

**SPECIAL MEETING OF THE BOARD OF DIRECTORS  
OF THE  
CENTRAL TEXAS REGIONAL MOBILITY AUTHORITY**

**RESOLUTION NO. 05-18**

RESOLUTION AUTHORIZING THE ISSUANCE AND DELIVERY OF CENTRAL TEXAS REGIONAL MOBILITY AUTHORITY SENIOR LIEN REVENUE BONDS, SERIES 2005, SUBORDINATE LIEN REVENUE BOND ANTICIPATION NOTES, SERIES 2005, AND SUBORDINATE LIEN REVENUE BONDS, TAXABLE SERIES 2005; APPROVING THE FORM OF, AND AUTHORIZING THE EXECUTION AND DELIVERY OF, THE MASTER INDENTURE, THE FIRST SUPPLEMENTAL TRUST INDENTURE, THE SECOND SUPPLEMENTAL TRUST INDENTURE AND THE THIRD SUPPLEMENTAL TRUST INDENTURE (INCLUDING THE SECURED LOAN AGREEMENT ATTACHED THERETO); AUTHORIZING THE EXECUTION AND DELIVERY OF A PURCHASE AGREEMENT AND A CONTINUING DISCLOSURE AGREEMENT FOR THE SERIES 2005 BONDS AND THE SERIES 2005 BANS; APPROVING THE OFFICIAL STATEMENT; AUTHORIZING THE EXECUTION AND DELIVERY OF DOCUMENTS AND INSTRUMENTS IN CONNECTION WITH THE FOREGOING; AND ENACTING OTHER PROVISIONS RELATING TO THE SUBJECT

WHEREAS, the Central Texas Regional Mobility Authority (the "Authority") has been created and organized pursuant to and in accordance with the provisions of Chapter 361, Texas Transportation Code, and operates pursuant to the Constitution and laws of the State, including, particularly, Chapter 370, Texas Transportation Code (the "Act"), for the purposes of constructing, maintaining and operating transportation projects, including turnpike projects, in Travis and Williamson Counties, Texas; and

WHEREAS, pursuant to the Act, the Authority is authorized to: (i) study, evaluate, design, finance, acquire, construct, maintain, repair and operate transportation projects (as defined in the Act), individually or as a system (as defined in the Act); (ii) issue bonds, certificates, notes or other obligations payable from the revenues of a transportation project or system, including tolls, fees, fares or other charges, to pay all or part of the cost of a transportation project and to refund any bonds previously issued for a transportation project; and (iii) impose tolls, fees, fares or other charges for the use of each of its transportation projects and the different parts or sections of each of its transportation projects; and

WHEREAS, pursuant to the Act and other applicable laws, including Chapter 1371, Texas Government Code ("Chapter 1371"), the Authority is authorized to issue revenue bonds, notes, certificates or other obligations and to execute and deliver credit agreements in connection therewith for the purposes of financing all or a portion of the cost of the acquisition, construction, improvement, extension or expansion of one or more turnpike projects (as defined in the Act) and paying the expenses of issuing such revenue bonds, notes, certificates or other obligations; and

WHEREAS, the Board of Directors of the Authority (the "Board of Directors") has determined to authorize the issuance of the Authority's Senior Lien Revenue Bonds, Series 2005 (the "Series

2005 Bonds”); Subordinate Lien Revenue Bond Anticipation Notes, Series 2005 (the “Series 2005 BANS”); and Subordinate Lien Revenue Bonds, Taxable Series 2005 (the “2005 TIFIA Bond”), to (i) pay a portion of the costs of the 2005 Project (as defined in the Master Indenture (as hereinafter defined)); (ii) pay a portion of the costs of studying, evaluating and designing additional turnpike projects within the Authority’s jurisdiction; (iii) pay capitalized interest on the Series 2005 Bonds and Series 2005 BANS; (iv) fund the Senior Lien Bond Reserve Fund (as defined in the Master Indenture); (v) provide working capital to the Authority; and (vi) pay the costs of issuance for the Series 2005 Bonds, the Series 2005 BANS and the 2005 TIFIA Bond; and

WHEREAS, the Series 2005 Bonds and the Series 2005 BANS are being authorized, issued and delivered pursuant to the Act and Chapter 1371, and the 2005 TIFIA Bond is being authorized, issued and delivered pursuant to the Act; and

WHEREAS, in connection with the issuance and delivery of the Series 2005 Bonds, the Series 2005 BANS and the 2005 TIFIA Bond, the Board of Directors desires to authorize the execution and delivery of (i) a Master Trust Indenture, dated as of February 1, 2005 (the “Master Indenture”), between the Authority and JPMorgan Chase Bank, National Association, as trustee (the “Trustee”), in substantially the form attached hereto as Exhibit A, (ii) a First Supplemental Trust Indenture, dated as of February 1, 2005 (the “First Supplemental Indenture”), between the Authority and the Trustee in substantially the form attached hereto as Exhibit B relating to the Series 2005 Bonds, (iii) a Second Supplemental Trust Indenture, dated as of February 1, 2005 (the “Second Supplemental Indenture”), between the Authority and the Trustee in substantially the form attached hereto as Exhibit C relating to the Series 2005 BANS and (iv) a Third Supplemental Trust Indenture, dated as of February 1, 2005 (the “Third Supplemental Indenture” and, together with the First Supplemental Indenture and the Second Supplemental Indenture, the “Supplemental Indentures”), between the Authority and the Trustee in substantially the form attached hereto as Exhibit D relating to the 2005 TIFIA Bond; and

WHEREAS, in connection with the issuance and delivery of the 2005 TIFIA Bond, the Board of Directors further desires to authorize the execution and delivery of a Secured Loan Agreement, dated as of March 1, 2005 (the “Secured Loan Agreement”), between the Authority and the United States Department of Transportation (“USDOT”), in substantially the form attached as Exhibit A to the Third Supplemental Indenture; and

WHEREAS, the Board of Directors desires to authorize the execution and delivery of (i) a Purchase Agreement, dated February 16, 2005 (the “Purchase Agreement”), between the Authority and UBS Financial Services Inc. (the “Underwriter”) in substantially the form attached hereto as Exhibit E relating to the 2005 Series Bonds and Series 2005 BANS and (ii) a Continuing Disclosure Agreement, dated as of February 1, 2005 (the “Disclosure Agreement”), between the Authority and the Trustee in substantially the form of Exhibit F relating to the Series 2005 Bonds and the Series 2005 BANS; and

WHEREAS, the Board of Directors desires to authorize the purchase of a bond insurance policy from Financial Guaranty Insurance Company (the “Insurer”), pursuant to which the timely payment of the principal of and interest on the Series 2005 Bonds will be secured; and

WHEREAS, the Board of Directors has determined to authorize the investment of the proceeds of the Series 2005 Bonds and the Series 2005 BANS in one or more guaranteed investment contracts (the "GICs") or such other investments as the Authorized Representatives (as defined in the Master Indenture) named herein may approve; and

WHEREAS, the Board of Directors has been presented with a draft of the Official Statement to be used in the offering and sale of the Series 2005 Bonds and Series 2005 BANS and desires to approve the Official Statement in substantially the form presented; and

WHEREAS, the Board of Directors desires to establish the CTRMA Turnpike System and designate the 2005 Project as a part of the CTRMA Turnpike System;

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CENTRAL TEXAS REGIONAL MOBILITY AUTHORITY THAT:

1 ISSUANCE OF BONDS; APPROVAL OF DOCUMENTS

1.1 Issuance, Execution and Delivery of Series 2005 Bonds, Series 2005 BANS and 2005 TIFIA Bond. The issuance, execution and delivery of (i) the Series 2005 Bonds, in the original principal amount of \$167,967,610.70, (ii) the Series 2005 BANS, in the original principal amount of \$66,000,000, and (iii) the 2005 TIFIA Bond, in the aggregate original principal amount of not to exceed \$66,000,000, are hereby authorized, all under and in accordance with the Master Indenture, the First Supplemental Indenture with respect to the Series 2005 Bonds, the Second Supplemental Indenture with respect to the Series 2005 BANS, and the Third Supplemental Indenture with respect to the 2005 TIFIA Bond. The Chairman and Secretary of the Board of Directors are each authorized to execute, attest and affix the Authority's seal to the Series 2005 Bonds, the Series 2005 BANS and the 2005 TIFIA Bond, and to deliver the Series 2005 Bonds, the Series 2005 BANS and the 2005 TIFIA Bond to the Attorney General of the State of Texas (the "Attorney General") for approval, to the Comptroller of Public Accounts of the State of Texas (the "Comptroller") for registration and to the Trustee for authentication, and thereafter to deliver the Series 2005 Bonds and the Series 2005 BANS to the Underwriter in accordance with the Purchase Agreement and to deliver the 2005 TIFIA Bond to USDOT in accordance with the Third Supplemental Indenture.

1.2 Approval of Master Indenture, Supplemental Indentures. The form and substance of the Master Indenture and the Supplemental Indentures are hereby approved and the Chairman and Secretary of the Board of Directors are each authorized to execute, attest and affix the Authority's seal to the Master Indenture and each of the Supplemental Indentures and to deliver the Master Indenture and the Supplemental Indentures to the Trustee.

1.3 Approval of the Secured Loan Agreement. The form and substance of the Secured Loan Agreement are hereby approved and the Chairman of the Board of Directors is hereby authorized to execute and deliver the Secured Loan Agreement to USDOT.

1.4 Approval of Purchase Agreement. The sale of the Series 2005 Bonds and the Series 2005 BANS to the Underwriter pursuant to the Purchase Agreement is hereby approved

and the form and substance of the Purchase Agreement is hereby approved and the Chairman of the Board of Directors is hereby authorized to execute and deliver the Purchase Agreement to the Underwriters. It is hereby officially found and determined that the terms of the sale of the Series 2005 Bonds and the Series 2005 BANS are the most advantageous reasonably obtainable by the Authority.

- 1.5 Approval of Continuing Disclosure Agreement. The form and substance of the Disclosure Agreement is hereby approved and the Chairman of the Board of Directors is hereby authorized to execute and deliver the Disclosure Agreement to the Trustee.
- 1.6 Approval of Purchase of Bond Insurance. The purchase of a bond insurance policy from the Insurer to secure the timely payment of the principal of and interest on the Series 2005 Bonds is hereby authorized and the Chairman of the Board of Directors and any Authorized Representative of the Authority are hereby authorized to execute and deliver all documents, instruments or agreements that may be necessary in connection with completing the arrangements for the purchase of such bond insurance policy and delivering such bond insurance policy to the Trustee.
- 1.7 Approval of the Official Statement. The form and substance of the Preliminary Official Statement relating to the Series 2005 Bonds and the Series 2005 BANS, dated February 8, 2005, and the use of the Preliminary Official Statement in the public offering of the Series 2005 Bonds and the Series 2005 BANS are hereby ratified, approved and confirmed. The form and substance of the final Official Statement relating to the Series 2005 Bonds and the Series 2005 BANS presented to and considered at this meeting are hereby approved and the Official Statement is hereby deemed final as of its date within the meaning and for the purposes of Rule 15c2-12 of the United States Securities and Exchange Commission. The Authorized Representatives of the Authority, acting on behalf of the Board of Directors of the Authority, are authorized and directed to cause the Official Statement, in substantially the form presented with such changes as may be approved by an Authorized Representative, to be delivered to the Underwriters within seven business days after the execution and delivery of the Purchase Agreement.
- 1.8 Approval of Investments. The investment by the Authorized Representatives of funds held under the Master Indenture, the First Supplemental Indenture and the Second Supplemental Indenture in connection with the Series 2005 Bonds and the Series 2005 BANS is hereby approved and the Authorized Representatives of the Authority each are hereby severally authorized to complete arrangements for the investment of such funds in GICs or such other investments as such Authorized Representative may approve.
- 1.9 Approval of GIC Broker. The Authorized Representatives of the Authority are each hereby authorized to select a GIC Broker, if any.
- 1.10 Approval of Blanket Letter of Representation. The form and substance of a Blanket Letter of Representations between the Authority and the Depository Trust Company ("DTC"), in the form attached hereto as Exhibit G, pursuant to which DTC will act as the securities depository for the Series 2005 Bonds and the Series 2005 BANS are hereby



approved and the Chairman of the Board of Directors is authorized to execute and deliver the Blanket Letter of Representation to DTC.

- 1.11 Execution and Delivery of Other Documents. The Authorized Representatives of the Authority are each hereby severally authorized to execute, attest, affix the Authority's seal to and deliver such other agreements, advance commitment agreements, assignments, bonds, certificates, contracts, documents, instruments, releases, financing statements, letters of instruction, notices of acceptance, written requests and other papers, whether or not mentioned herein, as may be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution, the Master Indenture, the Supplemental Indentures, the Secured Loan Agreement, the Purchase Agreement and the Disclosure Agreement.
- 1.12 Power to Revise Form of Documents. Notwithstanding any other provision of this Resolution, the Authorized Representatives of the Authority are each hereby severally authorized to make or approve such revisions in the form of the documents attached hereto as exhibits as, in the judgment of such authorized representative, may be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution, such approval to be evidenced by the execution of such documents by an Authorized Representative of the Authority.
- 1.13 Exhibits Incorporated Herein. All of the terms and provisions of each of the documents listed below as an exhibit shall be and are hereby incorporated into and made a part of this Resolution for all purposes:
- |           |   |                                   |
|-----------|---|-----------------------------------|
| Exhibit A | - | Master Indenture                  |
| Exhibit B | - | First Supplemental Indenture      |
| Exhibit C | - | Second Supplemental Indenture     |
| Exhibit D | - | Third Supplemental Indenture      |
| Exhibit E | - | Purchase Agreement                |
| Exhibit F | - | Disclosure Agreement              |
| Exhibit G | - | Blanket Letter of Representations |
- 1.14 Authorized Representatives. The following persons are each hereby named as Authorized Representatives of the Authority for all purposes of this Resolution and the Master Indenture and the Supplemental Indentures, including, without limitation for the purposes of executing, attesting, affixing the Authority's seal, and delivering the documents and instruments and taking the other actions referred to in this Article I: the Chairman and the Secretary of the Board of Directors, the Executive Director of the Authority and the Chief Financial Officer of the Authority.

## 2 APPROVAL AND RATIFICATION OF CERTAIN ACTIONS

- 2.1 Approval of Submission to the Attorney General of Texas. The Board of Directors of the Authority hereby authorizes the Authority's Bond Counsel to submit to the Attorney General, for his approval, transcripts of the legal proceedings relating to the issuance, sale and delivery of the Series 2005 Bonds, the Series 2005 BANS and the 2005 TIFIA Bond.

- 2.2 Certification of the Minutes and Records. The Secretary and any Assistant Secretary of the Board of Directors are each hereby severally authorized to certify and authenticate minutes and other records on behalf of the Authority for the issuance of the Series 2005 Bonds, the Series 2005 BANS and the 2005 TIFIA Bond, and for all other Authority activities.
- 2.3 Ratifying Other Actions. All other actions taken or to be taken by the Executive Director, the Chief Financial Officer and the Authority's staff in connection with the issuance of the Series 2005 Bonds, the Series 2005 BANS and the 2005 TIFIA Bond are hereby ratified and confirmed.
- 2.4 Authority to Invest Funds. The Executive Director and the Chief Financial Officer are each hereby severally authorized to undertake all appropriate actions required under the Master Indenture, the Supplemental Indentures and the Secured Loan Agreement.

### 3 CERTAIN FINDINGS AND DETERMINATIONS

- 3.1 Designation of the CTRMA Turnpike System. In accordance with the provisions of Section 370.034, Texas Transportation Code ("Section 370.034"), the Authority hereby determines that the current traffic needs of Travis and Williamson Counties could be most efficiently and economically met by establishing a system for the joint operation of one or more turnpike projects as one operational and financial enterprise and the Authority hereby establishes the CTRMA Turnpike System and designates the 2005 Project as a part of the CTRMA Turnpike System. The Authority reserves the right, in accordance with Section 370.034, to add additional turnpike projects to the CTRMA Turnpike System and to create additional separate systems.

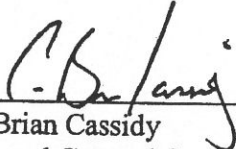
### 4 GENERAL PROVISIONS


- 4.1 Notice of Meeting. The Board of Directors of the Authority hereby finds and declares that written notice of the date, hour, place and subject of the meeting at which this Resolution was adopted was posted and that such meeting was open to the public as required by law at all times during which this Resolution and the subject matter of this Resolution were discussed, considered and formally acted upon, all as required by Chapter 551, Texas Government Code, as amended.
- 4.2 Effective Date. This Resolution shall be in full force and effect from and upon its adoption.

Adopted, passed and approved by the Board of Directors on the Central Texas Regional Mobility Authority on the 16th day of February, 2005.

Submitted and reviewed by:

Approved:

  
\_\_\_\_\_  
C. Brian Cassidy  
General Counsel for the Central Texas  
Regional Mobility Authority

  
\_\_\_\_\_  
Robert E. Tesch  
Chairman, Board of Directors  
Resolution Number: 05-18  
Date Passed: 02/16/05

Exhibits to Resolution No. 05-18 are provided on the attached CD-ROM.



**GENERAL MEETING OF THE BOARD OF DIRECTORS  
OF THE  
CENTRAL TEXAS REGIONAL MOBILITY AUTHORITY**

**RESOLUTION NO. 05-19**

WHEREAS, the Central Texas Regional Mobility Authority ("CTRMA") was created pursuant to the request of Travis and Williamson Counties and in accordance with provisions of the Transportation Code and the petition and approval process established in 46 Tex. Admin. Code § 26.01, *et seq.* (the "RMA Rules"); and

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

WHEREAS, in Resolution No. 04-20, the Board of Directors found that marketing services relating to toll tags and the use of CTRMA projects were important to the operations of the CTRMA and of the 183-A Turnpike Project and directed its staff to issue a Request for Proposals (RFP) for firms interested in providing marketing services to the CTRMA; and

WHEREAS, based on a review of the responses to the RFP and the interviews conducted, the Executive Director recommended to the Board of Directors that the services of TateAustin be retained to provide marketing services; and

WHEREAS, in Resolution No. 04-48, the CTRMA Board of Directors authorized and approved of the retention of TateAustin to provide marketing services for the CTMRA and authorized the Executive Director to negotiate an agreement with TateAustin, to be executed upon the approval of the full CTRMA Board; and

WHEREAS, the Executive Director has negotiated a Marketing Services Agreement with TateAustin, attached hereto as Attachment "A."

NOW THEREFORE, BE IT RESOLVED, that the CTRMA Board of Directors hereby approves the entry into a Marketing Services Agreement in the form attached hereto as Attachment "A" with TateAustin for the provision of marketing services related to toll tags and the use of CTRMA projects; and

BE IT FURTHER RESOLVED, that the Chairman is authorized to execute such Agreement on behalf of the CTRMA.

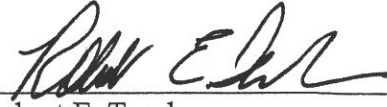
Adopted by the Board of Directors of the Central Texas Regional Mobility Authority on the 23<sup>rd</sup> day of February, 2005.

Submitted and reviewed by:



C. Brian Cassidy  
General Counsel for the Central  
Texas Regional Mobility Authority

Approved:



Robert E. Tesch  
Chairman, Board of Directors  
Resolution Number 05-19  
Date Passed 2/23/05

**MARKETING SERVICES AGREEMENT  
BETWEEN THE  
CENTRAL TEXAS REGIONAL MOBILITY AUTHORITY  
AND KERRY TATE COMMUNICATIONS, INC.**

This Marketing Services Agreement (the "Agreement") is made and entered into by and between the **Central Texas Regional Mobility Authority** ("CTRMA"), a political subdivision, and **Kerry Tate Communications, Inc.** (d/b/a **TateAustin**) (the "Contractor"), a Texas corporation, to be effective as of the 2<sup>nd</sup> day of March, 2005 (the "Effective Date") with respect to marketing services and related consulting services of a specialized nature to be performed by the Contractor, as an independent contractor, for the CTRMA.

**WITNESSETH:**

WHEREAS, the CTRMA desires to obtain the professional services of a marketing firm to provide marketing and public information services and advice to the CTRMA regarding the marketing of toll tags and promotion of the use of Central Texas toll road projects; and

WHEREAS, the CTRMA solicited proposals from firms interested in providing marketing services and the Contractor was among the respondents; and

WHEREAS, based on the representations and experience reflected in the response to the request for proposals submitted by the Contractor and statements and representations made during interviews conducted as part of the procurement process, the CTRMA selected the Contractor as the best qualified firm to provide it with marketing and related services;

NOW, THEREFORE, the CTRMA and the Contractor, in consideration of the mutual covenants and agreement herein contained, do hereby agree as follows:

**ARTICLE I  
RETENTION OF THE CONTRACTOR**

Based on the representations and commitments made by the Contractor, the CTRMA has concluded that the Contractor possesses the demonstrated competence and requisite qualifications to perform the Services (as defined below) pursuant to this Agreement. The CTRMA agrees to and hereby retains the Contractor as an independent contractor, and the Contractor agrees to provide the Services to the CTRMA, in accordance with the terms and conditions of this Agreement and at the direction of the CTRMA. In return for payment (as more particularly described in this Agreement), the Contractor agrees to have adequate staff and resources at all times throughout the term of this Agreement committed to provide the Services promptly and professionally as requested by the CTRMA.

**ARTICLE II  
SCOPE OF SERVICES; WORK AUTHORIZATIONS**

The Contractor covenants and agrees to provide those services listed in the Scope of Services, as set forth in the attached Appendix A, which is incorporated in this Agreement for all

purposes (the "Services"). The Contractor shall perform the Services in a professional and complete manner in all respects. Without limiting any of its other rights under this Agreement or otherwise, the CTRMA may withhold payment of fees or reimbursement of expenses to the Contractor for certain Services if the Contractor's performance fails to comply with any deadline or other provision of this Agreement regarding those Services, and the failure is not due to the fault of the CTRMA. The CTRMA intends to issue work authorizations to the Contractor as may be necessary from time to time to provide the Services. A sample form of work authorization is attached as Appendix A-1 and incorporated in this Agreement.

### ARTICLE III TERM AND TERMINATION

This Agreement is for a term of two years from the Effective Date, terminating on March 1, 2007, which may be extended by mutual agreement for up to a maximum of two (2) additional years.

Either party may terminate this Agreement for any reason, with or without cause, and thereby sever the independent contractor relationship between the Contractor and the CTRMA, by providing a minimum of thirty (30) days prior written notice to the other party. However, any termination for cause by the CTRMA is effective immediately upon notification. The CTRMA may terminate this Agreement for cause if the Contractor fails to satisfactorily perform or adhere to any provisions of this Agreement, breaches the confidentiality requirements, or otherwise engages in activity that, in the CTRMA's sole judgment, would subject the CTRMA in any manner to damages, liability, or damage to the CTRMA's reputation. Upon any termination, the CTRMA shall pay any undisputed fees and reimbursable expenses approved by the CTRMA in accordance the terms of this Agreement, incurred as of the effective date of termination.

### ARTICLE IV COMPENSATION

1. **Compensation.** As sole and sufficient compensation for the Services under this Agreement, the CTRMA agrees to pay and the Contractor agrees to accept compensation as set forth in the attached Appendix B, which is incorporated in this Agreement for all purposes. Said compensation constitutes full payment for all services, liaison, products, materials, and equipment required to provide and deliver the Services, including, but not limited to, materials, training, equipment used, overhead, and administrative expenses. No compensation shall be payable or work performed that is not authorized by and within a validly issued Work Authorization except as otherwise provided in Appendix B.

2. **Reimbursement.** In accordance with the compensation provisions set forth in Appendix B, the CTRMA shall reimburse the Contractor for reasonable, ordinary, and necessary business expenses incurred by the Contractor in performing its authorized duties and Services under this Agreement, including direct expenses such as reasonable postage, delivery, shipping, duplication, printing and telephone costs; supplies and out of pocket expenses for production, on-line research, media, and purchased goods necessary to complete the scope of work; and pre-approved travel outside of Williamson and Travis Counties and related lodging.



3. **Invoicing.** The Contractor shall document the Services rendered and the related reimbursable expenses incurred by providing the CTRMA's Executive Director with monthly statements dated (but not necessarily delivered) on the last day of each month. Each monthly statement must detail the Services performed, hours worked and rate, the Work Authorization number authorizing the Services, and the reimbursable expenses incurred by the Contractor from, as applicable, the first day of the month through the last day of that month (each such period being called a "Pay Period" under this Agreement). Each monthly statement must include the total amounts payable for the Pay Period, the total amount paid during the then-current calendar year, and such other detail or information as the CTRMA reasonable requests from time to time. The Contractor shall certify each monthly statement as true and correct, and as accurately reflecting the month during which the invoiced Services were provided and the reimbursable expenses incurred.

Monthly statements shall be sent to:

Central Texas Regional Mobility Authority  
183A Project Office  
13640 Briarwick Drive, 200  
Austin, Texas 78729  
Attn: Executive Director

#### **ARTICLE V KEY PERSONNEL**

The Contractor acknowledges and agrees that the individual(s) identified on Appendix C attached hereto and made part of hereof are key and integral to the satisfactory performance of the Contractor under this Agreement. Throughout the term of this Agreement, the Contractor agrees that the identified individual(s), whether employee(s) of the Contractor or of an approved subconsultant, will remain in charge of the performance of the Services and shall devote substantial and sufficient time and attention thereto, to the extent indicated on Appendix C. The death or disability of any such individual, his/her disassociation from the Contractor or the approved subconsultant, or his/her failure or inability to devote sufficient time and attention to the services shall, at the CTRMA's option, constitute a default requiring the Contractor promptly to replace said individual with a person suitably qualified and otherwise acceptable to the CTRMA. In no event shall the Contractor remove, transfer, or reassign any individual identified on Exhibit C except as instructed by, or with the prior written consent of, the CTRMA.

The Contractor shall use its best efforts to enhance continuity in the key personnel, subconsultants, and other employees regularly performing the Services. The Contractor shall notify and consult with the CTRMA regarding the scheduling of the key personnel's corporate activities, vacations, and other engagements during which he or she is unavailable for the Services. Individuals may be added to Appendix C with the mutual consent of the Contractor and the CTRMA.

**ARTICLE VI  
REMOVAL OF PERSONNEL**

All persons providing the Services, whether employees of the Contractor or of an approved subconsultant, shall have such knowledge and experience as will enable them to perform the duties assigned to them. Any such person who, in the opinion of the CTRMA, is incompetent or by his or her conduct becomes detrimental to the provision of the Services shall, upon request of the CTRMA, immediately be removed from the Services. The Contractor shall furnish the CTRMA with a fully qualified candidate for the removed person within ten (10) days thereafter, provided, however, said candidate shall not begin work under this Agreement unless and until approved by the CTRMA.

**ARTICLE VII  
RELATIONSHIP BETWEEN THE PARTIES**

The parties recognize that the CTRMA, through the Executive Director and assigned staff, shall manage the day-to-day business and affairs of the CTRMA and that only an independent contractor relationship, and no other type of relationship, exists between the CTRMA and the Contractor. The Contractor acknowledges and agrees that neither it, nor any of the Contractor's employees, officers, agents, or contractors, shall be considered an employee of the CTRMA for any purpose.

The Contractor has no authority to enter into any contract binding upon the CTRMA, or to create any obligation on behalf of the CTRMA, without express authorization from the Executive Director. Under no circumstances may the Contractor represent to suppliers, contractors, subcontractors, or any other parties that the Contractor, its employees, and affiliates are employed by the CTRMA or serve the CTRMA in any capacity other than as independent contractors. The Contractor shall clearly inform others that it has no authority to bind the CTRMA.

In the performance of the services, the Contractor as an independent contractor possesses the sole right to supervise, manage, operate, control, and direct the performance of the details incident to the services. The Contractor is not entitled to any insurance, pension, vacation, sick leave, or other benefits customarily afforded to employees of the CTRMA. Nothing in this Agreement is deemed or construed to create a partnership, joint venture, or joint enterprise; relationship of employee-employer or principal-agent; or to otherwise create any liability for the CTRMA whatsoever with respect to the liabilities, obligations, or acts of the Contractor, its subcontractors, or any other person. The Contractor in performing the services shall abide by rules and regulations of the CTRMA then in effect and the rules and regulations to which the CTRMA is bound through any and all other laws, agreements, and contractual relationships.

**ARTICLE VIII  
REPRESENTATION AND WARRANTIES**

The Contractor represents and warrants to the CTRMA that the Contractor (a) is under no contractual or other restriction or obligation, the compliance with which is inconsistent with or

would hinder the execution of this Agreement, the performance of the Contractor's obligations hereunder or of the rights of the CTRMA hereunder; (b) without limiting the representation in preceding clause, is not an employee, contractor, or representative of, or Contractor for any other firm currently under contract with the CTRMA or intending to bid for any contract; (c) is under no physical, financial, or mental disability at this time that would hinder the full performance of the obligations under this Agreement; and (d) is not under contract, and must not without the CTRMA's prior written consent contract, with any company, organization, or person that the CTRMA reasonably believes to be in opposition or hostile to the CTRMA's operation and mission. The Contractor further represents and warrants that the Contractor has no business or familial relationship with CTRMA board members, employees, or agents that would disqualify the Contractor from providing the requested Services.

## **ARTICLE IX CONFIDENTIAL INFORMATION**

All materials and ideas developed during the performance of this Agreement in whole or in part by the Contractor, its employees and subcontractors, is proprietary and confidential information and is owned by the CTRMA, and the CTRMA will retain ownership of all work-in-progress. The proprietary and confidential materials and information may only be used by the Contractor during the term of this Agreement as necessary to carry out the purposes of this Agreement. The Contractor shall return all the materials in the Contractor's possession to the CTRMA upon termination of this Agreement. The Contractor agrees not to disclose during the period of retention under this Agreement or at any time thereafter to any unauthorized person, association, firm, corporation, or other party any proprietary or confidential information relating to the CTRMA, and the Contractor confirms that such information constitutes the exclusive property of the CTRMA.

The parties agree that each of the provisions in this Article IX are important and material, and significantly affect the successful conduct of the CTRMA's business, as well as its reputation and goodwill. Any breach of the terms of this Agreement, including but not limited to the provisions of this Article IX, is a material breach of this Agreement, from which the Contractor may be enjoined and for which the Contractor also shall be liable to the CTRMA for all damages arising or resulting from the breach. The Contractor understands and acknowledges that the Contractor's responsibilities under this Article IX continue in full force and effect after the Contractor's contractual relationship with the CTRMA ends for any reason.

Notwithstanding anything in this Agreement to the contrary, the Contractor has no obligation of confidentiality with respect to information that (a) is or becomes part of the public domain through no act or omission of the Contractor; (b) was in the Contractor's lawful possession prior to the disclosure and had not been obtained by the Contractor either directly or indirectly from the CTRMA; (c) is lawfully disclosed to the Contractor by a third party without restriction on disclosure; (d) is independently developed by the Contractor without use of or reference to the CTRMA's confidential information; or (e) is required to be disclosed by law or judicial, arbitral or governmental order or duly executed process, provided the Contractor gives the CTRMA prompt written notice of the requirement sufficient to permit the CTRMA a reasonable opportunity to seek a protective order or other appropriate relief.

**ARTICLE X  
INDEMNIFICATION**

**THE CONTRACTOR SHALL INDEMNIFY AND SAVE HARMLESS THE CTRMA AND ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, AND CONSULTANTS FROM ANY CLAIMS, COSTS, OR LIABILITIES OF ANY TYPE OR NATURE, AND BY OR TO ANY PERSONS WHOMSOEVER, TO THE EXTENT ARISING FROM THE CONTRACTOR'S NEGLIGENT PERFORMANCE OF THE WORK TO BE ACCOMPLISHED UNDER THIS AGREEMENT, OR THE CONTRACTOR'S FAILURE TO PERFORM SUCH WORK WHETHER SUCH CLAIM OR LIABILITY IS BASED IN CONTRACT, TORT, OR STRICT LIABILITY. THE CONTRACTOR ALSO SHALL INDEMNIFY AND SAVE HARMLESS THE CTRMA AND ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, CONSULTANTS, AND ADVISORS FROM ANY CLAIMS, COSTS OR LIABILITIES OF ANY TYPE OR NATURE, AND BY OR TO ANY PERSONS OR ENTITIES, TO THE EXTENT ARISING FROM CLAIMS PREMISED UPON THE ALLEGED EXISTENCE OF (A) A PARTNERSHIP, JOINT VENTURE OR JOINT ENTERPRISE, (B) THE RELATIONSHIP OF EMPLOYER/EMPLOYEE OR PRINCIPAL/AGENT OR (C) ANY OTHER RELATIONSHIP INCONSISTENT WITH THE INDEPENDENT CONTRACTOR RELATIONSHIP CREATED UNDER THIS AGREEMENT. IN SUCH EVENT, THE CONTRACTOR ALSO SHALL INDEMNIFY AND SAVE HARMLESS THE CTRMA, ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, AND CONSULTANTS FROM ANY AND ALL EXPENSES, INCLUDING REASONABLE ATTORNEYS' FEES, INCURRED BY THE CTRMA IN LITIGATING OR OTHERWISE RESPONDING TO THE CLAIM OR LIABILITIES. IN THE EVENT THE CTRMA, ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, AND THE CONSULTANTS ARE FOUND, INDIVIDUALLY OR COLLECTIVELY, TO BE PARTIALLY AT FAULT, THE CONTRACTOR SHALL, NEVERTHELESS, INDEMNIFY THE CTRMA, AND ITS EMPLOYEES, DIRECTORS, AND AGENTS FROM AND AGAINST THE EXPENSES, CLAIMS, OR LIABILITIES RELATING TO PERCENTAGE OF FAULT ATTRIBUTABLE TO THE CONTRACTOR, ITS EMPLOYEES, AGENTS, OR CONTRACTORS, OR TO THEIR CONDUCT. THE PROVISIONS OF THIS SECTION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT FOR ANY REASON.**

The Client hereby agrees to defend, indemnify and hold harmless the Contractor, its owners, directors, officers, employees and agents from and against only those claims, losses, damages, costs, expenses (including attorneys fees), liabilities, fines and penalties ("claims") arising out of or related to any breach by the Client of its obligations hereunder and for which Client is liable under Texas Civil Practices and Remedies Code §100.001 *et seq.* ("Texas Tort Claims Act" or "Act"), and only to the extent that Client has any potential liability under the Act. Client expressly does not agree to indemnify Contractor for any actions outside the scope of the Act, and Client does not waive any sovereign immunity rights regarding any actions or claims. The Client shall use its best efforts to notify the Contractor immediately in writing if it becomes aware of any material inaccuracy or material omission in any information furnished or approved by the Client for use by the Contractor. Contractor shall immediately notify Client of any demand, assertion or other circumstance which could give rise to a claim or the commencement



(or threatened commencement) of any action, proceeding or investigation that may result in a loss for which indemnity is provided under this section, and Contractor shall aid and cooperate fully with Client regarding Client's defense of any such claim.

## **ARTICLE XI GENERAL PROVISIONS**

1. **Insurance.** The Contractor shall maintain, and shall require its subconsultants to retain, workers' compensation insurance to cover all of its own employees engaged in performing services for the CTRMA under this Agreement. The Contractor also agrees to maintain comprehensive liability insurance in the amount not less than \$1,000,000 covering claims for damages resulting from bodily injury, death, or property damages resulting from any act relating to the performance of services under this Agreement. The Contractor shall, at its own expense, furnish a certificate of insurance evidencing coverage of commercial/business liability to the CTRMA prior to the commencement of this Agreement and thereafter with certificates evidencing renewal or replacement of said policies of insurance at least fifteen (15) days prior to the expiration or cancellation of any such policies. The certificate must indicate the name of insured, the name of insurance company, the name of the agency/agent, the policy number, the term and type of coverage, and the limits of coverage. The insurance must be provided by a company licensed to transact that class of insurance in the State of Texas, rated with respect to the companies providing the insurance by A.M. Best Co. as "A minus X" or better. Until the Contractor has obtained the specified insurance, the Contractor may not perform any Services or undertake any other activity that might result in personal injury while performing the Services. See Appendix D for a schedule of all other insurance requirements, which are incorporated in this Agreement for all purposes.

2. **Compliance with Laws.** The Contractor shall comply with all applicable federal, state, and local laws, statutes, ordinances, rules, codes, and regulations, and with the orders and decrees of any courts, administrative bodies, or tribunals in any matter affecting its performance under this Agreement, including, without limitation, workers' compensation laws, antidiscrimination laws, minimum and maximum salary and wage statutes and regulations, health and safety codes, and licensing laws and regulations.

3. **Audit.** The CTRMA may audit the records of the Contractor to verify the costs or expenses incurred in the performance of this Agreement. Materials, documentation, and work products produced must be archived for a period of three (3) years by the Contractor and made available to the CTRMA upon request. In the event an audit conducted by the CTRMA reveals overcharges by the Contractor for any Pay Period, the Contractor shall pay the costs incurred by the CTRMA in connection with the audit.

4. **Entire Agreement.** This Agreement is the entire agreement of the parties, and supercedes any and all oral representations, warranties, understandings, stipulations, agreements, or promises pertaining to this Agreement that are not incorporated in writing in this Agreement.

5. **Choice of Law.** This Agreement shall be construed and given effect in accordance with the laws of the State of Texas.

6. **Invalidity.** If any part of this Agreement is declared legally invalid or unenforceable by a court of competent jurisdiction, that decision does not affect the validity of any remaining portion of the Agreement. Those portions not declared invalid remain in full force and effect as if this Agreement had been executed without the inclusion of the invalid portion. The invalid portion, if any, may be modified by the court to the extent necessary to become enforceable.

7. **Modification.** This Agreement may not be changed, altered, or modified unless in writing and signed by the parties.

8. **Binding Effect.** The rights and benefits of the Contractor under this Agreement are personal to the Contractor and may not be subject to voluntary or involuntary alienation, assignment, subletting, or transfer. This Agreement may be assigned by the CTRMA and inure to the benefit of any assignee.

9. **Waiver.** Waiver by the CTRMA of any breach of this Agreement by the Contractor is not effective unless in writing, and no such waiver operates as a waiver of any subsequent breach.

10. **Acknowledgment.** The Contractor agrees by its signature to this Agreement that it (a) fully understands the Agreement's purposes, terms, and provisions and (b) expressly acknowledges receipt of a copy of this Agreement.

11. **Arbitration.** Any dispute or controversy arising under or in connection with this Agreement must be settled exclusively by arbitration in Travis County, Texas, in accordance with the rules of the American Arbitration Association then in effect. Judgment may be entered on the arbitrator's award in any court having jurisdiction. Notwithstanding the above, the CTRMA shall be entitled to seek a restraining order or injunction in any court of competent jurisdiction to prevent the continuation or occurrence of any violation of Article IX hereof and to seek damages resulting therefrom.

12. **Benefits Inured.** This Agreement is solely for the benefit of the parties and their permitted successors and assigns. Nothing contained in this Agreement is intended to, nor shall be deemed or construed to, create or confer any rights, remedies, or causes of action in or to any other persons or entities, including the public in general.

13. **Survival.** Articles VII, VIII, IX, and X survive the expiration or termination of this Agreement for any reason.

14. **Availability of Funds.** The awarding of this Agreement is dependent upon the availability of funding. In the event that funds do not become available, the Agreement may be terminated or the scope may be amended. A thirty (30) day written notice shall be issued to the Contractor, and there will be no penalty or removal of charges incurred by the CTRMA.

**15. Notices.** Notice is deemed given under this Agreement (a) when delivered by hand; (b) one business day after being deposited with a reputable overnight air courier service; or (c) three business days after being mailed by United States mail, registered or certified mail, return receipt requested, and postage prepaid. Any notices provided under this Agreement must be sent or delivered to:

In the case of the Contractor:

Kerry Tate, President  
TateAustin  
320 Congress Avenue, Suite 100  
Austin, TX 78701

In the case of the CTRMA:

Mike Heiligenstein, Executive Director  
Central Texas Regional Mobility Authority  
US 183-A Project Office  
13640 Briarwick Drive, Suite 200  
Austin, TX 78729

and:

Locke, Liddell & Sapp, LLP  
100 Congress Avenue, Suite 300  
Austin, TX 78701  
Attn: Brian Cassidy

*IN WITNESS WHEREOF*, the parties have executed this Agreement effective on the date and year first written above.

**THE CONTRACTOR**

**KERRY TATE COMMUNICATIONS, INC.**  
**(d/b/a TateAustin)**

By: \_\_\_\_\_  
Kerry Tate  
President

THE CTRMA

CENTRAL TEXAS REGIONAL MOBILITY  
AUTHORITY

By: \_\_\_\_\_  
Mike Heiligenstein  
Executive Director



## Appendix A

### SCOPE OF SERVICES

This Appendix A is attached to and made a part of the Marketing Services Agreement between the Central Texas Regional Mobility Authority ("CTRMA") and TateAustin, Public Relations (the "Contractor") effective as of March 2, 2005. Any term used in this appendix has the meaning given to that term by the Agreement.

The Scope of Services under the Agreement is described as follows:

1. Develop and implement a comprehensive public education and outreach campaign (the "Public Outreach Campaign") to increase knowledge, perception, and understanding of the need for and benefits of Central Texas toll roads, including developing a strategy and content for print, television, radio, internet (worldwide web), and direct mail components of the Public Outreach Campaign.
2. Develop and implement a marketing and outreach campaign (the "Toll Tag Campaign") to educate members of the public on interoperable uses of electronic toll tags throughout the region and the State and to facilitate the sale and distribution of electronic toll tags to be used in conjunction with Central Texas toll roads owned and operated by TxDOT and the CTRMA, including developing a strategy and content for print, television, radio, internet (worldwide web), and direct mail components of such Toll Tag Campaign.
3. Work with CTRMA to assemble and coordinate an Advisory Working Group composed of CTRMA staff, TxDOT staff, and other outside members with relevant experience, identified and selected by both the Contractor and CTRMA, to assist in the development of initial strategic framework, core message platform, and "branding" of roadways for the overall Public Outreach Campaign and the Toll Tag Campaign. The Contractor will also work with the Advisory Working Group to define the marketing and advertising campaign outcomes, goal, objectives and priorities.
4. Provide all necessary research to conduct and develop successful Public Outreach and Toll Tag Campaigns, yielding data on a quarterly basis that identifies, at a minimum, awareness, attitudes, concerns, strategies, and potential marketing areas for both campaigns. Such research methods may include, but are not limited to, focus groups, key person interviews, telephone polls, and surveys.
5. Create a database of potential toll tags customers for mailing and direct contact marking efforts.
6. Provide analysis of research results and identify audiences according to informational needs and target market groups of interest to CTRMA that may include, but are not limited to, the traveling public, the business community, landowners, residents, cargo transport industry professionals, minority communities, and other communities of interest. Use research data to create and develop

information and promotional strategies and messages to educate and inform the public through the Public Outreach Campaign, and to cause measurable sales and usage of the toll tags through the Toll Tag Campaign.

7. Test creative concepts and potential messages with users and develop and refine marketing and outreach efforts as research, testing, and analysis indicate to determine messages, target key audiences, engage in program framework activities, and create all visual and text elements to be used in advertising and informational materials associated with the campaigns.
8. Use input and direction from the Advisory Working Group, outreach and education efforts, and research findings to develop a draft marketing plan for the overall Public Outreach Campaign and the Toll Tag Campaign. Such draft marketing plan shall include the Contractor's evaluation of the potential effectiveness for each suggested alternative and will estimate market penetration under the suggested alternatives. Once the CTRMA approves the marketing plan, the Contractor will present the CTRMA with the final marketing plan for both campaigns. The Contractor should also describe a process for establishing benchmarks against which the success of any marketing plan can be assessed.
9. Upon approval of the draft marketing plan, implement the approved plan, including: developing and producing materials (including Power Point presentations) for use in outreach efforts; developing a system to ensure Advisory Working Group review of materials and messages; and planning and execution of special events, public meetings, community forums, and other public outreach and education activities, such as summit launch events, open houses and press conferences, to generate interest and raise awareness of Central Texas toll roads as well as the CTRMA and its activities.
10. Negotiate for and purchase print, television and radio advertising space and time for programs and information appropriate to the target markets, solicit free media time and space for public service announcements as appropriate, and create the content for such print, television and radio advertisements and public services announcements.
11. Assist the CTRMA with media relations upon request by providing an issue management plan including media training, and provide video clips and printed documents, including a record and copies of relevant articles and video or audio clips, upon request. CTRMA agrees to cover all hard costs related to this activity, provided that the incurrence of such costs are approved by CTRMA in advance and in writing.
12. Provide awareness and attitude tracking during various stages of the marketing plan by furnishing the CTRMA Executive Director with a written narrative report of data gathered through surveys and other evaluation tools. The report should include information regarding distribution of toll tags; the increase in the level of awareness and understanding of the CTRMA, Central Texas toll roads, the use of toll tags, and the interoperable uses of toll tags with other toll systems in the State; assessment of

key demographic characteristics of the target market; and information regarding future marketing opportunities or additional target markets. A schedule for periodic benchmark reporting should be suggested.

13. Develop the initial plan for distribution and sale of toll tags, identify the most effective means by which to achieve the desired distribution, and provide suggestions for development of future markets for toll tag sale and distribution.
14. Produce activity reports and attend meetings as directed by the CTRMA.
15. Conduct such other activities and special communications projects as the CTRMA staff directs and approves in writing.

**Appendix A-1**

**SAMPLE WORK AUTHORIZATION**

This Work Authorization is made as of this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_, under the terms and conditions established in the Marketing Services Agreement dated as of \_\_\_\_\_ between the Central Texas Regional Mobility Authority (“CTRMA”) and TateAustin (the “Contractor”). This Work Authorization is made for the following purposes consistent with the Services defined in the Agreement:

**Section A. – Scope of Services**

A.1 The Contractor shall perform the following Services:

Scope

\_\_\_\_\_

\_\_\_\_\_

Key Tasks

\_\_\_\_\_

\_\_\_\_\_

Staffing

\_\_\_\_\_

\_\_\_\_\_

A.2 In conjunction with the performance of the foregoing Services, the Contractor shall provide the following submittals/deliverables (“Documents”) to the CTRMA:

\_\_\_\_\_

\_\_\_\_\_

**Section B. – Schedule**

The Contractor shall perform the Services and deliver the related Documents (if any) according to the following schedule:

\_\_\_\_\_

\_\_\_\_\_

**Section C. – Compensation**

In return for the performance of the foregoing obligations, the CTRMA shall pay the Contractor pursuant to the terms of the Agreement, including Appendix B attached thereto.

**Section D. – CTRMA’s Responsibility**

The CTRMA shall perform and provide the following in a timely manner so as not to delay the Services. Unless otherwise provided in this Work Authorization, the CTRMA shall bear all costs incident to compliance with the following:

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**Section E. – Other Provisions**

The parties agree to the following provisions with respect to this specific Work Authorization:

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Except to the extent expressly modified in this Agreement, all terms and conditions of the Agreement continue in full force and effect.

The CTRMA

The Contractor

By: Mike Heiligenstein

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

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: Executive Director

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

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

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



**Appendix B**

**COMPENSATION**

**Payment**

The CTRMA agrees to pay, and the Contractor agrees to accept, as full and sufficient compensation for the performance of all Services, monthly payments based on approved monthly statements, to be submitted to the CTRMA by the Contractor consistent with the requirements of Section IV.3. Payment under this Agreement shall be made within thirty (30) days of an approved monthly statement. This compensation constitutes full payment for all of the Services, including, but not limited to overhead and administrative expenses.

The total amount of this Agreement shall not exceed \$750,000.

The Contractor's hourly rate schedule for the project is as follows:

<u>Employee Position</u>	<u>Hourly Rate</u>
Principal	\$200
Transportation Expert	\$200
VP/Director	\$180
Community Outreach Specialist	\$180
Creative Strategy and Brand Development	\$180
Research	\$180
Senior Account Executive	\$160
Creative Execution	\$135
Website Development	\$135
Account Coordination	\$90
Account Administration	\$40

**Standard Mark-up**

A standard mark-up of 15% for brokerage of goods and services necessary to conduct the business requested by the client (calculated x1.1765) will be applied to the total and is included in all estimates. Client approval (signature) is authority for the agency to proceed. Estimated costs are good for sixty days.

**Media Buys**

TateAustin will receive a standard commission on media buys not to exceed 1.1765% of the gross placement cost.

## **Work Authorizations**

Each activity, task, or project that is expected to result in a fee to the CTRMA in excess of \$1,000 shall be performed pursuant to a separate Work Authorization, signed by the CTRMA and the Contractor. Work shall be in accordance with the scope, schedule, and budget set forth in said Work Authorization. The standard form of Work Authorization is attached hereto as Appendix A-1 and made a part hereof, which standard form may be modified during the term of this Agreement upon the reasonable request of the CTRMA.

Upon oral directive from the CTRMA, the Contractor shall prepare the Work Authorization for the specific task, to be submitted for the CTRMA's approval. No work shall begin on the activity until the Work Authorization is approved and fully executed. The basis for payment on each Work Authorization will be either (a) lump sum or (b) cost plus to a maximum, as stipulated in the Work Authorization. In neither case will the maximum be exceeded without prior written approval from the CTRMA. The costs associated with work performed on any Work Authorization will be tracked and reported to the CTRMA separately from other work performed by the Contractor. The monthly invoice to the CTRMA will include a progress summary of the work performed the previous month on each ongoing Work Authorization.

The aggregate amount of work performed by the Contractor but not subject to a specific Work Authorization shall not exceed \$20,000 in any twelve (12) month period

## **Compensation of Subconsultants**

As noted in the Contractor's response to the Request for Proposals, the Contractor will employ: Carter Burgess; Briley & Stables Creative; John Langmore; and Grier Bankett as the sole subconsultants providing services under this Agreement, unless the Contractor requests permission to use additional subconsultants and the CTRMA agrees in writing. All subconsultants providing Services under this Agreement shall be subject to, and compensated or reimbursed in accordance with, all requirements of Article IV.1 and IV.2, provided that each subconsultant shall utilize its own hourly rate schedule and that no such rates shall exceed the corresponding rates paid by the Contractor for its personnel of comparable grade, category, and experience, and further provided that CTRMA will have no responsibility or direct obligation for payment to subconsultants for Services rendered in connection with the Contractor's performance under this Agreement.

Appendix C

**IDENTIFICATION OF KEY PERSONNEL**

Transportation Industry Expertise: Katie Nees, Susan Barron, John Langmore

Research: Chris Wilson, Jim Adams

Strategic Communications & Marketing: Brad Mays (primary point of contact), Kerry Tate, Dave Shaw, Jed Buie, Russ Rhea, Emily Torgerson, Hank Warner, Stacy Dukes-Rhone

## Appendix D

### INSURANCE REQUIREMENTS

1. Insurance. All policies are to be written through companies licensed to transact that class of insurance in the State of Texas, rated with respect to the companies providing the insurance by A.M. Best Co. as "A minus X" or better. The Contractor shall furnish certificates of insurance to the CTRMA. The certificates shall indicate the name of insured, the name of insurance company, the name of the agency/agent, the policy number, the term of coverage, and the limits of coverage. In addition, the insurance coverage shall provide for the following:

a. Workers' Compensation insurance in accordance with the laws of the State of Texas based on the Contractor's legal structure and employment base. Policies submitted shall be endorsed to reflect a waiver of subrogation in favor of the CTRMA.

b. Commercial General Liability insurance with limits not less than \$1,000,000 combined single limit (CSL) for bodily injury and/or property damage on account of any one occurrence, with an aggregate limit of \$1,000,000. Each of the required policies shall be endorsed to reflect a waiver of subrogation in favor of the CTRMA.

c. Business Automobile Liability coverage applying to owned, non-owned, and hired automobiles in an amount no less than \$500,000 for bodily injury, including death, to any one person, and \$1,000,000 on account of any one occurrence and \$500,000 for property damage on account of any one occurrence. This policy shall not contain any limitation with respect to a radius of operation for any vehicle covered, and shall not exclude from the coverage of the policy any vehicle to be used in connection with the performance of the Contractor's obligations under this Agreement. Each of the required policies shall be endorsed to reflect a waiver of subrogation in favor of the CTRMA.

d. Professional Liability Insurance in the amounts normally carried for its own protection in the practice of providing the Services, but in no event less than \$500,000 per claim and aggregate.

Insurance furnished for Commercial General Liability and Business Automobile shall name the CTRMA as additional insured and shall protect the CTRMA, its officers, employees, directors, agents, and representatives from claims for damages for bodily injury and death and for damages to property arising in any manner from the negligent or willful wrongful acts or failures to act by the Contractor, its officers, employees, directors, agents, and representatives, in the performance of the Services rendered under this Agreement.

On all policies, the insurer shall certify that the aggregate amount shown on insurance limits is in full force and has not been diminished. The insurance carrier shall include in each of the insurance policies required under herein the following statement: "This policy shall not be canceled or materially changed during the period of coverage without at least thirty (30) days prior written notice addressed to the Central Texas Regional Mobility Authority, 13640 Briarwick Drive, Austin, Texas 78729, Attention: Insurance and Claims Manager."

**GENERAL MEETING OF THE BOARD OF DIRECTORS  
OF THE  
CENTRAL TEXAS REGIONAL MOBILITY AUTHORITY**

**RESOLUTION NO. 05-20**

WHEREAS, the Central Texas Regional Mobility Authority ("CTRMA") was created pursuant to the request of Travis and Williamson Counties and in accordance with provisions of the Transportation Code and the petition and approval process established in 46 Tex. Admin. Code § 26.01, *et seq.* (the "RMA Rules"); and

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

WHEREAS, the expansion of the CTRMA staff has created a need for additional office space to facilitate the day-to-day operations of the CTRMA; and

WHEREAS, staff has recommended, and the Board of Directors agrees, that centrally located office space, within the City of Austin's central business district, will facilitate more efficient operations by CTRMA administrative personnel and improve convenience and accessibility for those seeking to contact, or do business with, the CTRMA; and

WHEREAS, in Resolution No. 05-11, the Board of Directors directed staff to secure at least three (3) proposals for approximately 3,500 square feet of office space; and

WHEREAS, the Board of Directors further directed that staff evaluate the proposals, tour the space, and make a recommendation to the full board as to the facility best able to fulfill the needs of the CTRMA; and

WHEREAS, the Executive Director has secured the requisite number of proposals, toured each space, and is prepared to recommend to the Board of Directors that space in the building located at 301 Congress Avenue will best suit the needs of the CTRMA; and

WHEREAS, the general terms of a lease for space at 301 Congress Avenue are attached as Exhibit "A;"

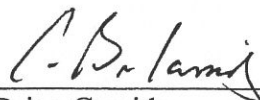
NOW THEREFORE, BE IT RESOLVED, that the Board of Directors of the CTRMA authorizes the Executive Director to complete negotiations for a lease of space at 301 Congress Avenue in accordance with the general terms designated on Exhibit "A;" and

BE IT FURTHER RESOLVED, that the Executive Director is authorized to execute a lease incorporating the terms as reflected in Exhibit "A" upon receipt of approval by the Executive Committee.



Adopted by the Board of Directors of the Central Texas Regional Mobility Authority on the 23<sup>rd</sup> day of February 2005.

Submitted and reviewed by:



\_\_\_\_\_  
C. Brian Cassidy  
General Counsel for the Central  
Texas Regional Mobility Authority

Approved:



\_\_\_\_\_  
Chairman, Board of Directors  
Resolution Number 05-20  
Date Passed 2/23/05

## CTRMA OFFICE SPACE PROPOSALS

	<b>Property 1</b>	<b>Property 2</b>	<b>Property 3</b>
Initial Space	Approximately 3,941 rentable square feet located on the 8 <sup>th</sup> floor, Suite 840	Approximately 3,627 rentable square feet located on the 2 <sup>nd</sup> floor, Suite 220	Approximately 3,667 rentable square feet located on the 14 <sup>th</sup> floor, or 3,500-4,000 rsf on the 3 <sup>rd</sup> floor
Initial Lease Term	Five (5) years	64 months	Five (5) years
Lease Commencement	April 1, 2005 (TBD)	May 1, 2005	April 1, 2005
Base Net Rental Rate	\$9.00 psf	\$8.50 psf	\$12.75 psf
Estimated base net with Operating Expenses for 2005	\$10.33 psf	\$9.73 psf	\$10.69 psf
Tenant Improvement Allowance	As-is	Landlord will provide \$22.50 per rsf	Landlord will provide \$25 per rsf on the 14 <sup>th</sup> floor or \$10 on the 3 <sup>rd</sup> floor.
Parking	One (1) unreserved parking space for every 600 rentable square feet. Additional base rental for each unreserved space per month is \$100, and \$175 for each reserved space leased by Tenant.	One (1) unreserved parking space for every 600 rentable square feet. Requested nine spaces at \$110.	One (1) unreserved parking space for every 625 rentable square feet at \$125 per month per space.

**GENERAL MEETING OF THE BOARD OF DIRECTORS  
OF THE  
CENTRAL TEXAS REGIONAL MOBILITY AUTHORITY**

**RESOLUTION NO. 05-21**

WHEREAS, the Texas Transportation Code authorizes the creation of a regional mobility authority for the purposes of constructing, maintaining, and operating one or more transportation projects in a region of this state; and

WHEREAS, the Central Texas Regional Mobility Authority ("CTRMA") was created pursuant to the request of Travis and Williamson Counties and in accordance with provisions of the Transportation Code and the petition and approval process established in 46 Tex. Admin. Code § 26.01, *et. seq.* (the "RMA Rules"); and

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

WHEREAS, in Resolution No. 04-23, dated May 26, 2004, the Board of Directors identified the need for a Director of Operations and directed staff to begin the process for identifying and hiring a qualified individual for that position; and

WHEREAS, after a thorough process the Executive Director selected Ron Fagan to serve as the CTRMA's Director of Operations; and

WHEREAS, the Executive Director has negotiated compensation and benefits with Ron Fagan as reflected in the terms attached hereto as Exhibit "A"; and

WHEREAS, the CTRMA Board of Directors desires to authorize the employment of Ron Fagan in accordance with the terms of employment summarized in Exhibit "A";

NOW THEREFORE, BE IT RESOLVED, that the Board of Directors of the CTRMA approves and ratifies the employment of Ron Fagan as Director of Operations pursuant to the terms set forth in Exhibit "A"; and

BE IT FURTHER RESOLVED, that the Executive Director is authorized to take such actions as necessary to implement the employment arrangement with Ron Fagan.

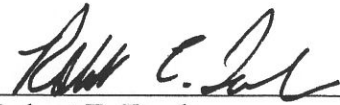
Adopted by the Board of Directors of the Central Texas Regional Mobility Authority on the 23<sup>rd</sup> day of February 2005.

Submitted and reviewed by:



\_\_\_\_\_  
C. Brian Cassidy  
General Counsel for the Central  
Texas Regional Mobility Authority

Approved:



\_\_\_\_\_  
Robert E. Tesch  
Chairman, Board of Directors  
Resolution Number 05-21  
Date Passed 2/23/05

**EXHIBIT "A"**

**To Resolution No. 05-21**

**TERMS OF DIRECTOR OF OPERATIONS EMPLOYMENT**

Set forth below are the material terms for the employment of the CTRMA's Director Of Operations:

1. Term: Full-time employment beginning on March 14, 2005. Employment is on an at-will basis.
2. Compensation: Annual salary of \$110,000, plus benefits as described below. An additional \$5000 at the six month review period and at the twelve month review period for and ending first year salary of \$120,000. These amounts are contingent upon satisfactory personnel evaluations. No pay for part-time work prior to March 14, 2005.
3. Expenses: Moving expenses up to \$5,000 will be paid by the CTRMA. Reasonable travel expenses associated with part-time work prior to March 14, 2005. Actual expenses reasonably incurred in connection with CTRMA business shall be reimbursed subject to CTRMA's policies on reimbursement and subject to Executive Director approval.
4. Health/Life Insurance: Health and life insurance benefits will be provided through Williamson County (the "County") pursuant to the Interlocal Agreement dated December 5, 2003, between the County and the CTRMA (through which the County administers payroll and benefits for CTRMA employees).
5. Retirement Benefits: Benefits provided through the CTRMA's participation in the Texas County and District Retirement System (TCDRS), as administered by Williamson County. All actuarial services and contribution amounts are determined by the TCERS and provided to the County for payment by the CTRMA.
6. Vacation: Accrual beginning March 14, 2005, three weeks annual paid vacation and three days annual paid personal leave, provided that no more than two consecutive weeks of vacation may be taken without prior approval of the Executive Director and provided that vacation is taken at a time and in a manner consistent with job responsibilities.
7. Holidays: per Board Resolution No. 04-66.

**GENERAL MEETING OF THE BOARD OF DIRECTORS  
OF THE  
CENTRAL TEXAS REGIONAL MOBILITY AUTHORITY**

**RESOLUTION NO. 05-22**

WHEREAS, the Texas Transportation Code authorizes the creation of a regional mobility authority for the purposes of constructing, maintaining, and operating one or more transportation projects in a region of this state; and

WHEREAS, the Central Texas Regional Mobility Authority ("CTRMA") was created pursuant to the request of Travis and Williamson Counties and in accordance with provisions of the Transportation Code and the petition and approval process established in 46 Tex. Admin. Code § 26.01, *et. seq.* (the "RMA Rules"); and

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

WHEREAS, in Resolution No. 04-16, dated May 5, 2004, the Board of Directors identified the need for a Communications Director and directed staff to begin the process for identifying and hiring a qualified individual for that position; and

WHEREAS, after a thorough process the Executive Director selected Steve Pustelnyk to serve as the CTRMA's Communications Director; and

WHEREAS, the Executive Director has negotiated compensation and benefits with Steve Pustelnyk as reflected in the terms attached hereto as Exhibit "A"; and

WHEREAS, the CTRMA Board of Directors desires to authorize the employment of Steve Pustelnyk in accordance with the terms of employment summarized in Exhibit "A";

NOW THEREFORE, BE IT RESOLVED, that the Board of Directors of the CTRMA approves and ratifies the employment of Steve Pustelnyk as Communications Director pursuant to the terms set forth in Exhibit "A"; and

BE IT FURTHER RESOLVED, that the Executive Director is authorized to take such actions as necessary to implement the employment arrangement with Steve Pustelnyk.

Adopted by the Board of Directors of the Central Texas Regional Mobility Authority on the 23<sup>rd</sup> day of February 2005.

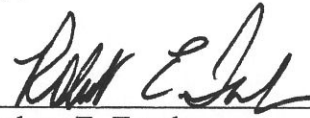


Submitted and reviewed by:



C. Brian Cassidy  
General Counsel for the Central  
Texas Regional Mobility Authority

Approved:



Robert E. Tesch  
Chairman, Board of Directors  
Resolution Number 05-22  
Date Passed 02/23/05

EXHIBIT "A"

To Resolution No. 05-22

**TERMS OF COMMUNICATIONS DIRECTOR EMPLOYMENT**

Set forth below are the material terms for the employment of the CTRMA's Communication Director:

1. Term: Full-time employment beginning on February 28, 2005. Employment is on an at-will basis.
2. Compensation: Annual salary of \$85,000, plus benefits as described below. An additional \$5000 at the six month review period for an annual salary of \$90,000. This increase is contingent upon a satisfactory personnel evaluation
3. Expenses: Moving expenses up to \$5,000 will be paid by the CTRMA. Actual expenses reasonably incurred in connection with CTRMA business shall be reimbursed subject to CTRMA's policies on reimbursement and subject to Executive Director approval.
4. Health/Life Insurance: Health and life insurance benefits will be provided through Williamson County (the "County") pursuant to the Interlocal Agreement dated December 5, 2003, between the County and the CTRMA (through which the County administers payroll and benefits for CTRMA employees).
5. Retirement Benefits: Benefits provided through the CTRMA's participation in the Texas County and District Retirement System (TCDRS), as administered by Williamson County. All actuarial services and contribution amounts are determined by the TCDRS and provided to the County for payment by the CTRMA.
6. Vacation: With accrual beginning February 28, 2005, three weeks annual paid vacation and three days annual paid personal leave, provided that no more than two consecutive weeks of vacation may be taken without prior approval of the Executive Director and provided that vacation is taken at a time and in a manner consistent with job responsibilities.
7. Holidays: per Board Resolution No. 04-66.

**GENERAL MEETING OF THE BOARD OF DIRECTORS  
OF THE  
CENTRAL TEXAS REGIONAL MOBILITY AUTHORITY**

**RESOLUTION NO. 05-23**

WHEREAS, the Central Texas Regional Mobility Authority ("CTRMA") was created pursuant to the request of Travis and Williamson Counties and in accordance with provisions of the Transportation Code and the petition and approval process established in 46 Tex. Admin. Code § 26.01, *et. seq.* (the "RMA Rules"); and

WHEREAS, via Resolution No. 03-60, the CTRMA adopted a Business Program and Policy ("BOPP") to comply with provisions of state and federal law, including Section 370.183 of the Texas Transportation Code; and

WHEREAS, in order to effectively implement the BOPP and to most efficiently meet its goals and objectives, the Executive Director has recommended that one or more firms be retained to assist with outreach and implementation efforts.; and

WHEREAS, the Executive Director has recommended that the CTRMA issue a request for proposals ("RFP") to secure the services of a firm or firms to assist with BOPP implementation and outreach efforts; and

WHEREAS, the Board of Directors agrees that such services should be procured;

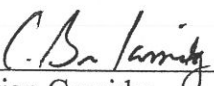
NOW THEREFORE, BE IT RESOLVED, that the Board of Directors of the CTRMA hereby authorizes the Executive Director and staff to develop and issue an RFP for services related to BOPP outreach and implementation; and

BE IT FURTHER RESOLVED, that the Executive Director shall implement a process to review the RFP responses, rank the proposers, and be prepared to recommend to the Board of Directors the best qualified firm or firms to provide these services; and

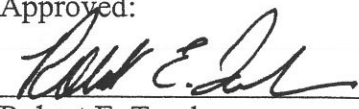
BE IT FURTHER RESOLVED, that no contract for services shall be executed without the prior approval of the Board of Directors.

Adopted by the Board of Directors of the Central Texas Regional Mobility Authority on the 23<sup>rd</sup> day of February, 2005.

Submitted and reviewed by:

  
\_\_\_\_\_  
C. Brian Cassidy  
General Counsel for the Central  
Texas Regional Mobility Authority

Approved:

  
\_\_\_\_\_  
Robert E. Tesch  
Chairman, Board of Directors  
Resolution Number 05-23  
Date Passed 02/23/05

**GENERAL MEETING OF THE BOARD OF DIRECTORS  
OF THE  
CENTRAL TEXAS REGIONAL MOBILITY AUTHORITY**

**RESOLUTION NO. 05-24**

WHEREAS, the Central Texas Regional Mobility Authority ("CTRMA") is empowered to procure such goods and services as it deems necessary to assist with its operations and to study and develop potential transportation projects; and

WHEREAS, close scrutiny of CTRMA expenditures for goods and services, including those related to project development, is the responsibility of the Board of Directors and its designees through procedures the board may implement from time to time; and

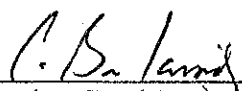
WHEREAS, the Board of Directors has adopted policies and procedures intended to provide strong fiscal oversight and which authorize the Executive Director, working with the CTRMA's accountant, to review invoices and approve disbursements; and

WHEREAS, the Executive Director, working with the CTRMA's accountant, has reviewed and authorized the disbursements listed on the disbursements report titled "Summary of Expenditures" from January 21, 2005 to February 17, 2005, included herewith as Attachment "A";

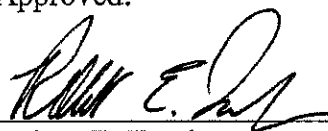
NOW THEREFORE, BE IT RESOLVED, that the Board of Directors accepts the Disbursements Report included as Attachment "A".

Adopted by the Board of Directors of the Central Texas Regional Mobility Authority on the 23<sup>rd</sup> day of February 2005.

Submitted and reviewed by:

  
\_\_\_\_\_  
C. Brian Cassidy  
General Counsel for the Central  
Texas Regional Mobility Authority

Approved:

  
\_\_\_\_\_  
Robert E. Tesch  
Chairman, Board of Directors  
Resolution Number 05-24  
Date Passed 2/23/05

Central Texas Regional Mobility Authority

Attachment "A" to CTRMA Board Resolution No. 05-24  
 Summary of Expenditures 1/21/05 - 2/17/05

<u>Vendor</u>	<u>Date</u>	<u>Check #</u>	<u>Description</u>	<u>Amount</u>
Cingular Wireless	01/26/2005	11247	Cell Phone	\$ 163.87
Mike Heiligenstein	01/26/2005	11248	Auto Allowance	650.00
Forkner, Cynthia L	02/04/2005	11249	Administrative Asst Compensation	693.86
Chase Bank	02/04/2005	11250	Payroll Taxes for Admin Asst	307.28
Kennedy Reporting Service, Inc.	02/04/2005	11251	Board Meeting Minutes	344.20
Lowell Lebermann	02/04/2005	11252	Reimbursed Expenses	713.97
Meri Aaron Walker dba Between the Lines	02/04/2005	11253	Recruiting	2,175.00
Williamson County	02/04/2005	ACH Debit	Executive Director/CFO Compensation	13,296.12
Mike Heiligenstein	02/10/2005	11254	Reimbursed Expenses	60.38
T-Mobile	02/10/2005	11255	Cell Phone	116.81
HNTB Corporation	02/10/2005	11256	General Engineering Consultant	296,933.42
Locke Liddell & Sapp LLP	02/10/2005	11257	Legal Fees	78,374.55
Owen Consulting	02/10/2005	11258	Review of engineering bills	4,050.00
Chase Business Credit Card	02/15/2005	11259	Credit Card: Travel, etc.	251.41
El Paso Valley Mayflower Moving & Stor	02/15/2005	11260	Moving expenses paid for CFO	5,000.00
FormaDoc Inc.	02/15/2005	11261	Open meeting postings	196.50
Greater Austin Chamber of Commerce	02/15/2005	11262	Washington DC Trip	3,150.00
K Jansing	02/15/2005	11263	Photography	175.00
Looke Liddell & Sapp LLP	02/15/2005	11264	Legal Fees	28,413.32
Ronald A. Fagan	02/15/2005	11265	Reimbursed Expenses - Interview	612.00
Steve Pustelnyk	02/15/2005	11266	Reimbursed Expenses - Interview	684.55
Susan Dawson	02/15/2005	11267	AARO - Maps	45.00
Williamson County	02/15/2005	ACH Debit	Executive Director/CFO Compensation	13,296.12
				<u>\$ 449,703.36</u>

**GENERAL MEETING OF THE BOARD OF DIRECTORS  
OF THE  
CENTRAL TEXAS REGIONAL MOBILITY AUTHORITY**

**RESOLUTION NO. 05-25**

WHEREAS, the Central Texas Regional Mobility Authority ("CTRMA") was created pursuant to the request of Travis and Williamson Counties and in accordance with provisions of the Transportation Code and the petition and approval process established in 46 Tex. Admin. Code § 26.01, *et. seq.* (the "RMA Rules"); and

WHEREAS, in Resolution No. 05-04, dated January 5, 2005, the Board of Directors approved an Investment Policy to ensure that CTRMA funds are invested effectively and wisely; and

WHEREAS, the Investment Policy specifies that the Chief Financial Officer of the CTRMA shall maintain a list of approved brokers/dealers authorized to provide investment services to the CTRMA; and

WHEREAS, in Resolution No. 05-16 the Board of Directors approved a list of authorized brokers/dealers for the CTRMA; and

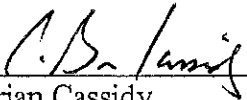
WHEREAS, the Chief Investment Officer desires to add an additional authorized broker/dealer firm to the list previously approved;

NOW THEREFORE, BE IT RESOLVED, that the Board of Directors approves the addition of Wells Fargo Brokerage Services, LLC to the list of authorized brokers/dealers for the CTRMA; and


BE IT FURTHER RESOLVED, that this list may be further amended from time-to-time in accordance with the CTRMA Investment Policy and appropriate action of the Board of Directors.

Adopted by the Board of Directors of the Central Texas Regional Mobility Authority on the 23<sup>rd</sup> day of February 2005.

Submitted and reviewed by:

  
\_\_\_\_\_  
C. Brian Cassidy  
General Counsel for the Central  
Texas Regional Mobility Authority

Approved:

  
\_\_\_\_\_  
Robert E. Tesch  
Chairman, Board of Directors  
Resolution Number 05-25  
Date Passed 2/23/05