADDITIONAL PARTY**

[follows this cover page]

[attach copy of resolution or other authorization after this cover page]



# R2 - 3rd Amended Interop Agreement

Final Audit Report

2020-08-20

Created:	2020-08-20
By:	Keely Campbell (keely@mullerlawgroup.com)
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