

# **Recommendations Regarding Interlocal Agreement Creating Independent Review of CTRMA/TxDOT “Phase 2” Toll Roads Liveable City Board of Directors**

October 18, 2005

## **Summary:**

The proposed City of Austin Interlocal Agreement as written threatens to eliminate the independence of the toll road financial analysis - its very purpose. The funding and governance structure it would establish undermines the independence of both the oversight committee and the consultant threatening the validity of the review. The current proposal allows the very agency whose plan is the subject of the study to influence all key decisions—often behind closed doors.

In addition, the proposal violates several critical rules regarding credible research by not specifying the goals of the research and by allowing the process for conducting and evaluating research findings to be kept out of the public eye. Credible research must begin with clear goals and be conducted using publicly defensible sources of information and methods. Any study that allows the goals of research to be continually modified and the research methodology to be hidden cannot be considered rigorous.

## **Recommendations:**

The Board of Liveable City recommends against passage of the interlocal agreement as currently written. We recommend that the agreement be revised to ensure the independence of the study, including specification of the goals and scope of the study and an open and credible process for reviewing and approving the findings. (See Page 3)

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## ***Calls for Independent Financial Analysis of the Toll Road Plan***

*Whereas, there is widespread desire for independent review of the information relating to that plan, (Austin City Council Resolution creating independent toll road financing study; 2005).*

In March of 2005, the Austin City Council passed a resolution authorizing the City Manager to negotiate an independent financial review of the Phase 2 Toll Road Plan. The resolution stated that the toll roads had raised “controversy and division in our community”, and that there was a “widespread desire for more thorough information.” Support for an independent review came after repeated requests from Liveable City and other community organizations and after an unsuccessful effort to initiate the study at CAMPO that was opposed by the CTRMA.

The Board of Liveable City recommended against passage of the \$22 billion CAMPO 2030 Mobility Plan because it failed to meet important community goals of reducing congestion, demonstrating long-term fiscal responsibility, providing transportation choices, and incorporating the Envision Central Texas Regional Vision.

Liveable City recommended independent financial modeling be conducted to determine the long-term viability of the financial strategy and toll and tax impact on Central Texas residents. The Board believed that without independent economic analysis, the plan's emphasis on long-term debt to accelerate toll road construction threatened the fiscal viability of the project. The questionable funding strategy based on 30-year bonds relies on the public's willingness to pay increasingly higher debt burden with tolls and gas taxes. Other Board recommendations included the need to study the effect of rising oil prices on future revenues since the plan's funding strategy is highly dependent on gasoline tax revenue.

### ***Proposed Interlocal Agreement Fails Independence***

Several sections of the Interlocal Agreement threaten the independence of the study:

#### ***II.3 Project Coordination and Oversight by CTRMA***

“Project Coordination and Oversight. A Project Coordinator shall be responsible for coordinating the day-to-day activities necessary to perform the Mobility Plan Study, and that individual shall be provided through contractual resources of the CTRMA.”

#### ***II.3 Technical Advisory Committee comprised of designees from the CTRMA***

“The Steering Committee shall create a Technical Advisory Committee (“TAC”), comprised of two designees from the CTRMA and the City of Austin; one designee each from Travis County, Williamson County, and the City of Round Rock; and the Executive Director of CAMPO. The TAC shall assist the Project Coordinator with technical issues related to performance of the study.”

#### ***II.3 Despite being the major funder, City of Austin representatives are less than 1/5 of the Steering Committee***

The City of Austin is the largest contributor to the Toll Study (\$144,000 or 41% of total budget). City representatives must ensure that these funds are well spent and responsive to the citizen concerns that led to this study without proportional representation on the committee.

#### Mobility Plan Study Steering Committee Members and Financial Contribution

City of Austin	2	\$144,000
CTRMA	2	\$125,000
Travis County	1	\$ 25,000
Williamson County	1	\$ 25,000
Hays County	1	\$ 10,000
City of Round Rock	1	\$ 25,000
State Representative (Williamson County)	1	
State Representative (Travis County)	1	
TxDOT – Austin District	1	
<b>Total</b>	<b>11</b>	<b>\$354,000</b>

## ***Proposed Interlocal Agreement Fails Independence (Cont.)***

### ***II.5 Steering Committee work may be conducted in secret***

“The Steering Committee may vote to discuss certain matters in private if public discussion of those matters could undermine the availability of information; prejudice the independence of the Study; or compromise confidential data provided by others (including parties to this Agreement) pursuant to appropriate confidentiality agreements. In event confidential information is to be received or discussed, Steering Committee members may be required to execute confidentiality agreements.”

#### ***Exhibit A: Final scope of work dependent on CTRMA influenced Steering Committee***

PRELIMINARY SCOPE OF WORK “(Following is a proposed scope of work for Charles Rivers Associates (“CRA”) that is a combination of the original scope of work, as designated in Exhibit A of the Austin City Council Resolution of March 9, 2005, and an expanded scope of work with various stakeholders in the study process. Note: A FINAL SCOPE OF WORK MUST BE APPROVED BY THE STEERING COMMITTEE BEFORE BEGINNING THE STUDY.)”

## ***Restoring Independence and Accountability to the Financial Analysis***

*Liveable City submits the following recommendations for consideration before final passage of the Interlocal Agreement.*

### ***#1: Define Purpose and Scope Before Passage of Interlocal Agreement***

Clearly define the goals and the scope of the study before choosing the project manager, steering committee, or the steering committee chair. A clear scope of study before final passage would protect the public’s interest and help ensure tax dollars are spent wisely.

### ***#2: Balance Oversight on the Steering Committee***

The Steering committee should be lead by a neutral chair, with strong research credentials and balanced between a mix of toll road supporters and opponents. Committee members should have expertise in the study area. One agency staff representative from CAMPO and from the CTRMA should serve as non-voting representatives on the committee.

Members should be selected in order to represent and balance the interests involved in the toll road issue. We recommend that four representatives be chosen from among organizations advocating use of toll roads (for example, road builder trade associations) and four from among groups opposing toll roads (for example, consumer organizations, transit advocacy organizations.) The committee chair should be charged with meeting the project goals and coordinating work with the Project Manager and the Consultant.

## ***Restoring Independence and Accountability to the Financial Analysis (Cont.)***

### ***#3: Choose an Independent Project Manager***

No credible independent study allows the subject of the study, in this case the CTRMA, to select the project manager. The project manager should be selected by the steering committee, based on objective criteria related to fulfillment of the project goals. Selection should be based on ability to meet goals and avoid conflicts of interest—either actual or apparent.

### ***#4: Follow Open Meetings Laws, Report Findings and Methodology***

The study is proposed to be 100% publicly funded. Because of the importance of the study and involvement of public officials open meeting laws should be followed. Existing Open Meetings laws provide safeguards to protect confidential data; there is no need for secret meetings. In addition, the committee must agree to release the findings of the study and to provide detailed information about the methodology used to arrive at findings. This is critical to ensuring the study is rigorous and credible to all parties.