

**GENERAL MEETING OF THE BOARD OF DIRECTORS
OF THE NORTH EAST TEXAS
REGIONAL MOBILITY AUTHORITY**

RESOLUTION NO. 14-30

WHEREAS, the North East Regional Mobility Authority ("NET RMA") was created pursuant to the request of Gregg and Smith Counties and in accordance with provisions of the Transportation Code and the petition and approval process established in 43 Tex. Admin. Code § 26.1, *et seq.* (the "RMA Rules"); and

WHEREAS, the Board of Directors of the NET RMA has been constituted in accordance with the Transportation Code and the RMA Rules; and

WHEREAS, subsequent to the initial formation of the NET RMA the Counties of Cherokee, Rusk, Harrison, Upshur, Bowie, Panola, Van Zandt, Wood, Titus, and Kaufman joined the Authority and are represented on the Board of Directors; and

WHEREAS, the NET RMA is responsible for the operation of Toll 49; and

WHEREAS, the owners of a ranch in the vicinity of Segment 3A of Toll 49 (the "Chesnut-McKenzie Hilltop Ranch") have alleged that the construction and operation of Toll 49 has resulted in erosion that has caused damage to a lake located on their property (the "Lake"); and

WHEREAS, on March 18, 2014, in Resolution 14-11, the NET RMA Board of Directors acknowledged that conditions existed which warranted the initiation of an emergency procurement under Section 12.1 of the NET RMA's Policies and Procedures Governing Procurement of Goods and Services (the "Procurement Policies") and subsequently selected and authorized the Interim Executive Director to negotiate and execute a contract with Southwest Environment Services LLC (the "Contractor") for slope stabilization and vegetation establishment work on Toll 49; and

WHEREAS, on August 12, 2014, in Resolution No. 14-27, the NET RMA Board of Directors approved Change Order No. 2 to the agreement with the Contractor to provide for the removal from the Lake of sediment allegedly resulting from the construction and operation of Toll 49; and

WHEREAS, NET RMA legal counsel has prepared an agreement, a draft of which is attached hereto as Attachment "A" (the "Agreement"), which releases the NET RMA from all potential claims related to the alleged damage to the Lake allegedly resulting from the construction and operation of Toll 49 in exchange for: 1) the completion of the previously authorized sediment removal work; 2) a payment of \$25,000 to restock the lake with fish; and 3) reimbursement of reasonable fees, not to exceed \$5000, for supervision of the sediment removal work; and

WHEREAS, the Interim Executive Director and NET RMA legal counsel recommend the approval of the Agreement.

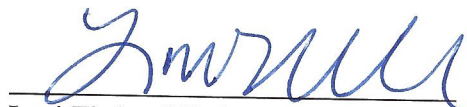
NOW THEREFORE, BE IT RESOLVED, that the Board of Directors of the NET RMA hereby approves the Agreement in the form or substantially the same form attached hereto as Attachment "A"; and

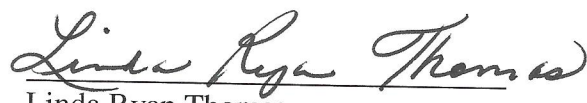
BE IT FURTHER RESOLVED, that the Board of Directors authorizes the Interim Executive Director to execute the Agreement, in the form or substantially the same form attached hereto as Attachment "A", and, upon execution of the Agreement, to cause the work provided thereunder to be completed and the sums provided thereunder to be paid.

Adopted by the Board of Directors of the North East Texas Regional Mobility Authority on the 9th day of September, 2014.

Submitted and reviewed by:

Approved:


Lori Fixley Winland
General Counsel for the North East
Texas Regional Mobility Authority


Linda Ryan Thomas
Chair, Board of Directors
Resolution Number 14-30
Date Passed: 09/09/14