



CENTRAL TEXAS REGIONAL  
**MOBILITY AUTHORITY**

April 25, 2022  
**AGENDA ITEM #6**

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Discuss and consider approving a new loan agreement with Regions Capital Advantage, Inc. to refinance the current loan with Regions Commercial Equipment Finance, LLC related to the MoPac Improvement Project

Strategic Plan Relevance: Regional Mobility  
Department: Finance  
Contact: José Hernández, Chief Financial Officer  
Associated Costs: Loan principal and interest – five-year maturity  
Funding Source: MoPac Improvement Project Revenues  
Action Requested: Consider and act on draft resolution

**Project Description/Background:** This action will approve the execution and delivery of a Secured Loan Agreement with Regions Capital Advantage, Inc. for the purpose of borrowing an amount not to exceed \$24,990,900 to refinance the existing loan with Regions Commercial Equipment Finance, LLC which funded MoPac Improvement Project costs. The Loan will have a five-year maturity. The Loan will be secured by a lien on the net revenues of the MoPac Improvement Project.

**Previous Actions & Brief History of the Program/Project:** Proceeds from the initial 2017 loan with Regions Commercial Equipment Finance, LLC were used to fund costs associated with the design, engineering, and construction of the MoPac Improvement Project. On November 17, 2021, a one-year extension to the initial loan was approved by the Board.

**Financing:** N/A

**Action requested/Staff Recommendation:** Approve the refinancing loan from Regions Capital Advantage, Inc.

**Backup provided:** Draft resolution  
Form of Secured Loan Agreement  
Term sheet

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

RESOLUTION NO. 22-0XX

RESOLUTION APPROVING A SECURED LOAN AGREEMENT WITH REGIONS CAPITAL ADVANTAGE, INC. RELATED TO THE MOPAC IMPROVEMENT PROJECT; AUTHORIZING THE EXECUTION AND DELIVERY OF ALL DOCUMENTS IN CONNECTION THEREWITH; AND ENACTING OTHER PROVISIONS RELATED THERETO

WHEREAS, pursuant to Chapter 370, Texas Transportation Code, as amended (the “Act”), the Central Texas Regional Mobility Authority (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) 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; (iii) borrow money from and enter into loan agreements or other arrangements with any public or private entity for any purpose authorized by the Act, including the design, engineering and construction of a transportation project, and (iv) pledge all or any part of its revenues and any other funds available to the Authority to the payment of any obligations of the Authority under agreements authorized by the Act; and

WHEREAS, the Authority and Regions Commercial Equipment Finance, LLC (“RCEF”) previously entered into that certain Secured Loan Agreement dated as of December 1, 2017 (the “Original Loan Agreement”), pursuant to which the Authority has borrowed \$24,990,900, being the full amount available to be disbursed to the Authority thereunder, for the purpose of providing funds to pay or reimburse the Authority for a portion of the costs of the design, engineering and construction of the MoPac Improvement Project; and

WHEREAS, pursuant to the terms of the Original Loan Agreement, the principal amount of the original loan would have been due in full on December 1, 2021; and

WHEREAS, the Authority and RCEF entered into a First Amendment to Secured Loan Agreement dated as of December 1, 2021 (the “First Amendment” and, together with the Original Loan Agreement, the “RCEF Loan Agreement”) making the principal amount of the original loan due in full on December 1, 2022 and amending certain other provisions of the Original Loan Agreement, all as set forth therein; and

WHEREAS, the Board of Directors of the Authority (the “Board”) has been presented with a term sheet (the “Term Sheet”) for a new secured loan agreement (the “Loan Agreement”), between the Authority and Regions Capital Advantage, Inc.

(“Regions Capital”), for the purpose of refinancing the obligations of the Authority under the RCEF Loan Agreement on the terms set forth in the Term Sheet; and

WHEREAS, the loan (as described in the Term Sheet, the “Loan”), made pursuant to the Loan Agreement shall be a limited obligation of the Authority, secured solely by the net revenues of the MoPac Improvement Project (as described in the Loan Agreement, the “Net Revenues”), and payable from the Net Revenues and other legally available funds of the Authority, all as shall be provided in and in accordance with the terms of the Loan Agreement; and

WHEREAS, the Board has determined to pledge the Net Revenues as security for the repayment of the Loan; and

WHEREAS, the obligation of the Authority to repay the Loan Agreement is also an unsecured obligation of the Authority payable from any legally available funds of the Authority; and

WHEREAS, it is hereby found and determined that the meeting at which this Resolution is approved is open to the public and public notice of the time, place and subject matter of the public business to be considered and acted upon at said meeting, including this Resolution, was given, all as required by the applicable provisions of Chapter 551, Texas Government Code, as amended;

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

Section 1. Findings. The findings and determinations contained in the preambles hereof are hereby incorporated herein for all purposes as if set forth herein in their entirety.

Section 2. Approval of Borrowing. The Board hereby authorizes the borrowing by the Authority of an amount not to exceed \$24,990,900 from Regions Capital for the purpose of refinancing the obligations of the Authority under the RCEF Loan Agreement.

Section 3. Approval of the Term Sheet and the Loan Agreement. The form, terms and provisions of the Term Sheet, evidencing the obligation of the Authority to repay the Loan, in the substantially final form presented at this meeting, are hereby approved, with such changes as may be approved by the officer executing the Term Sheet, such approval to be evidenced by the execution thereof. The Chairman and Vice Chairman of the Board and the Executive Director and Chief Financial Officer of the Authority are hereby authorized, and each of them singly and individually, to (i) execute and deliver the Term Sheet, (ii) determine the final forms, terms and provisions of the Loan Agreement and the promissory note to be attached to the Loan Agreement (the “Note”), all of which shall be substantially consistent with the terms and provisions of the

Term Sheet, and (iii) to execute and deliver the Loan Agreement and the Note on behalf of the Authority.

Section 4. Pledge of Net Revenues. The Board hereby pledges the Net Revenues as security for the payment of the Loan in accordance with the terms and provisions of the Term Sheet and the Loan Agreement.

Section 5. Authority's Obligations Under Loan Agreement. The Authority's obligations under the Loan Agreement, including its obligations to pay interest on and principal of the Loan, shall be as set forth in the Loan Agreement.

Section 6. Appointment of Authorized Officers. The Board hereby appoints the Chairman, Vice Chairman, Secretary and Treasurer of the Board, and the Executive Director, the Chief Financial Officer and the Controller of the Authority, and each of them singly and individually, to act in the capacity of "Authorized Officer" under the Loan Agreement and to (i) make such determinations with respect to the Loan Agreement, the Loan and the Note as may be necessary from time to time, including determinations relating to the tax status of interest on the Loan, (ii) execute and deliver instruments, certificates and documents as may be required from time to time to be delivered under or in connection with the Loan Agreement, the Loan and the Note, and (iii) make such disbursements and transfers of funds as may be deemed necessary or desirable in connection with the execution, delivery and administration of the Loan Agreement, the Loan and the Note.

Section 7. Further Actions. The Authorized Officers and staff of the Authority, and its professional consultants, are hereby authorized and directed to take any and all actions and to execute and deliver any and all instruments and documents as may be necessary or desirable to carry out and effectuate the purposes of this Resolution and the Loan Agreement.

Section 8. Effective Date. This Resolution shall be in full force and effect from and upon its adoption.

Adopted by the Board of Directors of the Central Texas Regional Mobility Authority on the 25<sup>th</sup> day of April 2022.

Submitted and reviewed by:

Approved:

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James M. Bass  
Executive Director

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Robert W. Jenkins, Jr.  
Chairman, Board of Directors

**SECURED LOAN AGREEMENT**

**By and Between**

**CENTRAL TEXAS REGIONAL MOBILITY AUTHORITY**

**and**

**REGIONS CAPITAL ADVANTAGE, INC.**

**dated as of May \_\_, 2022**

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## **SECURED LOAN AGREEMENT**

THIS SECURED LOAN AGREEMENT (this “Loan Agreement” or “Agreement”), dated as of May \_\_, 2022, is made by and between the Central Texas Regional Mobility Authority (the “Authority”), a regional mobility authority and a political subdivision of the State of Texas (the “State”), and REGIONS CAPITAL ADVANTAGE, INC. (the “Lender”). Capitalized terms set forth in the preamble and recitals are defined in Article II of this Agreement.

### RECITALS

WHEREAS, the Authority has been created and organized pursuant to and in accordance with the provisions of Chapter 361, Texas Transportation Code, as amended, and operates pursuant to the Constitution and laws of the State, including, particularly, Chapter 370, Texas Transportation Code, as amended (the “Act”), for the purposes of constructing, maintaining and operating transportation 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); and (ii) 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 (iii) borrow money from and enter into loan agreements or other arrangements with any public or private entity for any purpose authorized by the Act, including the design, engineering and construction of a transportation project, and (iv) pledge all or any part of its revenues and any other funds available to the Authority to the payment of any obligations of the Authority under agreements authorized by the Act; and

WHEREAS, the Authority and Regions Commercial Equipment Finance LLC (“RCEF”) previously entered into that certain Secured Loan Agreement, dated as of December 1, 2017, as amended by that certain First Amendment to Secured Loan Agreement, dated as of November 30, 2021 (as amended, the RCEF Loan Agreement”), pursuant to which the Authority has borrowed \$24,990,900 for the purpose of providing funds to pay or reimburse the Authority for a portion of the costs of the design, engineering and construction of the Transportation Project (defined herein); and

WHEREAS, the Authority has determined to enter into this Loan Agreement for the purpose of providing funds to refinance the obligations of the Authority under the RCEF Loan Agreement; and

WHEREAS, the Lender is willing to loan monies to the Authority in an aggregate principal amount of \$24,990,900, on the terms set forth in this Loan Agreement for such purposes; and

WHEREAS, the Note (defined herein) will be secured solely by a senior lien pledge of the Net Revenues; and, in addition, the obligation of the Authority to pay the Note and other obligations under the Loan Agreement shall be an unsecured obligation of the Authority payable from any legally available funds of the Authority;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Authority and the Lender hereby agree as follows:

## ARTICLE I

### FINDINGS AND DETERMINATIONS

The declarations, determinations and findings declared, made and found in the preamble and recitals to this Loan Agreement are hereby adopted, restated and made a part of the operative provisions hereof.

## ARTICLE II

### DEFINITIONS AND INTERPRETATIONS

2.1 Defined Terms. For purposes of this Loan Agreement, in addition to the terms defined elsewhere in this Loan Agreement, the following terms shall have the meanings set forth below:

“Act” shall mean Chapter 370 of the Texas Transportation Code.

“Affiliate” means with respect to a Person, any Person (whether for-profit or not-for-profit), that “controls,” or is “controlled” by, or is under common “control” with such Person. For purposes of this definition, a Person “controls” another Person when the first Person possesses or exercises directly, or indirectly through one or more other affiliates or related entities, the power to direct the management and policies of the other Person, whether through the ownership of voting rights, membership, the power to appoint members, trustees or directors, by contract, or otherwise. Without limiting the generality of the foregoing, a Person shall be deemed to be “controlled” by another Person if such other Person possesses, directly or indirectly, power to vote 50% or more the securities having ordinary voting power for the election of directors or the equivalent.

“Agreement” or “this Agreement” or “Loan Agreement” shall mean this Loan Agreement and any amendments, modifications and supplements hereto, any replacements, renewals, extensions and restatements hereof, and any substitutes herefor, in whole or in part, and all schedules and exhibits hereto, and shall refer to this Loan Agreement as the same may be in effect at the time such reference becomes operative.

“Annual Debt Service” shall have the meaning given to such term in Section 6.1(o).

“Anti-Corruption Laws” means all laws, rules and regulations of any jurisdiction applicable to the Authority from time to time concerning or relating to bribery or corruption.

“Authority” shall mean the Central Texas Regional Mobility Authority, a regional mobility authority created and organized pursuant to and in accordance with the provisions of Chapter 361, Texas Transportation Code, and operating pursuant to the Act.

“Authorized Officer” shall mean the Chairman, Vice Chairman, Secretary/Treasurer, the Executive Director, the Chief Financial Officer, or Controller of the Authority and any other officer or employee of the Authority designated in writing and authorized by the Board to take the action specified herein.

“Board” shall mean the Board of Directors of the Authority.

“Business Day” means a day on which the office of the Lender at which payments under the Note are to be made is open for business.

“Change in Law” means the occurrence, after the date of this Agreement, of any of the following: (a) the adoption or taking effect of any Law, (b) any change in any Law or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority; provided that notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (y) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a “Change in Law”, regardless of the date enacted, adopted or issued.

“Closing Date” shall mean the date the conditions set forth in Section 3.2 hereof are met.

“Code” shall mean the Internal Revenue Code of 1986, as amended, and, with respect to a specific section thereof, such reference shall be deemed to include (a) the Regulations promulgated under such section, (b) any successor provision of similar import hereafter enacted, (c) any corresponding provision of any subsequent Internal Revenue Code and (d) the regulations promulgated under the provisions described in (b) and (c).

“Default Rate” shall mean the Interest Rate plus 4.00% per annum, provided, however, the Default Rate shall never exceed the Highest Lawful Rate. Interest at the Default Rate shall be calculated on the basis of the actual number of days elapsed in a 360-day year.

“Determination of Taxability” shall be deemed to have occurred on the first to occur of the following:

(i) Authority Acknowledgement: on the date when the Authority files any statement, supplement statement or other tax schedule, return or document which discloses that a Taxable Event has occurred;

(ii) Opinion of Counsel: sixty days after Lender reasonably requests in writing that the Authority provide a written opinion by a nationally recognized firm of attorneys of substantial expertise on the subject of tax-exempt municipal finance confirming that interest on the Note is excludible from gross income for federal income tax purposes, unless the Authority delivers such an opinion to the Lender within such time;

(iii) IRS Notice to the Lender: on the date when the Authority receives written notice from the Internal Revenue Service (or any other government official or agent exercising the same or a substantially similar function from time to time) that, based upon filings of the Authority, or upon any review or audit of the Authority or upon any other ground whatsoever, a Taxable Event has occurred; or

(iv) IRS Notice to the Lender: on the date when the Authority receives written notice from the Lender that the Internal Revenue Service (or any other government official or agency exercising the same or a substantially similar function from time to time) has assessed the interest on the Note as includable in gross income for federal income tax purposes due to the occurrence of a Taxable Event;

provided, however, no Determination of Taxability shall occur under clause (iii) or (iv) of this definition unless the Authority has been afforded the reasonable opportunity, at its expense, to contest any such assessment, and, further, no Determination of Taxability will occur until such contest, if made, has been finally determined; provided further, however, that following any such final determination, upon demand from the Lender, the Authority will promptly reimburse the Lender for any payments, including any taxes, interest, or penalties the Lender was obligated to make to any governmental entity as a result of the Determination of Taxability (for the avoidance of doubt, the Lender may only receive reimbursement for payments actually made by the Lender and for which the Lender provides documentation demonstrating that such payments were made). To the extent the Authority reaches an agreement with the Internal Revenue Service in order to allow the Note to continue to be treated as tax-exempt, no Determination of Taxability shall be deemed to have occurred.

“Event of Default” shall have the meaning specified in Article IX hereof.

“General Fund” shall mean the MOPAC General Fund reestablished and affirmed in Section 5.1.

“Governmental Authority” means any federal, state or local government (whether domestic or foreign), any political subdivision thereof or any other governmental, quasi-governmental, judicial, public or statutory instrumentality, authority, body, agency, bureau or entity (the Federal Deposit Insurance Corporation or the Federal Reserve Council, any central bank or any comparable authority), or any arbitrator with authority to bind a party at law.

“Highest Lawful Rate” shall mean the highest lawful rate permitted under Chapter 1204, Texas Government Code, as amended.

“Interlocal Agreement” shall mean that certain Interlocal Agreement between the Authority and the Capital Area Metropolitan Planning Organization effective as of June 27, 2012, a copy of which is attached hereto as Exhibit B.

“Interest Payment” shall mean each of the payments of accrued and unpaid interest payable under this Loan Agreement.

“Interest Payment Date” shall mean (i) each July 1 and January 1, commencing on July 1, 2022 and (ii) each date on which all or a portion of the Outstanding Principal Amount of the Loan is prepaid pursuant to Section 3.6 with respect to the portion of the Outstanding Principal Amount that is being prepaid.

“Interest Rate” shall mean a per annum rate equal to 3.18%, with interest to be calculated on the basis of a 360-day year for the actual number of days elapsed.

“Investment Policy” shall mean the investment policy adopted by the Board on April 25, 2022, as the same may be amended from time to time.

“Laws” means, collectively, all international, foreign, Federal, state and local statutes, treaties, rules, guidelines, regulations, ordinances, codes and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, requests, licenses, authorizations and permits of, and agreements with, any Governmental Authority, in each case whether or not having the force of law.

“Lender” shall mean Regions Capital Advantage, Inc.

“Loan” shall mean the loan of funds made by the Lender to the Authority pursuant to the terms of this Agreement.

“Loan Payments” shall mean those certain payments consisting of (i) the Principal Repayments and (ii) the Interest Payments, to be made by the Authority to the Lender pursuant to and in accordance with the terms of this Agreement.

“Loan Proceeds” shall mean the proceeds of the Loan disbursed by the Lender to the Authority pursuant to and in accordance with the terms of this Agreement.

“Loan Repayment Fund” shall mean the MOPAC Loan Repayment Fund reestablished and affirmed in Section 5.1.

“Maintenance Expenses” shall mean the Authority’s reasonable and necessary expenses of repair and maintenance of the Transportation Project, including, without limiting the generality of the foregoing, periodic roadway resurfacing and repair, replacement of toll collection, vehicle identification, toll integration and video enforcement equipment and all administrative and engineering expenses relating to the repair and maintenance of the Transportation Project and any other expenses required to be paid by the Authority as shown in the annual maintenance budget for the Transportation Project.

“Net Revenues” shall mean, with respect to any period of calculation, the Revenues for such period after deducting the Maintenance Expenses and the Operating Expenses for such period.

“Note” shall mean the promissory note in substantially the form attached hereto as Exhibit A.

“Operating Expenses” shall mean the Authority’s reasonable and necessary expenses of operation of the Transportation Project, including, without limiting the generality of the foregoing, expenses for toll collection, all premiums for insurance and payments into any self-insurance reserve fund, all administrative and engineering expenses relating to operation of the Transportation Project, fees and expenses of traffic consultants, general engineering consultants, periodic fees or charges required to administer the Loan, legal expenses, expenses for public safety

officers and any other expenses required to be paid by the Authority as shown in the Authority's annual operating budget for the Transportation Project.

“Operating Fund” shall mean the MOPAC Operating Fund reestablished and affirmed in Section 5.1.

“Outstanding Principal Amount” shall mean at any time of determination the original Principal Amount of the Loan, less any Principal Repayments previously made by the Authority to the Lender.

“Person” means any individual, corporation, not for profit corporation, partnership, limited liability company, joint venture, association, professional association, joint stock company, trust, unincorporated organization, government or any agency or political subdivision thereof or any other form of entity.

“Principal Amount” shall mean \$24,990,900.

“Principal Repayments” shall mean each repayment of principal of the Outstanding Principal Amount payable under this Loan Agreement.

“Regulations” shall mean the applicable proposed, temporary or final Treasury Regulations promulgated under the Code or, to the extent applicable to the Code, under the Internal Revenue Code of 1954, as such regulations may be amended or supplemented from time to time.

“Resolution” shall mean the resolution approving this Loan Agreement, which was adopted by the Board on April 25, 2022.

“Revenue Fund” shall mean the MOPAC Revenue Fund reestablished and affirmed in Section 5.1.

“Revenues” shall mean all income and revenues derived from the operation of the Transportation Project, including (i) all Tolls received by or on behalf of the Authority, (ii) the proceeds of any insurance covering business interruption loss relating to the Transportation Project or a portion thereof, (iii) any liquidated damages for delayed completion under a construction contract relating to the Transportation Project or a portion thereof, (iv) any other sources of revenues or funds of the Authority that the Authority chooses to designate as “Revenues” pursuant to an official action of the board of directors of the Authority, and (v) the interest and income earned on the Loan Repayment Fund.

“Sanctions” shall mean economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by the U.S. government, including those administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State.

“State” shall mean the State of Texas.

“Taxable Event” shall mean the occurrence or existence of any fact, event or circumstance (including, without limitation, the taking of any action by the Authority, or the failure to take any

action by the Authority, or the making by the Authority of any misrepresentation herein or in any certificate required to be given in connection with the execution and delivery of the Note) that, in the written opinion of bond counsel delivered to the Authority and the Lender, has the effect of causing interest paid or payable on the Note to be includable, in whole or in part, in gross income for federal income tax purposes.

“Tolls” shall mean all rates, rents, fees, charges, fines or other income derived by the Authority from the vehicular usage of the Transportation Project and the rights of the Authority to receive the same.

“Transportation Project” shall mean the MoPac Improvement Project, as more fully described in the Interlocal Agreement.

2.2 Interpretations. All terms defined herein and all pronouns used in this Loan Agreement shall be deemed to apply equally to the singular and plural and to all genders. This Loan Agreement and all the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein and to sustain the validity of this Loan Agreement and the validity of the lien on and pledge of the Net Revenues to secure the Loan Payments as provided in Section 4.1 hereof. Wherever the term “including” or a similar term is used in this Loan Agreement, it shall be read as if it were written “including by way of example only and without in any way limiting the generality of the clause or concept referred to.” The headings used in this Loan Agreement are included for reference only and shall not be considered in interpreting, applying or enforcing this Loan Agreement. All cross-references to articles, sections, exhibits or schedules, unless otherwise specified, shall refer to the applicable articles, sections, exhibits or schedules of this Loan Agreement. The words “shall” and “will” as used in this Loan Agreement have the same meaning.

### **ARTICLE III**

#### **AMOUNT, PURPOSE AND AUTHORIZATION**

3.1 Loan of Funds to the Authority. Subject to the full, complete and timely satisfaction by the Authority of each of the applicable conditions precedent set forth in Section 3.2, and for and in consideration of the Loan Payments and the covenants and agreements herein contained, the Lender will, on the Closing Date, disburse Loan Proceeds in the amount of \$24,990,900 by wire transfer in immediately available funds to the Authority. This Loan is not revolving. Amounts borrowed hereunder and repaid may not be reborrowed.

3.2 Conditions Precedent to Effectiveness of Loan Agreement and Making of the Loan.

(a) The effectiveness of this Loan Agreement and the obligation of the Lender to disburse Loan Proceeds on the Closing Date shall be subject to (i) the performance by the Authority of all of its covenants and obligations to be performed hereunder and under the Resolution at or prior to the Closing Date, (ii) the truth and accuracy in all material respects of the representations, warranties and covenants of the Authority contained herein as of the date hereof and as of the Closing Date and (iii) the receipt by the Lender at or prior to the Closing Date of the following:

(i) Legal Opinion. The approving opinion of the Authority's counsel addressed to the Lender, in form and substance reasonably acceptable to the Lender and its legal counsel to the effect that (a) the Authority has the authority under the laws of the State of Texas to execute and deliver the Loan Agreement and the Note (b) the Loan Agreement and the Note have been duly authorized, executed and delivered by the Authority, (c) the Loan Agreement and the Note are valid and binding obligations of the Authority, duly enforceable in accordance with their respective terms (except to the extent that such enforceability may be limited by bankruptcy, insolvency, reorganization and other laws affecting the rights of creditors of political subdivisions generally), and (d) interest on the Note is excludable from gross income of the holders thereof for federal income tax purposes.

(ii) Authority Certificate. A certificate of the Authority dated the Closing Date and signed by an Authorized Officer of the Authority, and in form and substance reasonably satisfactory to the Lender and its legal counsel, to the effect that (1) since the date of the Resolution no material adverse change has occurred in the financial position of the Authority or results of operations of the Authority; (2) since the date of the Resolution, the Authority has not incurred any material liabilities other than in the ordinary course of business or as disclosed in writing to the Lender; (3) to his knowledge, no event materially affecting the Authority has occurred since the date of the Resolution which has not been disclosed in writing to the Lender; (4) since the date of the Resolution, the designation of officers or employees as Authorized Officers has not changed; (5) to his knowledge, the representations, warranties and covenants included in this Loan Agreement are true and correct in all material respects as of the Closing Date and all covenants and obligations to be performed by the Authority under the Resolution and this Loan Agreement on or prior to the Closing Date have been performed; and (6) there is no material litigation against the Authority relating to the Note, the Loan Agreement or any related documents that would have a material affect on the Authority's operations or its ability to collect the Net Revenues or in any way materially impair the Authority's ability to repay its obligations under the Note and the Loan Agreement.;

(iii) Financing Documents. Executed counterparts of the Resolution, this Loan Agreement and the original executed Note; and

(iv) Corporate Documentation. To the extent requested by the Lender and not previously provided to the Lender, certified copies of all documents evidencing the Authority's creation and governance including, but without limitation, all bylaws, board of directors' authorizing resolutions and incumbency certificates.

(b) Evidence that the Authority has paid in full its obligations under the RCEF Loan Agreement and the related note.



3.3 Payment of Principal and Interest.

(a) Interest with respect to the Loan shall accrue at the Interest Rate from the Closing Date and continue until the Loan is repaid; provided, however, (i) upon a Determination of Taxability, the Interest Rate will be increased to a rate of interest, as determined by the parties, that would provide the Lender with an after-tax yield on the then Outstanding Principal Amount of the Loan from the date of the Event of Taxability at least equal to the after-tax yield the Lender would have received if the Determination of Taxability had not occurred; and (ii) if an Event of Default specified in Section 9.1 has occurred and is continuing, interest with respect to the Outstanding Principal Amount, or any portion thereof, shall accrue at the Default Rate as provided in Section 9.3. Interest Payments shall be due on the Interest Payment Dates. Interest shall be calculated on the basis of the actual number of days elapsed in a 360-day year.

(b) For value received, the Authority hereby promises (i) to pay interest to the Lender as provided herein on the Outstanding Principal Amount on the dates and at the rates provided in this Loan Agreement and the Note, and (ii) to make Principal Repayments to the Lender on the on July 1 in the years and in the principal amounts set forth in the following schedule:

<u>Year</u>	<u>Principal Amount</u>
2022	\$ 300,000
2023	925,000
2024	1,275,000
2025	1,400,000
2026	1,500,000
2027	19,590,900

3.4 Use of Proceeds. The Loan Proceeds shall be used by the Authority to refinance and pay the Authority's obligations under the RCEF Loan Agreement and the related note.

3.5 Making of Loan Payments. All Loan Payments shall be payable, without offset and without exchange or collection charges, in any coin or currency of the United States of America, which on the date of payment is legal tender for the payment of debts due in the United States of America. If the date for making any Loan Payment is not a Business Day, then the date for such payment shall be the next succeeding Business Day, and payment on such date shall have the same force and effect as if made on the original date such payment was due.

3.6 Prepayments.

(a) The Outstanding Principal Amount is subject to prepayment, at the option of the Authority, in whole or in part, in inverse order of maturity, on any date on or after May \_\_, 2025 (the "Par Call Date"), at a price equal to the principal amount being prepaid plus accrued but unpaid interest thereon to the prepayment date.

(b) The Outstanding Principal Amount is subject to prepayment at the option of the Authority, in whole or in part, on any date prior to the Par Call Date, at a price equal to the Make-Whole Redemption Price. The "Make-Whole Redemption Price" is the greater of: (i) 100% of the

remaining principal amount of the Loan to be redeemed, or (ii) the sum of the present value of the remaining scheduled payments of principal and interest to the Par Call Date of the Loan to be redeemed, not including any portion of those payments of interest accrued and unpaid as of the date on which the Loan is to be redeemed, discounted to the date on which the Loan is to be redeemed on a semi-annual basis, assuming a 360-day year consisting of twelve 30-day months, at the Treasury Rate (as hereinafter defined) plus 49 basis points, plus, in each case, accrued and unpaid interest on the Loan to be redeemed on the redemption date. The “Treasury Rate” is, as of any redemption date, the yield to maturity as of such redemption date of United States Treasury securities with a constant maturity (as compiled and published in the most recent Federal Reserve Statistical Release H.15 that has become publicly available at least two (2) Business Days prior to the redemption date (excluding inflation indexed securities) (or, if Federal Reserve Statistical Release H.15 is no longer published, any publicly available source of similar market data)) most nearly equal to the weighted average remaining life of the principal installments to be redeemed as of the redemption date.

(c) The Authority shall notify the Lender in writing of any prepayment pursuant to subsections (a) and (b) above at least five Business Days prior to the prepayment date. Any such prepayment may be made from Net Revenues, the proceeds of the issuance of debt obligations or any other legally available funds of the Authority.

## **ARTICLE IV**

### **SECURITY AND SOURCE OF PAYMENT FOR LOAN PAYMENTS;**

#### **ADDITIONAL OBLIGATIONS**

4.1 Pledge and Source of Payment. The Note and the obligations under the Loan Agreement are secured by a senior lien pledge of the Net Revenues. In addition, the obligation of Authority to repay the Note and to make any other payment due under the Loan Agreement is an unsecured obligation of the Authority payable from any legally available funds of the Authority.

4.2 Evidence of Indebtedness and Security Agreement.

(a) A fully executed copy of this Loan Agreement and the Note shall evidence the indebtedness of the Authority as provided herein and shall constitute a security agreement pursuant to applicable law, with the Lender as the secured party. The grants, charge, lien, pledge and security interest of the Lender created herein shall become effective immediately upon and from the Closing Date, and the same shall be continuously effective for so long as the Loan, or any portion thereof, is outstanding.

(b) A fully executed copy of this Loan Agreement and the proceedings authorizing same shall be kept at all times by the Authority and shall be filed among the permanent records of the Authority. Such records shall be open for inspection, at all times during regular business hours, to any member of the general public and to any individual, firm, corporation, governmental entity or other person proposing to do or doing business with, or having or asserting claims against, the Authority.

4.3 Additional Obligations. The Authority reserves the right, with the prior written consent of the Lender, to issue or incur, for any lawful purpose, lines of credit or additional debt obligations payable from and secured, in whole or in part, by Net Revenues, on a parity with or subordinate to the pledge of and lien on Net Revenues securing the Loan, subject to and in accordance with the terms of the Interlocal Agreement. The Authority confirms that, except for the RCEF Loan Agreement and the related note that are being prepaid concurrently with the execution and delivery of the Loan Agreement and the Note, on the Closing Date the Authority has no other senior lien debt payable from Net Revenues.

4.4 Perfection of Security. Section 370.114 of the Texas Transportation Code applies to the aforementioned pledge of, and lien on, the Net Revenues, and such pledge and lien are, therefore, enforceable against any person or entity having a claim, in tort, contract, or other remedy, against the Authority without regard to whether such person or entity has notice of the pledge and lien created hereby. Should Texas law be amended or modified at any time while the Loan, or any portion thereof, is outstanding, the result of such amendment or modification being that the pledge of, and lien on, the Net Revenues is to be subject to the requirements of Chapter 9, Texas Business & Commerce Code (the "UCC"), in order to perfect the Lender's security interest in the Net Revenues created hereby, the Authority agrees to take such measures as the Lender determines are reasonably necessary to enable such perfection under the UCC.

## **ARTICLE V**

### **CREATION OF FUNDS; APPLICATION OF LOAN PROCEEDS**

5.1 Creation of Funds. There is hereby reestablished and affirmed in the Authority's name the following funds:

- (1) MOPAC Revenue Fund (the "Revenue Fund");
- (2) MOPAC Operating Fund (the "Operating Fund");
- (3) MOPAC Loan Repayment Fund (the "Loan Repayment Fund"); and
- (4) MOPAC General Fund (the "General Fund").

All of such funds shall be maintained at a depository bank of the Authority as a separate, segregated account, separate and apart from all other funds and accounts of the Authority, and shall be maintained and applied in the manner provided herein. The Authority reserves the right to establish one or more additional funds for such purposes as the Authority may determine from time to time. The Authority further reserves the right to establish one or more accounts and subaccounts within each fund including, without limitation, accounts and subaccounts for the purpose of accounting for debt obligation proceeds, Revenues and other amounts relating to additional debt obligations and for such other purposes as the Authority may determine from time to time. Each such account or subaccount within a fund shall be designated in a manner that indicates the identity of such fund and that distinguishes such account or subaccount from all other accounts and subaccounts established by the Authority.

5.2 Flow of Funds. All Revenues shall be deposited as received and accounted for by the Authority into the Revenue Fund. Amounts on deposit in the Revenue Fund shall be deposited in, or credited to, as appropriate, the following funds on the twenty-fifth (25th) day of each month (each, a “Transfer Date”) following the date of execution and delivery of this Loan Agreement in the following amounts in the following order of priority:

First, to the Operating Fund, an amount sufficient to make the balance in the Operating Fund equal to one-sixth (1/6) of the budgeted Operating Expenses and Maintenance Expenses for such fiscal year; provided, the monthly payment may be increased or decreased, as necessary, to reflect amendments to the budgeted Operating Expenses and Maintenance Expenses or to take into consideration amounts then on deposit in the Operating Fund.

Second, to the Loan Repayment Fund, an amount equal to the sum of the following:

(i) one-sixth of the amount of interest becoming due on the Loan on the next succeeding Interest Payment Date; provided, that with respect to the Interest Payment date occurring on July 1, 2022, the amount of interest payable on such date shall be deposited to the Loan Repayment Fund in equal monthly installments on the Transfer Dates in May and June, 2022; and

(ii) one-twelfth (1/12) of the principal amount of the Loan that will mature and become due and payable within the next twelve months; provided, that with respect to the Principal Repayment due on July 1, 2022, the amount of such Principal Repayment shall be deposited to the Loan Repayment Fund in equal monthly installments on the Transfer Dates in May and June 2022.

In calculating such monthly deposit to the Loan Repayment Fund the Authority may take into account (a) any amounts deposited to the Loan Repayment Fund by the Authority from any source (other than the Revenue Fund) on or prior to the Transfer Date and (b) any investment income realized by the Authority from the investment of amounts on deposit in the Loan Repayment Fund.

On or before each Transfer Date, the Authority shall make up any deficiencies in deposits to the Loan Repayment Fund on prior Transfer Dates from and to the extent monies remain on deposit in the Revenue Fund.

Third, to such funds and accounts as may be established by the Authority in connection with subordinate lien debt obligations entered into by the Authority, such amounts as may be required by the instruments establishing and relating to such subordinate lien debt obligations; and

Fourth, to the General Fund all amounts remaining on deposit in the Revenue Fund.

5.3 MOPAC Operating Fund. There shall be deposited to the Operating Fund such amounts as are required pursuant to Section 5.2. The Authority reserves the right to deposit to the Operating Fund such other amounts as it deems necessary or desirable from any funds of the Authority that are lawfully available for such purpose. Amounts on deposit in the Operating Fund shall be applied by the Authority, from time to time, to pay Operating Expenses and Maintenance Expenses of the Transportation Project. In making payments from the Operating Fund, the Authority shall be deemed to be certifying that obligations in such amounts have been incurred by

the Authority and that each item was properly incurred in operating the Transportation Project and has not been previously paid.

5.4 MOPAC Loan Repayment Fund. There shall be deposited to the Loan Repayment Fund such amounts as are required pursuant to Section 5.2. The Authority reserves the right to deposit to the Loan Repayment Fund such other amounts as it deems necessary or desirable from any funds of the Authority that are lawfully available for such purpose. The Authority shall pay out of the Loan Repayment Fund to the Lender (a) on or before each Interest Payment Date, the amount required for the payment of the interest becoming due on such Interest Payment Date and (b) on or before each date on which principal matures or becomes payable pursuant to an optional prepayment of the Loan, in whole or in part, by the Authority, the amount required for payment of the principal amount maturing or being prepaid on such date.

If at the time the Authority is required to make a withdrawal from the Loan Repayment Fund the moneys therein shall not be sufficient for such purpose, the Authority shall withdraw the amount of such deficiency from the moneys on deposit in the following funds and transfer the same to the Loan Repayment Fund in the following order: the Revenue Fund and the General Fund. Any amounts on deposit in the Loan Repayment Fund on the Closing Date relating to the RCEF Loan Agreement shall be transferred to the General Fund.

5.5 MOPAC General Fund. Moneys in the General Fund shall be used by the Authority as provided in Section 5.4 to restore deficiencies in the Loan Repayment Fund. Notwithstanding the foregoing, moneys in the General Fund may be expended by the Authority at any time for any of the following purposes, with no one item having priority over any of the others:

- (a) to make payments under, or to reimburse the Authority for payments made by the Authority under, the Interlocal Agreement;
- (b) to pay Maintenance Expenses and Operating Expenses;
- (c) to fund or reimburse costs of improvements, extensions and replacements of the Transportation Project; or
- (d) for any other lawful purpose.

5.6 Investment of Funds; Transfer of Investment Income. Money in the Revenue Fund, Operating Fund, Loan Repayment Fund, and General Fund may, at the option of the Authority, be invested as permitted by applicable law and in accordance with the Authority's Investment Policy; provided that all such investments shall be made in such manner that the money within such fund will be available at the time or times required for the disbursement of such amounts from such fund in accordance with the requirements of this Agreement. Any such investment shall be kept and held in such fund. All such investments shall be promptly sold when necessary to provide for the payment of amounts due hereunder. All interest and/or income derived from such investments shall be credited, as received, to such fund.

## ARTICLE VI

### COVENANTS OF THE AUTHORITY

6.1 General Covenants of the Authority. The Authority agrees, promises and covenants with and to the Lender, as follows:

(a) The Authority will (i) make or cause to be made each Loan Payment when due, according to the terms of this Loan Agreement, (ii) deposit or cause to be deposited at the times and in the manner prescribed by this Loan Agreement, the amounts of money to the accounts specified herein, and (iii) faithfully do and perform, and at all times observe, the agreements, promises, covenants, undertakings, stipulations and provisions contained in this Loan Agreement, the Note and the related documents.

(b) The Authority will provide the Lender, upon any Authorized Officer having actual knowledge thereof, with notice of any Event of Default hereunder or any event that, with the passage of time, the giving of notice, or both, would constitute or become an Event of Default.

(c) Commencing with the fiscal year ending June 30, 2022, the Authority will deliver to the Lender no later than 180 days after the end of each fiscal year of the Authority for so long as the Loan or any portion thereof remains outstanding (i) the audited financial statements of the Authority as of and for the period ended as of the most recently completed fiscal year of the Authority, prepared in accordance with generally accepted accounting principles or such other accounting principles as the Authority may be required to employ from time to time pursuant to State law or regulation, together with an opinion from an independent certified public accountant, or independent firm of certified public accountants, with respect thereto; provided, that the auditor's opinion shall not contain a qualification (A) to the effect that the Authority is not a going concern or (B) on account of a limitation of scope within the control of the Authority and (ii) internally prepared income statements for the Transportation Project.

(d) The Authority shall, no later than 30 days following the end of each month following the Closing Date and for so long as the Loan or any portion thereof remains outstanding, post on its website monthly financial statements.

(e) The Authority shall at any and all times, so far as it may be authorized by law, pass, make, do, execute, acknowledge and deliver, all and every such further resolutions, acts, deeds, conveyances, assignments, transfers and assurances as may be necessary or desirable to effect the transactions contemplated by this Loan Agreement assuring, conveying, granting, assigning, securing and confirming all and singular Lender's rights in and to the Net Revenues and other moneys, securities, funds and accounts, if any, hereby pledged or assigned, or intended so to be pledged or assigned, or which the Authority may become bound to pledge or assign, and the Net Revenues and other moneys, securities, funds and accounts, if any, so pledged are and will be free and clear of any pledge, lien, charge or encumbrance thereon or with respect thereto superior to, or on parity with, the pledge created by this Loan Agreement, other than as permitted by such documents, and all corporate action on the part of the Authority to that end has been duly and validly taken or will be duly and validly taken when required. This Loan Agreement and the Note are and will be valid and legally enforceable obligations of the Authority in accordance with their

terms. The Authority shall at all times, to the extent permitted by law, defend, preserve and protect the pledge of the Net Revenues and other moneys, securities, funds and accounts, if any, pledged hereunder and all the rights of the Lender hereunder against all claims and demands of all persons whomsoever.

(f) The Authority shall, within five (5) Business Days after the Authority learns of the occurrence, provide the Lender notice of any of the following events, setting forth details of such event:

(i) Events of Defaults - any Event of Default or any event which, given notice or the passage of time or both, would constitute or become an Event of Default by the Authority;

(ii) Litigation - the filing of any litigation, suit or action, or delivery to the Authority of any written claim, which could reasonably be expected to have a material adverse effect upon the Authority's revenues or expenses, or upon the Authority or its performance hereunder or under the Note; and

(iii) Other Adverse Events - the occurrence of any other event or condition which could reasonably be expected to have a material adverse effect upon the Authority or its performance hereunder or under the Note.

(g) Within thirty (30) days after an event specified in Section 6(f) above, the Authority shall provide a statement of an Authorized Officer setting forth the actions the Authority proposes to take with respect thereto.

(h) So long as the Loan, or any portion thereof, is outstanding, the Authority shall not extinguish the lien of this Loan Agreement (or any related UCC financing statement filed with respect thereto) with respect to the Note and the Net Revenues.

(i) So long as the Loan, or any portion thereof, is outstanding, the Authority shall not enter into any amendment or other modification of the Interlocal Agreement without the prior written consent of the Lender (which consent shall not be unreasonably withheld, conditioned or delayed) if such amendment or modification would adversely affect the rights of the Lender under this Loan Agreement.

(j) The Authority shall use its good faith efforts to maintain its existence as a regional authority and political subdivision of the State and shall not consolidate with or merge into any other person or entity unless provision is made for the payment of the Loan Payments required hereunder.

(k) When and to the extent required by applicable law, the Authority shall obtain and thereafter maintain at all times all licenses, permits or other approvals required for the overall operations of the Authority.

(l) The Authority shall pay when due from Net Revenues or other available funds the Note and other obligations of the Authority.

(m) The Authority will maintain its right to operate, maintain and collect Revenues from the Transportation Project.

(n) The Authority shall only invest its Revenues as provided by Texas law and the Authority's Investment Policy.

(o) The Authority hereby covenants that it will at all times budget and collect rates for services rendered by the Transportation Project as required by applicable Law. Additionally, the Authority shall budget and collect rates from services on the Transportation Project reasonably estimated to produce Net Revenues in an amount equal to 120% of the aggregate amount required to be paid in such year for principal and interest on all outstanding senior lien debt ("Annual Debt Service") of the Transportation Project. In the event that the 120% rate covenant is not met at the end of any fiscal year-end of the Authority, the Authority will engage a traffic and revenue consultant and implement such Consultant's recommendations for the following fiscal year. Failure by the Authority to produce Net Revenues in an amount equal to or greater than 120% of Annual Debt Service for two consecutive fiscal years shall constitute an Event of Default hereunder. Further, if the Authority shall become legally liable for any other indebtedness payable from the Revenues, the Authority will fix and maintain rates and collect charges for the services of the Transportation Project sufficient to discharge such indebtedness.

## 6.2 Federal Income Tax Matters Relating to the Note.

(a) General. The Authority covenants not to take any action or omit to take any action that, if taken or omitted would cause the interest on the Note to be includable in gross income for federal income tax purposes. In furtherance thereof, the Authority covenants to comply with sections 103 and 141 through 150 of the Code and the provisions set forth in the Federal Tax Certificate executed by the Authority in connection with the Note.

(b) No Private Activity Bonds. The Authority covenants that it will use the proceeds of the Note (including investment income) and the property financed, directly or indirectly, with such proceeds so that the Note will not be a "private activity bond" within the meaning of section 141 of the Code. Furthermore, the Authority will not take a deliberate action (as defined in section 1.141-2(d)(3) of the Regulations) that causes the Note to be a "private activity bond" unless it takes a remedial action permitted by section 1.141-12 of the Regulations.

(c) No Federal Guarantee. The Authority covenants not to take any action or omit to take any action that, if taken or omitted, would cause the Note to be "federally guaranteed" within the meaning of section 149(b) of the Code, except as permitted by section 149(b)(3) of the Code.

(d) No Hedge Bonds. The Authority covenants not to take any action or omit to take action that, if taken or omitted, would cause the Note to be a "hedge bond" within the meaning of section 149(g) of the Code.

(e) No Arbitrage Bonds. The Authority covenants that it will make such use of the proceeds of the Note (including investment income) and regulate the investment of such proceeds of the Note so that the Note will not be an "arbitrage bond" within the meaning of section 148(a) of the Code.



(f) Required Rebate. The Authority covenants that, if the Authority does not qualify for an exception to the requirements of section 148(f) of the Code, the Authority will comply with the requirement that certain amounts earned by the Authority on the investment of the gross proceeds of the Note, be rebated to the United States.

(g) Information Reporting. The Authority covenants to file or cause to be filed with the Secretary of the Treasury an information statement concerning the Note in accordance with section 149(e) of the Code.

(h) Record Retention. The Authority covenants to retain all material records relating to the expenditure of the proceeds (including investment income) of the RCEF Loan Agreement and the related promissory note and the Note and the use of the property financed, directly or indirectly, thereby until three years after the Note is prepaid or paid at maturity (or such other period as provided by subsequent guidance issued by the Department of the Treasury) in a manner that ensures their complete access throughout such retention period.

(i) Favorable Opinion of Bond Counsel. Notwithstanding the foregoing, the Authority will not be required to comply with any of the federal tax covenants set forth above if the Authority has received an opinion of nationally recognized bond counsel that such noncompliance will not adversely affect the excludability of interest on the Note from gross income for federal income tax purposes.

(j) Continuing Compliance. Notwithstanding any other provision of this Loan Agreement, the Authority's obligations under the federal tax covenants set forth in this Section 6.1 will survive the defeasance and discharge of the Note for as long as such matters are relevant to the excludability of interest on the Note from gross income for federal income tax purposes.

## ARTICLE VII

### REPRESENTATIONS AND WARRANTIES

7.1 Warranties and Representations of the Authority. To induce the Lender to enter into this Loan Agreement and to make the Loan, the Authority hereby represents and warrants to the Lender as follows:

(a) Due Organization: Existence. The Authority is (i) a regional mobility authority and a political subdivision of the State, (ii) created and organized pursuant to and in accordance with the provisions of Chapter 361, Texas Transportation Code, and (iii) operating pursuant to the Act.

(b) Authority. The Authority has full right, power and authority to execute, deliver and perform its obligations under this Loan Agreement and the Note and to consummate the transactions contemplated by this Loan Agreement and the Note.

(c) Due Authorization. Pursuant to the Texas Constitution, general laws of the State of Texas and Chapter 370 Texas Transportation Code, the Authority has duly authorized all necessary action to be taken by it for (i) the execution and delivery of this Loan Agreement and (ii) the execution, delivery and receipt of any and all such other agreements and documents as may be required to be executed, delivered and received by the Authority in order to carry out, give

effect to and consummate the transactions contemplated by this Loan Agreement, including but without limitation the Note. The Resolution (i) was duly and lawfully adopted by the duly appointed Board of Directors of the Authority at a meeting with respect to which notice was given as required by law and at which a quorum was in attendance, (ii) has not been amended, repealed, rescinded, supplemented or otherwise modified since the date thereof and no resolution conflicting with the terms of the Resolution has been adopted since the adoption of the Resolution and (iii) is now in full force and effect.

(d) Execution and Enforceability. On the Closing Date, the Resolution will be in full force and effect and will constitute the legal and valid act of the Authority, and this Loan Agreement and the Note will have been duly executed and delivered by the Authority, and, assuming the due authorization, execution and delivery of such instruments by the other parties thereto and their authority to perform such instruments, this Loan Agreement and the Note will constitute the legal, valid and binding obligation of the Authority, enforceable in accordance with their terms (except to the extent that such enforceability may be limited by bankruptcy, insolvency, reorganization and other laws affecting the rights of creditors of political subdivisions generally).

(e) No Conflict. The authorization, execution and delivery by the Authority of this Loan Agreement and any other documents contemplated hereby (including but without limitation the Note) and compliance by the Authority with the provisions of such documents do not and will not conflict with or constitute on the part of the Authority a breach of or a default under any provision of the Constitution of the State or any existing law, administrative regulation, or any court or administrative decree or order issued wherein the Authority is a party, or any agreement, indenture, mortgage, lease or other instrument entered into by the Authority by which the Authority or its properties are, or on the Closing Date will be, bound, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Authority, or conflict with the organizational documents of the Authority.

(f) No Adverse Actions. Except as otherwise disclosed to the Lender in writing, to the knowledge of the Authority, there is no action, suit, proceeding, inquiry or investigation at law or in equity before or by any court, public board or body pending against or affecting the Authority or threatened against or affecting the Authority or contesting the due organization and valid existence of the Authority or the validity of the Act or wherein an unfavorable decision, ruling or finding would adversely affect (i) the transactions contemplated hereby or by the Resolution or the validity or due adoption of the Resolution or the validity, due authorization and execution of this Loan Agreement or any agreement or instrument or to which the Authority is a party and which is used or contemplated for use in the consummation of the transactions contemplated hereby (including but without limitation the Note); or (ii) the condition or operations of the Authority or the collection of Revenues by the Authority or on behalf of the Authority.

(g) No Consent. No consent or approval of any trustee, holder of any indebtedness of the Authority or any other person, and no consent, approval, permission, authorization, order or license of, or filing or registration with, any governmental entity is necessary in connection with the execution and delivery of this Loan Agreement or the Note, the consummation of any transaction herein contemplated, or the fulfillment of or compliance with the terms and conditions hereof, except as have been obtained or given and as are in full force and effect.

(h) No Defaults. The Authority will not be in default under the terms and provisions of this Loan Agreement on the Closing Date, and the Authority will not be, on the Closing Date, in default under any other agreement, indenture, lease, deed of trust, note or other instrument entered into by the Authority or by which it or its properties are or may be bound, which would have a material adverse effect on the condition of the Authority, financial or otherwise, or otherwise materially affect its ability to perform its covenants and obligations under this Loan Agreement.

(i) Validity. This Loan Agreement, when executed and delivered, will have been duly authorized, executed and delivered and will constitute the legal, valid and binding obligation of the Authority entitled to the benefits and rights hereof; further, this Loan Agreement establishes the valid pledge of and lien on the Net Revenues which it purports to create, and such pledge and lien are in full force and effect.

(j) No Prior Liens. Except to the extent set forth in or contemplated in the Interlocal Agreement, the Authority has never issued, assumed, guaranteed or otherwise become liable in respect of any bonds, notes, contracts, arrangements or obligations of any kind whatsoever that might give rise to any lien or encumbrance on the Net Revenues.

(k) No Change. Except as disclosed in writing to the Lender, the Authority has not incurred any liabilities or entered into any transactions, not in the ordinary course of business, that are material to the affairs of the Authority since the date of the Resolution, and there has not been any material change in the financial structure of the Authority or any material change in the conditions or general affairs of the Authority since the date of the Resolution.

(l) Tax Matters. Neither the Authority nor the income of the Authority is subject to taxation under the Internal Revenue Code of 1986, as amended, or any taxation imposed by the State or any political subdivision thereof, and the delivery of the Loan Agreement and Note by the Authority is not subject to any transfer or other documentary or stamp taxes of the State or any political subdivision thereof.

(m) Payment of Indebtedness. The indebtedness of the Authority under this Loan Agreement and the Note is expected to be paid in full over their term from the Net Revenues and other available revenues of the Authority.

Any inquiry undertaken by or on behalf of the Lender shall not affect the Lender's ability to rely on the representations and warranties set forth herein.

## **ARTICLE VIII**

### **INVESTMENTS; SECURITY**

8.1 Investment of Deposits. The Authority may place amounts on deposit in the Loan Repayment Fund (including investment earnings thereon) in time deposits or invest the same as authorized by applicable law and the Authority's Investment Policy.

8.2 Security for Deposits. All deposits authorized or required by this Loan Agreement shall be secured to the fullest extent required by applicable law for the security of public funds.

## ARTICLE IX

### EVENTS OF DEFAULT

9.1 Events of Default. Each of the following occurrences or events, for the purpose of this Loan Agreement, shall be an Event of Default:

(a) failure to make any payment of debt service on any outstanding indebtedness owed by the Authority to the Lender including, but without limitation, any Loan Payment (or portion thereof) when due and payable;

(b) default in the performance or observance of any other covenant, agreement or obligation of the Authority expressly set forth in this Loan Agreement, and/or the Note and the continuation thereof for a period of thirty (30) days after written notice of such default is given by the Lender to the Authority;

(c) any representation or warranty made to the Lender by the Authority herein shall be determined to have been materially false, incorrect or incomplete when made;

(d) the Authority shall fail to maintain its existence as a political subdivision of the State without making provision for the repayment of its outstanding indebtedness (including but without limitation the Loan) or shall admit its inability to generally pay its debts as they mature, or shall make an assignment for the benefit of its creditors; or there shall be commenced against or by the Authority proceedings in bankruptcy, or for reorganization of the Authority, or for the readjustment of any of its debts under the United States Bankruptcy Code, as amended or any proceeding under any other applicable laws, whether state or federal, for the relief of debtors, or for a receiver of the Authority or any substantial part of its property, and, except with respect to any such proceedings instituted by the Authority, such proceedings shall not be discharged within sixty (60) days after their commencement;

(e) the Authority shall suffer a final judgment for the payment of money in excess of \$5,000,000 payable from Net Revenues and shall not discharge the same within a period of sixty (60) days following such judgment unless, pending further proceedings, execution upon such judgment has not been commenced or, if commenced, has been effectively stayed; or

(f) a judgment or other creditor of the Authority shall obtain, or seek to obtain, possession of the Net Revenues by levy, seizure or attachment.

9.2 Remedies Upon Default. Notwithstanding any other provision of this Loan Agreement and/or the Note to the contrary, and to the extent permitted by applicable law, upon the occurrence of any Event of Default hereunder, then and in every case, the Lender may declare the Outstanding Principal Amount and accrued but unpaid interest hereunder to be immediately due and payable, and the Lender may proceed against the Authority for the purpose of protecting and enforcing the Lender's rights under this Loan Agreement and/or the Note, including (but not

limited to) enforcing the pledge of, security interest in and lien and charge on the Net Revenues against all parties in possession of any Net Revenues at any time, by mandamus or other suit, action or special proceeding in equity or at law, in any court of competent jurisdiction, for any relief permitted by applicable law, including (but not limited to) the specific performance of any covenant, obligation or agreement contained under this Loan Agreement and/or the Note, or thereby to enjoin any act or thing that may be unlawful or in violation of any right of the Lender hereunder or thereunder, or any combination of such remedies as the Lender, in its sole discretion, shall determine.

9.3 Default Rate. Upon the occurrence and during the continuance of an Event of Default under this Loan Agreement and/or the Note, the entirety of the Outstanding Principal Amount shall bear interest at the Default Rate, subject to the provisions of Section 12.12 herein.

9.4 No Waiver. No failure on the part of the Lender to exercise, and no delay on the part of the Lender in exercising, any right hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right. All rights and remedies of the Lender under this Loan Agreement and/or the Note are cumulative and concurrent and are in addition to, and not exclusive of, any rights or remedies afforded the Lender under any applicable law.

## **ARTICLE X**

### **DISCHARGE; TERMINATION**

10.1 Discharge By Payment. When all of the amounts due or to become due under this Loan Agreement and/or the Note have been paid in full by or on behalf of the Authority, this Loan Agreement shall terminate, the Authority's obligations and the lien on Net Revenues under this Loan Agreement shall be discharged and released and the Lender shall execute and deliver to the Authority such releases or other instruments as are reasonably required to release such lien or otherwise evidence such discharge.

## **ARTICLE XI**

### **NOTICE**

11.1 Notice. Any notice, demand, direction, request or other instrument authorized or required by this Loan Agreement to be given or filed with the Authority or the Lender shall be in writing and shall be deemed to have been given three (3) Business Days after mailing only upon receipt by the party to whom such is directed. Any such notice shall be sent by first class mail, postage prepaid, to the address specified below, or to such other address as may be designated in writing by the parties:

Authority: Central Texas Regional Mobility Authority  
3300 N IH-35, Suite 300  
Austin, TX 78705  
Attention: Chief Financial Officer

Lender: Regions Capital Advantage, Inc.  
\_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_

## ARTICLE XII

### MISCELLANEOUS

12.1 Legal Holidays. If the date fixed for making any Loan Payment is not a Business Day, then payment need not be made on such date, but may be made on the next succeeding day which is a Business Day with the same force and effect as if made on the date fixed for payment, and no interest shall accrue on such Loan Payment for the period of time from the dated fixed for payment to the date of actual payment.

12.2 No Recourse Against Authority Officials. No recourse shall be had for the making of Loan Payments or for any claim based thereon or on this Loan Agreement against any Authorized Officer, any other official or representative of the Authority or any person executing this Loan Agreement on behalf of the Authority.

12.3 Authority Successors and Assigns. Whenever in this Loan Agreement the Authority is named and referred to it shall be deemed to include its successors and assigns, and all covenants, obligations and agreements in this Loan Agreement by or on behalf of the Authority, except as otherwise provided herein, shall bind and inure to the benefit of its successors and assigns whether or not so expressed.

12.4 Benefit of Agreement Provisions. Nothing in this Loan Agreement, express or implied, shall give or be construed to give any person, firm or corporation, other than the Authority and the Lender, any legal or equitable right or claim under or in respect of this Loan Agreement, the Note, or under any covenant, condition or provision herein or therein contained, such covenants, conditions or provisions being for the sole benefit of the Authority and the Lender.

12.5 Further Proceedings. The Authorized Officers and other appropriate officials of the Authority are hereby authorized and directed to do any and all things necessary and/or convenient to carry out the terms and provisions of this Loan Agreement.

12.6 Increased Costs and Reduced Return. If at any time after the date hereof, the Lender (which shall include, for purposes of this Section, any entity controlling the Lender) determines a (i) Change in Law has occurred resulting in changes to the Lender's required levels of reserves, deposits, insurance or capital (including any allocation of capital requirements or conditions), or similar requirements, or any interpretation or administration thereof by any court or applicable authority or compliance by the Lender with any of such requirements, has the effect of (a) increasing the Lender's costs relating to the Loan and the Note, or (b) reducing the yield or rate of return of the Lender on the Loan and the Note, to a level below that which the Lender could have achieved but for the adoption or modification of any such requirements, then the Authority, to the extent permitted by law, shall pay to the Lender, within sixty (60) days of any written request (specifying in reasonable detail the basis for and calculation of such additional amounts) by the

Lender such additional amounts as will compensate the Lender for such increase in costs or reduction in yield or rate of return of the Lender. The Lender shall make such demand as soon as reasonably possible upon becoming aware of such determination; provided, however, no failure by the Lender to promptly demand payment of any additional amounts payable hereunder shall constitute a waiver of the Lender's right to demand payment of such amounts at any subsequent time. Nothing herein contained shall be construed or so operate as to require the Authority to pay any interest, fees, costs or charges greater than is permitted by applicable law.

12.7 Anti-Corruption Laws. To the undersigned's knowledge, the Authority and its board members, officers and employees are in compliance with Anti-Corruption Laws and applicable Sanctions in all material respects. To the knowledge of the Authority, no use of proceeds or other transaction contemplated by this Agreement will be used in a manner that would violate Anti-Corruption Laws or applicable Sanctions.

12.8 Severability. To the extent any provision of this Loan Agreement is prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Loan Agreement.

12.9 Counterparts. This Loan Agreement may be executed in any number of counterparts with the same force and effect as if there were only one single instrument. If counterparts of this Loan Agreement are executed, the signatures of the parties affixed thereto may be combined and treated and given effect for all purposes as a single instrument.

12.10 Open Meeting. The Authority hereby officially finds and determines that the meeting at which this Loan Agreement and corresponding Note was approved was open to the public, and that public notice of the time, place and purpose of such meeting was given, all as required by the Texas Open Meetings Act.

12.11 Governing Law. THIS LOAN AGREEMENT SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE STATE OF TEXAS, WITHOUT REGARD TO SUCH STATE'S CONFLICTS OF LAWS PRINCIPLES.

12.12 Usury Savings.

(a) Notwithstanding anything contained herein or in the Note to the contrary, to the extent permitted by law, (i) if at any time the Interest Rate or Default Rate, as the case may be, exceeds the Highest Lawful Rate, then (x) interest at the Highest Lawful Rate shall be due and payable and (y) interest at the rate equal to the difference between (A) the applicable rate and without regard to the limitation of this Section 12.12 and (B) the Highest Lawful Rate (the "Excess Interest Amount") shall be deferred until such date as the applicable rate ceases to exceed the Highest Lawful Rate, at which time the Authority shall pay to the Lender, with respect to amounts then payable to the Lender that are required to accrue interest hereunder, such portion of the Excess Interest Amount as will cause the rate of interest then paid to the Lender to equal the Highest Lawful Rate, which payments of the Excess Interest Amount shall continue to apply to such unpaid amounts hereunder and under the Note, to the greatest extent permitted by law, until all Excess Interest Amount is fully paid to the Lender; provided, however, that no payment of any portion of

the Excess Interest Amount shall occur after the final maturity of the Note. Upon the termination of this Agreement, to the extent permitted by applicable law, in consideration for the limitation of the rate of interest otherwise payable hereunder, the District shall pay to the Lender a fee equal to the amount of all unpaid portions of the Excess Interest Amount; provided, that such fee shall not cause the net effective interest rate on the Note to exceed the Highest Lawful Rate.

(b) The provisions of this Section 12.12 shall control over any provision of this Loan Agreement with which it may be in conflict, notwithstanding that such other provision may provide that it controls.

12.13 Amendments. No amendment of any term or provision hereof shall be effective unless it is in writing and signed by the Lender and the Authority.

12.14 Entirety. This Loan Agreement and corresponding Note embodies the entire agreement among the parties regarding the subject matter hereof and thereof and supersede all prior agreements and understandings, if any, relating to the subject matter hereof and thereof. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, THIS LOAN AGREEMENT AND CORRESPONDING NOTE REPRESENT THE FINAL AGREEMENT AMONG THE PARTIES AS TO THE SUBJECT MATTER HEREOF AND THEREOF AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES; AND THERE ARE NO UNWRITTEN ORAL AGREEMENTS AMONG THE PARTIES.

12.15 Fees and Expenses. The Authority hereby agrees to pay all costs and expenses of the Authority incurred in connection herewith, including but without limitation the reasonable fees and expenses of the Lender's legal counsel, in an amount not to exceed \$20,000.

12.16 Privately Negotiated Loan. The Lender acknowledges and agrees as follows:

- (i) the Note will not be rated by any municipal securities rating agency;
- (ii) the Note will not bear or be assigned any CUSIP number;
- (iii) the Note will not be registered with The Depository Trust Company or other securities depository;
- (iv) the Note will not be executed and delivered pursuant to any type of offering document or official statement;
- (v) the Authority has furnished the Lender with all necessary information desired for the Lender to make an informed decision concerning the disbursement of Loan Proceeds to the Authority, and the Lender has made such inspections and investigations as deemed necessary by it to determine the quality of the Note and assess all risks associated with the disbursement of Loan Proceeds to the Authority and the Lender's ownership of the Note; and
- (vi) the Note is to be held for the account of the Lender as evidence of a privately negotiated loan (and not on behalf of another), and the Lender has no present intention of



reselling or assigning the Note or dividing the interest therein, either currently or after the passage of a fixed or determinable period of time or upon the occurrence or nonoccurrence of any predetermined event or circumstance.

12.17 Patriot Act. The Lender is subject to the Patriot Act (as hereinafter defined) and hereby notifies the Authority that pursuant to the requirements of the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)), the Lender is required to obtain, verify, and record information that identifies the Authority which information includes the name and address of the Authority and other information that will allow the Lender to identify the Authority in accordance with the Patriot Act.

12.18 Waiver of Jury Trial. To the extent permitted by applicable law, each of the Authority and the Lender irrevocably and voluntarily waives any right it may have to a trial by jury with respect to any controversy or claim between the Authority and the Lender, whether arising in contract or tort or by statute, including but not limited to any controversy or claim that arises out of or relates to this Loan Agreement, the Note or the transactions contemplated herein and therein.

12.19 Transfer. The Lender currently intends to hold the Loan Agreement and Note within its loan portfolio, however, the Lender shall maintain the right to transfer and/or assign, in whole or in part, its rights hereunder, under the laws of the State of Texas, or, in either case, any interest therein, to any person or entity in its sole and absolute discretion. The Authority may not assign its rights hereunder or under Loan Agreement or Note to any person without the prior written consent of the Lender.

12.20 EMMA Posting. Except as otherwise required by applicable law, rule or regulation, Authority shall not file or submit, or permit the filing or submission, of all or any portion of the Loan Agreement, the Note or any related document (containing any proprietary information of the Lender) with the Municipal Securities Rulemaking Board's Electronic Municipal Market Access system (or any successor continuing disclosure vehicle) unless such document or portion thereof, as applicable, to be so filed or submitted (i) has been submitted to the Lender in advance of such filing or submission and (ii) shall have been redacted to the extent required by the Lender.

12.21 Compliance with Texas Government Code.

(a) The Lender hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott Israel and, to the extent this Agreement is a contract for goods or services, will not boycott Israel during the term of this Agreement. The foregoing verification is made solely to comply with Section 2271.002, Texas Government Code, and to the extent such Section does not contravene applicable Federal law. As used in the foregoing verification, "boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. The Lender understands "affiliate" to mean an entity that controls, is controlled by, or is under common control with the Lender and exists to make a profit.

(b) The Lender represents that neither it nor any of its parent company, wholly- or majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer's internet website:

<https://comptroller.texas.gov/purchasing/docs/sudan-list.pdf>,  
<https://comptroller.texas.gov/purchasing/docs/iran-list.pdf>,  
<https://comptroller.texas.gov/purchasing/docs/fto-list.pdf>.

The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable Federal law and excludes the Lender and each of its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. The Lender understands "affiliate" to mean an entity that controls, is controlled by, or is under common control with the Lender and exists to make a profit.

(c) To the extent this Agreement constitutes a contract for goods or services for which a written verification is required under Section 2274.002, Texas Government Code (as added by Senate Bill 13, 87th Texas Legislature, Regular Session) as amended, the Lender hereby verifies that it and its parent company, wholly- or majority- owned subsidiaries, and other affiliates, if any, do not boycott energy companies and will not boycott energy companies during the term of this Agreement. The foregoing verification is made solely to comply with Section 2274.002, Texas Government Code, as amended, to the extent Section 2274.002, Texas Government Code does not contravene applicable Texas or Federal law. As used in the foregoing verification, "boycott energy companies" shall have the meaning assigned to the term "boycott energy company" in Section 809.001, Texas Government Code. The Lender understands "affiliate" to mean an entity that controls, is controlled by, or is under common control with the Lender and exists to make a profit.

(d) To the extent this Agreement constitutes a contract for the purchase of goods or services for which a written verification is required under Section 2274.002, Texas Government Code (as added by Senate Bill 19, 87th Texas Legislature, Regular Session, "SB 19"), as amended, the Lender hereby verifies that it and its parent company, wholly-or majority- owned subsidiaries, and other affiliates, if any, do not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association; and will not discriminate during the term of this Agreement against a firearm entity or firearm trade association.

The foregoing verification is made solely to comply with Section 2274.002, Texas Government Code, as amended, to the extent Section 2274.002, Texas Government Code does not contravene applicable Texas or Federal law. As used in the foregoing verification, "discriminate against a firearm entity or firearm trade association" shall have the meaning assigned to such term in Section 2274.001(3), Texas Government Code (as added by SB 19). The Lender understands "affiliate" to mean an entity that controls, is controlled by, or is under common control with the Lender and exists to make a profit.

12.22 Role of Lender. The Lender and its representatives are not registered municipal advisors and do not provide advice to municipal entities or obligated persons with respect to municipal financial products or the issuance of municipal securities (including regarding the structure, timing, terms and similar matters concerning municipal financial products or municipal securities issuances) or engage in the solicitation of municipal entities or obligated persons for the provision by non-affiliated persons of municipal advisory services and/or investment advisory services. With respect to this Loan Agreement and any other information, materials or communications provided by the Lender: (a) the Lender and its representatives are not recommending an action to any municipal entity or obligated person; (b) the Lender and its representatives are not acting as an advisor to any municipal entity or obligated person and do not owe a fiduciary duty pursuant to Section 15B of the Securities Exchange Act of 1934 to any municipal entity or obligated person with respect to this Indenture, information, materials or communications; (c) the Lender and its representatives are acting for their own interests; and (d) the Authority has been informed that it should discuss this Loan Agreement and any such other information, materials or communications with any and all internal and external advisors and experts that the Authority deems appropriate before acting on this Loan Agreement or any such other information, materials or communications. If the Lender or any of its Affiliates should recommend an action to the Authority or any other municipal entity or obligated person in connection with this Loan Agreement or the Note, the Authority acknowledges and agrees that the Lender will not provide advice regarding the structure, timing, terms, and similar matters with respect thereto, or to letters of credit, direct loans, municipal securities, or other extensions of credit that extends beyond the Note, which the Lender plans to hold for its own account as evidence of the Loan; hence, the Lender intends for any advice and recommendations provided by the Lender in connection with the matters described herein, to the extent applicable, to qualify for the bank exemption to the "Municipal Advisor Rule" of the Securities and Exchange Commission.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties hereto have caused this Secured Loan Agreement to be executed by their duly authorized officers effective as of the date first above written.

CENTRAL TEXAS REGIONAL MOBILITY  
AUTHORITY

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

REGIONS CAPITAL ADVANTAGE, INC.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT A**

**PROMISSORY NOTE**

(this “Note”)

THIS NOTE IS SECURED BY THE NET REVENUES UNDER AND AS DEFINED IN THE SECURED LOAN AGREEMENT BETWEEN THE AUTHORITY AND THE LENDER. THE OBLIGATION OF THE AUTHORITY TO PAY THE NOTE IS AN UNSECURED OBLIGATION OF THE AUTHORITY PAYABLE FROM ANY LEGALLY AVAILABLE FUNDS OF THE AUTHORITY. THIS NOTE IS NOT AN OBLIGATION OF THE STATE, ANY COUNTY OR ANY OTHER GOVERNMENTAL ENTITY AND IS NOT PAYABLE EXCEPT AS PROVIDED IN THE SECURED LOAN AGREEMENT.

**Principal Amount: \$24,990,900**

**May \_\_, 2022**

**FOR VALUE RECEIVED, THE CENTRAL TEXAS REGIONAL MOBILITY AUTHORITY** (the “Authority”), does hereby promise to pay to the order of **REGIONS CAPITAL ADVANTAGE, INC.** (the “Lender”), in lawful money of the United States of America, the Principal Amount set forth above, on the dates and in the amounts set forth in, and in accordance with the terms of, the Secured Loan Agreement between the Authority and the Lender (the “Loan Agreement”). The Authority also will pay interest on the unpaid principal balance outstanding from time to time at the rate and at such times as set forth in the Loan Agreement, until the earlier of the maturity or prepayment hereof. The Authority may prepay the unpaid principal balance outstanding at any time in accordance with the terms of the Loan Agreement.

Notwithstanding any other provisions of this Note, interest payable on this Note, together with any other costs, consideration, or payments in the nature of and constituting interest under applicable law (whether denominated as interest or as any other type of payment hereunder or thereunder, respectively) shall not exceed, and shall automatically be reduced to, the maximum amount or rate of interest permitted by applicable law as from time to time in effect (the “Highest Lawful Rate”); and all such costs, consideration, and payments constituting interest shall be pro-rated, spread, and allocated, to the fullest extent permitted by applicable law, to such periods and loan amounts as will cause the money so paid or received to conform to and comply with applicable law and the Highest Lawful Rate.

All sums paid hereon shall be applied first to the satisfaction of interest, and then the balance to the unpaid principal amount of this Note.

**THIS NOTE** is referred to in the Loan Agreement as the “Note,” and is subject to all of the terms, conditions, and provisions thereof, including but without limitation those respecting the prepayment and the acceleration of maturity hereof. Capitalized terms used but not defined herein shall have the meaning ascribed to such terms in the Loan Agreement.

**THIS NOTE** is a contract made under and shall be construed in accordance with and governed by the laws of the State of Texas, without regard to such state’s conflicts of laws principles.

CENTRAL TEXAS REGIONAL MOBILITY  
AUTHORITY

By: \_\_\_\_\_  
Authorized Officer

**EXHIBIT B**  
**CAMPO INTERLOCAL AGREEMENT**



## INTERLOCAL AGREEMENT

**THIS INTERLOCAL AGREEMENT** (the "Agreement") is made and entered into effective as of the 27<sup>th</sup> day of June, 2012, by and between the CAPITAL AREA METROPOLITAN PLANNING ORGANIZATION ("CAMPO"), the designated metropolitan planning organization for the Austin metropolitan area, and the CENTRAL TEXAS REGIONAL MOBILITY AUTHORITY (the "Mobility Authority"), a political subdivision of the State of Texas (each a "Party", and collectively, the "Parties").

### WITNESSETH:

**WHEREAS**, 23 U.S.C. §134 requires the Governor, by agreement with units of general purpose local government in the affected area, to designate a metropolitan planning organization ("MPO") for each metropolitan planning area in the state; and

**WHEREAS**, 23 U.S.C. §134 requires each MPO so designated, in cooperation with the state, to develop long-range transportation plans and transportation improvement programs for the metropolitan planning area; and

**WHEREAS**, the Governor of Texas has designated CAMPO as the MPO for Bastrop, Caldwell, Hays, Travis, and Williamson Counties in accordance with the requirements of 23 U.S.C. §134; and

**WHEREAS**, the Mobility Authority is a regional mobility authority created pursuant to the request of Travis and Williamson Counties and operating pursuant to Chapter 370 of the Texas Transportation Code (the "RMA Act") and 43 TEX. ADMIN. CODE §§26.1 *et seq.*; and

**WHEREAS**, Chapter 791 of the Texas Government Code provides that any one or more public agencies may contract with each other for the performance of governmental functions or services in which the contracting parties are mutually interested; and

**WHEREAS**, Section 370.033 of the RMA Act provides that a regional mobility authority may enter into contracts or agreements with another governmental entity; and

**WHEREAS**, the Mobility Authority's goals include improving mobility within Travis and Williamson counties, and to further that goal, the Mobility Authority has exercised its option, pursuant to state law, to develop, construct, and operate a proposed managed lane project in the City of Austin, Travis County, along an 11-mile portion of Loop 1 (MoPac) south of Parmer Lane to Cesar Chavez Street (the "MoPac Improvement Project" or "Project"); and

**WHEREAS**, the Texas Department of Transportation ("TxDOT") recently identified approximately \$2 billion in unanticipated funding for highway projects, resulting primarily from additional federal funding and lower than expected borrowing and construction costs for current projects; and

**WHEREAS**, TxDOT has notified CAMPO that \$136,583,000.00 of the unanticipated funding (the “New Funds”) will be made available for transportation projects in the Austin metropolitan area and has asked CAMPO to allocate the New Funds for appropriate projects; and

**WHEREAS**, the New Funds must be primarily allocated to projects which have progressed through the planning and development process to a point where Federal funds may be obligated to the project by September 30, 2012; and

**WHEREAS**, the MoPac Improvement Project is expected to receive environmental clearance on or before August 31, 2012, and has otherwise advanced through the planning and development process such that it is anticipated to be eligible for the obligation of funds prior to September 30, 2012; and

**WHEREAS**, CAMPO has determined that it is in the best interest of the region to allocate \$130 million in New Funds to the development and construction of the MoPac Improvement Project by the Mobility Authority; and

**WHEREAS**, the allocation of \$130 million in New Funds to the MoPac Improvement Project makes it possible for the Mobility Authority to fund construction of the Project without issuing toll revenue bonds, and thus reduces the total cost of constructing and operating the Project by the projected cost of issuing and repaying toll revenue bonds; and

**WHEREAS**, because the Mobility Authority will not have debt service requirements for the MoPac Improvement Project, the Project will generate “Surplus Revenue” (as defined below) sooner than if debt were issued; and

**WHEREAS**, to assure that the region shares in the benefits resulting from the use of New Funds for the MoPac Improvement Project, and in accordance with the requirements of Section 370.174 of the RMA Act, the Mobility Authority has agreed to establish a Regional Infrastructure Fund (“RIF”) created from a portion of the Surplus Revenue from the MoPac Improvement Project to be used to fund other transportation projects in the region; and

**WHEREAS**, in accordance with the terms of this Agreement and provisions of the RMA Act, the RIF will be available for use on transportation projects identified by CAMPO; and

**WHEREAS**, the Mobility Authority has agreed to deposit and hold the RIF in a dedicated interest-bearing account for the benefit of CAMPO;

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements herein contained, the undersigned Parties agree as follows:

## **I. FINDINGS**

**Recitals.** The recitals set forth above are incorporated herein for all purposes and are found by the Parties to be true and correct. It is further found and determined that the Parties

have authorized and approved the Agreement by resolution and that this Agreement will be in full force and effect when approved by each party.

## II. ACTION

- A. Allocation of New Funds to the MoPac Improvement Project.** CAMPO shall amend its Transportation Improvement Program (“TIP”) to allocate to the Mobility Authority \$130 million in New Funds, to be used to pay or provide reimbursement for the costs of (1) constructing the MoPac Improvement Project, including without limitation costs of right-of-way acquisition and utility relocation; and (2) other costs associated with project financing and implementation. This funding allocation is committed by CAMPO and is not subject to future discretionary actions of CAMPO. The Parties recognize and acknowledge that, subject to applicable law, a portion of the New Funds committed by this paragraph may be applied to reimburse costs incurred prior to, and in anticipation of, receipt of New Funds. The Parties further recognize and acknowledge that the New Funds shall be made available to the Mobility Authority by TxDOT pursuant to the terms of a separate financial assistance agreement. A copy of the financial assistance agreement will be provided to CAMPO upon execution by the Mobility Authority and TxDOT.
- B. Maintenance of Regional Infrastructure Fund.** In order to share the financial benefits derived from using New Funds for the MoPac Improvement Project, the Mobility Authority will establish and maintain a RIF. The RIF will be held in a dedicated interest-bearing account into which the Mobility Authority will deposit a portion of the Surplus Revenue generated by the Project (the “RIF Account”). The amounts of, and projected schedule for, contributions to the RIF Account are set forth on Exhibit “A”, attached hereto and incorporated herein.
- C. Use of Funds Held in the RIF Account.** The proceeds deposited to the RIF Account (and interest earned thereon) shall be used to assist governmental entities (which may include the Mobility Authority) in funding eligible toll or toll-free transportation projects. CAMPO shall have the sole responsibility for designating the transportation projects to which funds in the RIF Account will be allocated and determining the amount of available RIF proceeds to be allocated to each project. The Mobility Authority shall distribute funds in the RIF Account to governmental entities as designated by CAMPO for transportation projects included in the approved TIP (and any other required planning document). Notwithstanding the foregoing, unless otherwise permitted by federal law, funds in the RIF Account may only be used for a transportation project as defined in Title 23 of the United States Code (23 U.S.C.).

If, in the future, state and federal law permits CAMPO to directly fund projects through loans and grants, and state law permits a regional mobility authority to transfer Surplus Revenue directly to a metropolitan planning organization, the Parties agree that the RIF contributions and account shall, upon receipt of a written request from CAMPO, be transferred from the Mobility Authority to CAMPO.

- D. **Mobility Authority Commitment Contingent on Surplus Revenue.** The Mobility Authority shall deposit Surplus Revenue to the RIF Account only to the extent Surplus Revenue exists and in accordance with the general schedule set forth in Exhibit "A", which was derived based on projected revenues, operations and maintenance expenses, necessary reserves, and other project expenditures developed by the Mobility Authority and its consultants. For purposes of this Agreement, the phrase "Surplus Revenue" shall have the meaning set forth in Section 370.003(12) of the RMA Act, provided that neither (1) feasibility fund expenditures; nor (2) debt service and other expenses associated with any borrowing as described in Section II.E(2) shall be deducted from Project revenues in computing Surplus Revenue. If the Project does not generate Surplus Revenue at the time or in the amounts projected on Exhibit "A", the parties will confer and will work in good faith to revise the terms hereof to accommodate the changed circumstances while preserving the benefits for the region of the RIF and recognizing the value of the designated contribution schedule.
- E. **Encumbrance of Project Revenues.** The Mobility Authority agrees not to encumber Project revenues to secure borrowing from third parties except in either of the following circumstances:
- (1) The Mobility Authority determines that funds are needed to support Project construction or operations or to reimburse previously-incurred Project expenditures. If the funds needed are less than \$25 million, the Mobility Authority may take such actions as are necessary to secure the funding, including entering into a loan agreement with a third party to provide the funding on commercially reasonable terms (which may include a pledge of Project revenues).
  - (2) If the Mobility Authority has made contributions to the RIF in accordance with the schedule reflected on Exhibit "A", it may pledge that portion of Surplus Revenue which exceeds scheduled RIF contributions ("Additional Surplus Revenue") to secure third party borrowing. In accordance with Section II.D, all debt service and other expenses associated with such borrowing shall be excluded from the definition of Surplus Revenue available for contribution to the RIF (i.e., debt service and expenses related to such borrowing will not be deducted from Project revenues for purposes of calculating Surplus Revenue available for contribution to the RIF). In the event the Mobility Authority intends to borrow money and pledge the Additional Surplus Revenue to secure such borrowing, the Mobility Authority shall: (1) provide notice of its intent to engage in such borrowing at least thirty (30) calendar days prior to consummating such loan; (2) assure that any documents evidencing the loan recognize the obligations to make the RIF contributions prior to satisfying any loan obligations; and (3) provide documents evidencing the loan to CAMPO at least ten (10) business days prior to funding.
- F. **Advance Funding of RIF.** At its option and depending on Project performance, the Mobility Authority may fund the entire contribution to the RIF earlier than is otherwise projected on Exhibit "A".

- G. **Audit of Project.** The Mobility Authority will provide a copy of its annual audit to CAMPO until such time that the RIF contributions have been fully funded in accordance with Exhibit "A". In addition, CAMPO may, at its expense, secure an independent audit of the Project to verify the computation and availability of Surplus Revenue for contribution to the RIF in accordance with the projected schedule reflected on Exhibit "A".

### III. GENERAL AND MISCELLANEOUS

- A. **Prior Written Agreements.** This Agreement is the complete agreement by and between the Parties on the subject matter of the Agreement. This Agreement is without regard to any and all prior written contracts or agreements between the Parties regarding any other subject matter and does not modify, amend, ratify, confirm, or renew any such other prior contract or agreement between the Parties.
- B. **Other Services.** Nothing in this Agreement shall be deemed to create, by implication or otherwise, any duty or responsibility of either of the Parties to undertake or not to undertake any other service, or to provide or not to provide any service, except as specifically set forth in this Agreement or in a separate written instrument executed by both Parties.
- C. **Governmental Immunity.** Nothing in this Agreement shall be deemed to waive, modify, or amend any legal defense available at law or in equity to either of the Parties nor to create any legal rights or claims on behalf of any third party. Neither of the Parties waives, modifies, or alters to any extent whatsoever the availability of the defense of governmental immunity under the laws of the State of Texas and of the United States.
- D. **Amendments and Modifications.** This Agreement may not be amended or modified except in writing and executed by both Parties to this Agreement and authorized by their respective governing bodies.
- E. **Severability.** If any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof, but rather this entire Agreement will be construed as if not containing the particular invalid or unenforceable provision(s), and the rights and obligations of the Parties shall be construed and enforced in accordance therewith. The Parties acknowledge that if any provision of this Agreement is determined to be invalid or unenforceable, it is their desire and intention that such provision be reformed and construed in such a manner that it will, to the maximum extent practicable, give effect to the intent of this Agreement and be deemed to be validated and enforceable.
- F. **Execution in Counterparts.** This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall be considered fully executed as of the date first written above, when both Parties have executed an identical counterpart, notwithstanding that all signatures may not appear on the same counterpart.

IN WITNESS WHEREOF, the Parties have executed and attested this Agreement by their officers thereunto duly authorized.

**Capital Area Metropolitan Planning  
Organization Transportation Policy Board**

  
\_\_\_\_\_

By: Will Conley, Chair

Date: 6-28-12

**Central Texas Regional Mobility  
Authority**

  
\_\_\_\_\_

By: Ray Wilkerson, Chair

Date: 6-27-12

EXHIBIT "A"

PROJECTED  
REGIONAL INFRASTRUCTURE FUND  
CONTRIBUTION SCHEDULE

(Contributions to be made on or before September 1 of the year indicated)

<b>Year</b>	<b>Annual Amount</b>
2017	\$2,000,000
2018	\$2,000,000
2019	\$3,000,000
2020	\$4,000,000
2021	\$5,000,000
2022	\$5,000,000
2023	\$6,000,000
2024	\$10,000,000
2025	\$10,000,000
2026	\$10,000,000
2027	\$10,000,000
2028	\$10,000,000
2029	\$11,000,000
2030	\$11,000,000
2031	\$11,000,000
2032	\$11,000,000
2033	\$11,000,000
2034	\$11,000,000
2035	\$11,000,000
2036	\$12,000,000
2037	\$12,000,000
2038	\$12,000,000
2039	\$12,000,000
2040	\$12,000,000
2041	\$16,000,000
<b>TOTAL</b>	<b>\$230,000,000</b>