

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: CFX Board Members

FROM: Corey Quinn P.E., Chief of Technology/Operations 

DATE: April 6, 2016

SUBJECT: Approval of First Amendment to agreement related to toll collection services for users without transponders via wireless application

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Board approval is requested for the above referenced First Amendment. This allows for changes to the payment structure between PayTollo Inc. and their customers by allowing a convenience fee, an increase in the amount of beta testing participants, and limits the communications of the beta testing participants.

Reviewed by: 

**FIRST AMENDMENT TO  
AGREEMENT RELATED TO TOLL COLLECTION SERVICES FOR USERS  
WITHOUT TRANSPONDERS VIA WIRELESS APPLICATION**

THIS FIRST AMENDMENT TO THE AGREEMENT RELATED TO TOLL COLLECTION SERVICES FOR USERS WITHOUT TRANSPONDERS VIA WIRELESS APPLICATION (the "Amendment"), effective \_\_\_\_\_, 2016 ("Effective date") is entered into by and among PayTollo Inc, a Delaware corporation, having offices at 1 West Campbell Avenue, Suite E 45, Campbell, California 95008 ("Service Provider"), registered and authorized to conduct business in the State of Florida and Central Florida Expressway Authority ("CFX"), a body politic and agency of the State of Florida, having offices at 4974 ORL Tower Road, Orlando, FL 32807.

WHEREAS, CFX and Service Provider on January 14, 2016 entered into an agreement ("the Agreement") whereby CFX is willing to participate in a limited proof of concept test or alpha test of Service Provider's Product subject to the terms and conditions set forth in the Agreement; and

WHEREAS, the parties have determined it necessary to amend the agreement stated below

NOW, THEREFORE, in consideration of the promises and covenants of this Agreement, the parties hereto agree as follows:

**Section 1. Effective Date.** This First Amendment shall take effect upon the date of the last party's execution of the document. All other portions of the January 14, 2016 Agreement shall remain in effect as stated therein.

**Section 2. Section 2. c. i. Entitled "Scope of Work and Operations" is amended as follows:**

c. Beta Test.

- i. If the Alpha Test is successful, then a second test will be conducted, referred to as Beta Test, which will expand the user group to include third party customers who are willing to test the Product. The Beta Test Group shall be comprised of no more than 1,080 customers ~~thirty (30) people~~ and test the Product on various toll systems throughout the State of Florida.

**Section 3. Section 3. c. iii Entitled "Payment" is amended as follows:**

- c. iii. Limitation on Additional Service Provider Charges. Service Provider agrees that the total amount collected from Service Provider's Customers will not exceed the rate set for cash tolls set by the applicable toll authority, plus a \$0.40 per bundle convenience fee every four (4) days. If the Service Provider is determined to be charging Service Provider's customers in excess of the

amounts allowed pursuant to this Agreement then this fact shall constitute an event of default under this Agreement and CFX shall be immediately entitled to exercise its rights under this Agreement.

**Section 4. Section 4. Entitled "Service Provider's Customer Agreement" is amended to create a new subparagraph (e.) as follows:**

Any customer agreement between the Service Provider and the Service Provider's Customers must include the following provisions:

- a. This agreement is between you and the Service Provider, not CFX. Therefore, PLEASE BE ADVISED that if your vehicle runs a toll and the payment is not timely submitted to the appropriate toll authority, then you are subject to enforcement procedures incorporated in the rules and policies promulgated by the toll authority and as set forth in the Florida Statutes.
- b. If you have an E-Pass or SunPass or LeeWay transponder in the vehicle, the E-Pass or SunPass or LeeWay account will be charged automatically. It is your responsibility to make sure that you do not use the Product in a vehicle that is equipped with an E-Pass or SunPass or LeeWay.
- c. If you have any issues with Service Provider, including but not limited to complaints involving payments to Service Provider for tolls that are not registered as paid by CFX or the appropriate toll authority, by using this Product, you expressly agree that any and all disputes arising out of your use of the Product must be resolved by the Service Provider, not CFX or the appropriate toll authority.
- d. By using the Product, you release the Central Florida Expressway Authority, its officers, employees, or agents (collectively "CFX") and any other toll agency in the State of Florida from all loss, damage, or injury whatsoever from the use or performance of the Product. CFX or any other toll agency in the State of Florida shall not have any obligation or liability to you with respect to the use, misuse, or performance of the Product. This agreement is personal to you and you are not be permitted to assign the obligations or benefits of this Agreement.
- e. A provision that Beta Test Group customers shall refrain from creating or disseminating any independent reports, reviews or other communications regarding the testing process or any results arising there from.
- e.f. The invalidity of any portion of this Agreement shall not affect any other portion of this Agreement, which shall remain in full force and effect. Any remaining valid and enforceable portion(s) of the Agreement shall operate and be interpreted as closely to the original intent as legally possible.
- f.g. This Agreement shall be deemed to have been executed and will be performed in Orange County, Florida. All disputes and questions on interpretation shall be governed by and construed in accordance with the laws of the State of Florida, and the parties agree that the exclusive venue for any action or proceeding arising hereunder shall be in Orange County, Florida.

IN WITNESS WHEREOF, the parties evidence their agreement through the execution of this Agreement by their duly authorized signatures.

**ACCEPTED AND AGREED TO BY:**

**PayTollo Inc.**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

Attest: \_\_\_\_\_  
Executive Assistant

Print Name: \_\_\_\_\_