

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

RESOLUTION NO. 14-070

**AWARDING A CONTRACT FOR GENERAL TOLL SYSTEMS
CONSULTING SERVICES.**

WHEREAS, on May 21, 2014 the Board of Directors authorized the Executive Director to procure general toll systems consulting services in accordance with Mobility Authority Procurement Policies; and

WHEREAS, the Mobility Authority received two proposals, the evaluation committee scored the proposals, and the best value proposal was recommended to the Executive Director; and

WHEREAS, the Executive Director recommends awarding a general toll systems consulting services contract to the best value proposal, Fagan Consulting LLC, in an amount not to exceed \$1,546,880.00.

NOW THEREFORE, BE IT RESOLVED, that the Board approves awards a contract for general toll systems consulting services to Fagan Consulting LLC, and authorizes the Executive Director to negotiate and execute on behalf of the Mobility Authority a contract with Fagan Consulting LLC for in an amount not to exceed \$1,546,880.00, in the form or substantially the form attached as Exhibit 1 to this resolution; and

BE IT FURTHER RESOLVED, that the Board authorizes the Executive Director to negotiate and execute on behalf of the Mobility Authority two work authorizations under the executed contract with Fagan Consulting LLC, in the form or substantially the form attached as Exhibit 2 and Exhibit 3 to this resolution and in amounts that do not exceed the maximum compensation stated in Exhibit 2 and Exhibit 3.

Adopted by the Board of Directors of the Central Texas Regional Mobility Authority on the 24th day of September, 2014.

Submitted and reviewed by:



Andrew Martin
General Counsel for the Central
Texas Regional Mobility Authority

Approved:



James H. Mills, Jr.
Vice Chairman, Board of Directors
Resolution Number: 14-070
Date Passed: 9/24/14

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CENTRAL TEXAS REGIONAL MOBILITY AUTHORITY
AGREEMENT FOR
GENERAL SYSTEMS CONSULTANT SERVICES

**CENTRAL TEXAS REGIONAL MOBILITY AUTHORITY
AGREEMENT FOR
GENERAL SYSTEMS CONSULTANT SERVICES**

This Professional Services Agreement (the "Agreement") is made and entered into by and between the Central Texas Regional Mobility Authority (the "Authority" or "CTRMA"), a regional mobility authority and a political subdivision of the State of Texas, and Fagan Consulting, LLC (the "Consultant") to be effective October 1, 2014 (the "Effective Date") with respect to general systems consultant services to be performed by the Consultant, as an independent contractor, for the CTRMA.

WITNESSETH:

WHEREAS, pursuant to that certain Request for Qualifications dated June 20, 2014 (the "RFQ"), the CTRMA sought to identify and obtain the services of a qualified firm to provide general systems consultant services for the CTRMA; and

WHEREAS, two firms submitted responses setting forth their respective qualifications for the work; and

WHEREAS, Fagan Consulting, LLC was identified by the CTRMA as the most highly qualified provider of the required services and this Agreement has been negotiated and finalized between those parties whereby the services shall be provided by Consultant to the Authority at a fair and reasonable price;

NOW, THEREFORE, in consideration of payments hereinafter stipulated to be made to the Consultant by the Authority, the parties do hereby agree as follows:

**ARTICLE 1
THE SERVICES**

The Authority, acting by and through its Executive Director (the "Executive Director"), hereby retains the Consultant, as an independent contractor, and the Consultant agrees to provide services to the Authority upon the terms and conditions provided in this Agreement. The scope of services (the "Services") provided under this Agreement is described in detail in Appendix A, attached and incorporated into this Agreement as if fully set forth herein.

The Consultant, as part of the Services, also shall assist the Authority in achieving the goals established in the CTRMA's Strategic Plan, as adopted pursuant to Texas Transportation Code § 370.261 and as it may be amended from time to time by the CTRMA Board of Directors. For specific aspects of the Services, the Consultant shall be expected to operate independently from the Authority and without extensive oversight and direction. The Consultant shall commit the personnel and resources reasonably required to respond promptly and fully to the responsibilities and tasks assigned by the CTRMA throughout the term of the Consultant's performance of the Services described in this Agreement.

ARTICLE
2
COMPENSATIO
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Authorization for Consultant to perform the Services, compensation for Consultant's work, and other aspects of the mutual obligations concerning Consultant's work and payment therefore are as follows:

a. **BASIS FOR COMPENSATION.** Subject to the terms of a Work Authorization issued pursuant to subsection 2.b. below, the Authority agrees to pay, and the Consultant agrees to accept as full and sufficient compensation and reimbursement for the performance of all Services as set forth in this Agreement, hourly rates for the staff working on the assignment computed as follows:

Staff Assigned	Hourly Billing Rate
Ron Fagan	\$190.00
Bill Brownsberger	\$190.00
Barbara Jewell	\$170.00
Steve Doolin	\$177.00
Greg Mack	\$168.00
Robin Carty	\$138.00
Jeff O'Neill	\$200.00

Hourly rates as of the Effective Date of this Agreement will be revised effective beginning January 1, 2016, and annually on January 1 of each succeeding year thereafter, by multiplying the then-current hourly rate by the Hourly Rate Percentage Adjustment as calculated below and applying the adjusted hourly rate to time billed on and after the January 1 revision date. The "Hourly Rate Percentage Adjustment" shall mean a positive or negative percentage amount calculated by the following formula:

$$(CPI^t - CPI^{t-12}) / CPI^{t-12}$$

In this formula, "CPI" means the most recently published non-revised index of Consumer Prices for All Urban Consumers (CPI-U) before seasonal adjustment (the "CPI"), as published by the Bureau of Labor Statistics of the U.S. Department of Labor ("BLS") prior to the January 1 date for which a calculation is being made. The CPI is published monthly and the CPI for a particular month is generally released and published during the following month. The CPI is a measure of the average change in consumer prices over time for a fixed market basket of goods and services, including food, clothing, shelter, fuels, transportation, charges for doctors' and dentists' services, and drugs. In calculating the index, price changes for the various items are averaged together with weights that represent their importance in the spending of urban households in the United States. The contents of the market basket of goods and services and the weights assigned to the various items are updated periodically by the BLS to take into account changes in consumer

expenditure patterns. The CPI is expressed in relative terms in relation to a time base reference period for which the level is set at 100.0. The base reference period for the CPI is the 1982-1984 average. "CPI¹²" means the CPI published by the BLS 12 months prior to the CPI used to determine CPI¹, or on the date closest to 12 months prior to the CPI used to determine CPI¹. If the CPI is discontinued or substantially altered, as determined in the sole discretion of the Authority, the Authority will determine an appropriate substitute index or, if no such substitute index is able to be determined, the Authority may terminate this Agreement under the terms and provisions of Article 5 of this Agreement.

The payment of the hourly rates and allowed costs shall constitute full payment for all Services, liaisons, products, materials, equipment, and expenses required to deliver the Services

- b. **COMPENSATION FOR WORK AUTHORIZATIONS.** The Services to be performed by the Consultant pursuant to this Agreement shall be assigned and documented in a manner appropriate for the size and complexity of the specific tasks. Each activity, task, or project shall be performed pursuant to a separate Work Authorization, signed by the Authority and the Consultant. Work shall be in accordance with the scope, schedule, and budget set forth in said Work Authorization. The standard form of Work Authorization is attached hereto and incorporated herein as Appendix B, which standard form may be modified during the term of this Agreement upon the reasonable request of the Authority and agreement of the Consultant. Upon written directive from the Authority (which may occur via electronic mail), the Consultant shall prepare the Work Authorization for the specific task, to be submitted for the Authority's approval. No work shall begin on the activity until the Work Authorization is approved and fully executed. The basis for payment on each Work Authorization will be hourly rate as computed pursuant to subsection 2.a. above, as stipulated in the Work Authorization. In neither case will the maximum be exceeded without prior written approval from the Authority. The costs associated with work performed on any Work Authorization will be tracked and reported to the Authority separately from other work performed by the Consultant. The monthly invoice to the Authority will include a progress summary of the work performed the previous month on each ongoing Work Authorization.
- c. **EXPENSES.** The hourly rates include anticipated direct expenses and overhead, therefore no additional direct expenses incurred by the Consultant will be reimbursed by the Authority unless the Executive Director, in his discretion, provides a written authorization for the reimbursement of a specific expense incurred by the Consultant. The written authorization by the Executive Director under this subsection 2.c. shall be obtained and delivered to the Consultant before the reimbursable expense is incurred.
- d. **NON-COMPENSABLE TIME.** Time spent by the Consultant's employees or sub consultants to perform Services or functions capable of being carried out by other, subordinate personnel with a lower hourly rate shall be billed at a rate equivalent to that of the applicable qualified subordinate personnel. Time spent by the Consultant's personnel or sub consultants in an administrative or supervisory capacity not related to

the performance of the Services shall not be compensable. Time spent on work that is in excess of what would reasonably be considered appropriate for the performance of such Services shall not be compensable. No compensation shall be made for revisions to the Consultant's or subconsultants' Services or deliverables required due in any way to the error, omission, or fault of the Consultant, its employees, agents, subconsultants, or contractors.

- e. **INVOICES AND RECORDS.** The Consultant shall submit two (2) copies of its monthly invoices certifying the fees charged and any reimbursable expense authorized under subsection 2.c. incurred in providing the Services under this Agreement during the previous month, and shall also present a reconciliation of monthly invoices and the Work Authorization (and related estimates) to which the work relates. Each invoice shall be in such detail as is required by the Authority and, if the work is eligible for payment through a financial assistance agreement with the Texas Department of Transportation ("TxDOT"), in such detail as required by TxDOT, including a breakdown of Services provided on a project-by- project basis and/or pursuant to specified Work Authorizations, together with other Services requested by the Authority. Upon request of the Authority, the Consultant shall also submit certified time and expense records and copies of invoices that support the invoiced fees and expense figures. All invoices must be consistent with the rates established by subsection 2.a. Unless waived in writing by the Executive Director, no invoice may contain, and the Authority will not be required to pay, any charge which is more than three (3) months old at the time of invoicing. All books and records relating to the Consultant's or subconsultants' time, authorized reimbursable out-of-pocket expenses, materials, or other services or deliverables invoiced to the Authority under this Agreement shall be made available during the Consultant's normal business hours to the Authority and its representatives for review, copying, and auditing throughout the term of this Agreement and, after completion of the work, for two (2) years, or such period as is required by Texas law, whichever is longer.
- f. **EFFECT OF PAYMENTS.** No payment by the Authority shall relieve the Consultant of its obligation to deliver timely the Services required under this Agreement. If after approving or paying for any Service, product or other deliverable, the Authority determines that said Service, product or deliverable does not satisfy the requirements of this Agreement, the Authority may reject same and, if the product or deliverable does not satisfy the requirements of this Agreement and Consultant fails to correct or cure same within a reasonable period of time and at no additional cost to the Authority, the Consultant shall return any compensation received therefore. In addition to all other rights provided in this Agreement, the Authority shall have the right to set off any amounts owed by the Consultant pursuant to the terms of this Agreement upon providing the Consultant prior written notice thereof.
- g. **PLACE OF PAYMENT.** Payments owing under this Agreement will be made by the Authority within thirty (30) days after receipt of the monthly invoice therefore, together with suitable supporting information, provided that if the payment is one eligible for reimbursement to the Authority from TxDOT, payment will be made within fifteen (15) business days of receipt by the Authority of the

TxDOT payment. In the event the Authority disputes payment, the Authority will pay the undisputed portion when due. Payment shall be forwarded to the address shown for the Consultant:

Fagan Consulting, LLC
Attn: Mr. Ron Fagan
16001 Spillman Ranch Loop
Austin, TX 78738

- h. TAXES.** All payments to be made by the Authority to the Consultant pursuant to this Agreement are inclusive of federal, state, or other taxes, if any, however designated, levied, or based. The Authority acknowledges and represents that it is a tax-exempt entity under Sections 151.309, et seq., of the Texas Tax Code. Title to any consumable items purchased by the Consultant in performing this Agreement shall be deemed to have passed to the Authority at the time the Consultant takes possession or earlier, and such consumable items shall immediately be marked, labeled, or physically identified as the property of the Authority, to the extent practicable.
- i. AS-NEEDED BASIS.** As provided for above, the Authority shall request that the Consultant perform specific Services on an as-needed basis and through the issuance of Work Authorizations. No representation or assurance has been made on behalf of the Authority to the Consultant as to the minimum total compensation to be paid to the Consultant under this Agreement during any fiscal year. The maximum compensation the Authority is obligated to pay Fagan Consulting LLC under this Agreement is \$ 1,546,880.00.
- j. MOST FAVORED CUSTOMER.** The Consultant shall voluntarily and promptly disclose to the Authority, and immediately provide the Authority with, the benefits of any discounted hourly fees and rates offered by the Consultant to any public entity customer in the State of Texas for comparable services. The Consultant hereby represents to the Authority, as of the effective date of this Agreement and throughout the term thereof, that except as previously disclosed in writing it has and will have no contract or arrangement with any public entity customer in the State of Texas for comparable services that provides such customer with fees, or rates that are more favorable than those afforded the Authority under this Agreement. The Consultant shall make available to the Authority for review, copying, and auditing throughout the term of this Agreement and for two (2) years after the expiration thereof all such books and records as shall be necessary for the Authority or its representatives to determine compliance with this provision.

ARTICLE 3
TIME OF PERFORMANCE

It is understood and agreed that the maximum term of this Agreement shall be five (5) years, commencing October 1, 2014, and concluding September 30, 2019, (the "Expiration Date") subject to the earlier termination of this Agreement pursuant to Articles 4 or 5 below. The initial term shall be three (3) years commencing on the Effective Date, and there shall be two (2) successive one (1) year renewal terms following the expiration of the initial three (3) year term. In addition to any other termination rights set forth in this Agreement, either party may elect to terminate this Agreement at the conclusion of the third or fourth year of the term by providing one hundred twenty (120) days' written notice to the other prior to the end of the initial term or of the first renewal term. Absent such notice of termination, the renewal terms will automatically take effect. If at any time during the contract term the Consultant cannot provide the requested Services within the time required by the CTRMA or for any other reason, the Authority reserves the unilateral right to procure the Services from any other source it deems capable of providing those Services.

ARTICLE 4
TERMINATION FOR DEFAULT

Time is of the essence with respect to the performance and completion of all the Services to be furnished by the Consultant pursuant to Work Authorizations issued and which specify an agreed-upon completion or delivery date. Without limiting the foregoing, the Consultant shall furnish all Services in such a manner and at such times as the development schedules of the Projects require so that no delay in the progression of the evaluation, funding, design, or construction of the Projects will be caused by or be in any way attributable to the Consultant. Should the Consultant at any time, in the reasonable opinion of the Authority, not carry out its obligations under this Agreement or not be progressing toward completion of the Services to be rendered hereunder in an expeditious manner, or if the Consultant shall fail in any manner to discharge any other of its obligations under this Agreement, the Authority may, upon providing the Consultant with thirty (30) days prior written notice pursuant to Article 4 hereof and opportunity to cure, terminate this Agreement effective on the date following said 30-day notice and cure period (the "Termination Date"). Such termination shall not constitute a waiver or release by the Authority of any claims for damages, claims for additional costs incurred by the Authority to complete and/or correct the work described in this Agreement, or any other claims or actions arising under this Agreement or available at law or equity which it may have against the Consultant for its failure to perform satisfactorily any obligation hereunder, nor shall such termination pursuant to this Article 4 or Article 5 below abrogate or in any way affect the indemnification obligations of the Consultant set forth in Article 16 hereof.

If the Authority shall terminate this Agreement as provided either in this Article 4 or Article 5, no fees of any type, other than fees due and payable as of the Termination Date pursuant to Article 2 hereof for work performed and acceptable to the Authority, shall thereafter be paid to the Consultant, and the Authority shall have a right to set off or otherwise recover any damages incurred by reason of the Consultant's breach hereof, together with the right to set off amounts owed to the Consultant pursuant to the indemnity provisions. In determining the amount of any payments owed to the Consultant, the value of the work performed by the

Consultant prior to termination shall be no greater than the value that would result by compensating the Consultant in accordance with Article 2 hereof for all Services performed and expenses reimbursable in accordance with this Agreement.

ARTICLE 5 **OPTIONAL TERMINATION**

In addition to the process for termination described above, this Agreement may also be terminated as follows:

- a. **GENERALLY.** The Authority has the right to terminate this Agreement at its sole option, at any time with or without cause, by providing thirty (30) days written notice of such intention to terminate pursuant to this subsection 5.a. and by stating in said notice the "Optional Termination Date". Upon such termination, the Authority shall enter into a settlement with the Consultant upon an equitable basis as determined by the Authority, which shall fix the value of the work performed by the Consultant prior to the Optional Termination Date. In determining the value of the work performed, the Authority in all events shall compensate the Consultant for any reasonable costs or expenses attributable to the exercise of the Authority's optional termination, including reasonable costs related to developing a transition plan and providing data as provided for in Article 6, provided, however, that no consideration will be given to anticipated profit which the Consultant might possibly have made on the uncompleted portion of the Services.
- b. **NO FURTHER RIGHTS, ETC.** Termination of this Agreement and payment of an amount in settlement as described in this Article 5 shall extinguish all rights, duties, obligations, and liabilities of the Authority and the Consultant under this Agreement, and this Agreement shall be of no further force and effect, provided, however, such termination shall not act to release the Consultant from liability for any previous default either under this Agreement or under any standard of conduct set by common law or statute.
- c. **NO FURTHER COMPENSATION.** If the Authority shall terminate this Agreement as provided in this Article 5, no fees of any type, other than fees due and payable as of the Optional Termination Date, shall thereafter be paid to the Consultant, provided that the Authority shall not waive any right to damages incurred by reason of the Consultant's breach thereof. The Consultant shall not receive any compensation for Services performed by the Consultant after the Optional Termination Date, and any such Services performed shall be at the sole risk and expense of the Consultant.

ARTICLE 6 **TERMINATION, GENERALLY**

The Authority's rights and options to terminate this Agreement, as provided in any provision of this Agreement, shall be in addition to, and not in lieu of, any and all rights, actions, options, and privileges otherwise available under law or equity to the Authority by virtue of this

Agreement or otherwise. Failure of the Authority to exercise any of its said rights, actions, options, and privileges to terminate this Agreement as provided in any provision of this Agreement or otherwise shall not be deemed a waiver of any of said rights, actions, options, or privileges or of any rights, actions, options, or privileges otherwise available under law or equity with respect to any continuing or subsequent breaches of this Agreement or of any other standard of conduct set by common law or statute.

Upon request by the Executive Director, and subject to Article 12 hereto, the Consultant shall develop a transition plan to be implemented upon termination of this Agreement with the Consultant for any reason or upon the release of any subconsultant so as to ensure a smooth, efficient, and uninterrupted transition to any successor Consultant or subconsultant. The plan shall anticipate the steps necessary to transfer documents, computerized data, plans, work tasks, etc. in possession of or to be provided by the Consultant or its subconsultant(s), as the case may be, and include a schedule of events necessary to complete the transition. The plan should include, but not be limited to, a list of original documents/data being held on behalf of the Authority by the Consultant or its subconsultants; the manner and form in which information is being held; accessibility to the information; the Consultant's records retention policy and/or plan; and strategy to minimize disruption of Services in the event of the release of a subconsultant. A copy of the plan shall be given to the Executive Director for review and approval within thirty (30) days of receipt of the Executive Director's request and shall be updated as necessary to reflect any changes in Consultant activity.

ARTICLE 7

SUSPENSION OR MODIFICATION OF SERVICES; DELAYS AND DAMAGES

In addition to the foregoing rights and options to terminate this Agreement, the Authority may elect to suspend any portion of the Services of the Consultant hereunder, but not terminate this Agreement, by providing the Consultant with prior written notice to that effect. Thereafter, the suspended Services may be reinstated and resumed in full force and effect upon receipt from the Authority of thirty (30) days prior written notice requesting same. Similarly, the Authority may expand, limit, or cancel any portion of the Services previously assigned to the Consultant in accordance with this Agreement. The Consultant shall not be entitled to any damages or other compensation of any form in the event that the Authority exercises its rights to suspend or modify the Services pursuant to this Article 7, provided, however, that any time limits established by the parties in any Work Authorization or otherwise for the completion of specific portions of the Services suspended pursuant to this Article 7 shall be extended to allow for said suspension or modifications thereof. Without limiting the foregoing, the Consultant agrees that no claims for damages or other compensation shall be made by the Consultant for any delays or hindrances occurring during the progress of any portion of the Services specified in this Agreement as a result of any suspension or modification of the Services or otherwise. Such delays or hindrances, if any, shall be provided for by an extension of time for such reasonable periods as the Authority may decide. It is acknowledged, however, that permitting the Consultant to proceed to complete any Services or any part of them after the originally specified date for completion, or after the date to which the time for completion may have been extended, shall in no way operate as a waiver on the part of the Authority or any of its rights herein.

ARTICLE 8
PERSONNEL, EQUIPMENT AND MATERIAL, GENERALLY

Consultant shall provide personnel and equipment as follows:

- a. **ADEQUATE PERSONNEL, ETC.** The Consultant shall furnish and maintain, at its own expense, adequate and sufficient personnel (drawn from its own employees or from approved subconsultants) and equipment, in the reasonable opinion of the Authority, to perform the Services with due and reasonable diligence customary of a firm enjoying a favorable national reputation, and in all events without delays attributable to the Consultant which have a reasonable likelihood of adversely affecting the progress of others involved with one or more of the Projects. All persons, whether employees of the Consultant or of an approved subconsultant, providing the Services shall be fully licensed to the extent required by their professional discipline associations' codes or otherwise by law.
- b. **REMOVAL OF PERSONNEL.** All persons providing the Services, whether employees of the Consultant or of an approved subconsultant, shall have such knowledge and experience as will enable them, in the Consultant's reasonable belief, to perform the duties assigned to them. Any such person who, in the opinion of the Authority, is incompetent or by his/her conduct becomes detrimental to the provision of the Services shall, upon request of the Authority, immediately be removed from the Services. The Consultant shall furnish the Authority with a fully qualified candidate for the removed person within ten (10) days thereafter, provided, however, said candidate shall not begin work under this Agreement unless and until approved by the Authority.
- c. **CONSULTANT FURNISHES EQUIPMENT, ETC.** Except as otherwise specified or agreed to by the Authority, the Consultant shall furnish all equipment, transportation, supplies, and materials required for its Services under this Agreement.

ARTICLE 9
KEY PERSONNEL

The Consultant acknowledges and agrees that the individual(s) identified in subsection 2.a. are key and integral to the satisfactory performance of the Consultant under this Agreement. Throughout the term of this agreement, the Consultant agrees that the identified individual(s) will remain in charge of the performance of the Services and shall devote substantial and sufficient time and attention thereto. The death or disability of any such individual, his/her disassociation from the Consultant or the approved subconsultant, or his/her failure or inability to devote sufficient time and attention to the Services shall require the Consultant promptly to replace said individual with a person suitably qualified and otherwise acceptable to the Authority. In no event shall the Consultant remove, transfer, or reassign any individual identified in subsection 2.a. except as instructed by, or with the prior written consent of, the Authority, which consent shall not be unreasonably withheld. The Consultant shall use its best efforts to enhance continuity in the key personnel, subconsultants, and other employees regularly performing the Services.

Individuals may be added to subsection 2.a. with the mutual consent of the Consultant and the Authority.

ARTICLE 10

BUSINESS OPPORTUNITY PROGRAM AND POLICY COMPLIANCE

It is the policy of the Authority's Board of Directors that disadvantaged and small businesses have the maximum practicable opportunity to participate in the awarding of Authority contracts and related subcontracts. To do so the Authority has developed a Business Opportunity Program and Policy ("BOPP"), which is incorporated herein by reference for all purposes. The Authority requires contractors to comply with the BOPP. The Consultant acknowledges that certain Services to be performed under this Agreement are subcontractable and will be subcontracted in accordance with the BOPP and as represented in Consultant's proposal in response to the RFQ. Consultant shall submit monthly subcontracting reports as part of its monthly invoices as required by BOPP.

ARTICLE 11

PLANNING AND PERFORMANCE REVIEWS; INSPECTIONS

As directed by the Authority, key personnel shall meet with the Authority's Executive Director and/or his designee(s) upon request (a) to assess the Consultant's progress under this Agreement and performance of the Services; and (b) to plan staffing levels to be provided by the Consultant to the Authority for the upcoming calendar quarter. The Consultant shall permit inspections of its Services and work by the Authority or others, when requested by the Authority. Nothing contained in this Agreement shall prevent the Authority from scheduling such other planning and performance reviews with the Consultant or inspections as the Authority determines necessary.

ARTICLE 12

OWNERSHIP OF REPORTS

Ownership of reports and related materials prepared by Consultant (or any subconsultant) at the direction of the Authority shall be as follows:

- a. **GENERALLY.** All of the documents, reports, plans, computer records, software maintenance records, discs and tapes, proposals, sketches, diagrams, charts, calculations, correspondence, memoranda, opinions, testing reports, photographs, drawings, analyses and other data and materials, and any part thereof, created, compiled or to be compiled by or on behalf of the Consultant solely under this Agreement ("work product"), including all information prepared for or posted on the Authority's website and together with all materials and data furnished to it by the Authority, shall at all times be and remain the property of the Authority and, for a period of two (2) years from completion of the Services or such period as is required by Texas law, whichever is longer, if at any time demand be made by the Authority for any of the above materials, records, and documents, whether after termination of this Agreement or otherwise, such shall be turned over to the Authority without delay. The Authority hereby grants the Consultant a revocable

license to retain and utilize the foregoing materials, said license to terminate and expire upon the earlier to occur of (a) the completion of Services described in this Agreement or (b) the termination of this Agreement, at which time the Consultant shall deliver to the Authority all such materials and documents. If the Consultant or a subconsultant desires later to use any of the data generated or obtained by it in connection with the Projects or any other portion of the work product resulting from the Services, it shall secure the prior written approval of the Authority. Notwithstanding anything contained herein to the contrary, the Consultant shall have the right to retain a copy of the above materials, records, and documents for its archives.

- b. **SEPARATE ASSIGNMENT.** If for any reason the agreement of the Authority and the Consultant set forth in subsection 12.a. above regarding the ownership of work product and other materials is determined to be unenforceable, either in whole or in part, the Consultant hereby assigns and agrees to assign to the Authority all right, title, and interest that Consultant may have or at any time acquire in said work product and other materials which are prepared solely for this Agreement, without royalty, fee or other consideration of any sort, and without regard to whether this Agreement has terminated or remains in force. The Authority hereby acknowledges, however, that all documents and other work product provided by the Consultant to the Authority and resulting from the Services performed under this Agreement are intended by the Consultant solely for the use for which they were originally prepared. Notwithstanding anything contained herein to the contrary, the Consultant shall have no liability for the use by the Authority of any work product generated by the Consultant under this Agreement on any project other than for the specific purpose and Project for which the work product was prepared. Any other reuse of such work product without the prior written consent of the Consultant shall be at the sole risk of the Authority.

- c. **DEVELOPMENT OF CONSULTANT WORK PRODUCT.**

The Authority acknowledges that the Consultant's work product will be developed using data that is available at the time of the execution of a given work order, and will not constitute any guarantee or other assurance of future events. The Consultant will prepare work product using practices that are standard procedures in the industry.

ARTICLE 13 **SUBCONSULTANTS**

Consultant may, with the prior written consent of the Executive Director, employ one or more subconsultants to provide Services under this Agreement. Responsibility for any Services under this Agreement performed by a subconsultant shall remain with the Consultant. If Consultant proposes the use of a subconsultant to provide Services, the Consultant shall obtain and provide to the Authority a schedule of the subconsultant's rate. The Executive Director shall review and approve, in his discretion, any rates, including overhead, to be paid to the

subconsultant. All subconsultants providing Services under this Agreement shall be subject to, and compensated or reimbursed in accordance with, all requirements of Article 3, provided that each subconsultant shall use its own actual hourly rates (computed using its own multiplier based on audited overhead rates, if overhead rates are approved) provided that no such rates shall exceed the corresponding rates paid by the Consultant for its personnel of comparable grade, category and experience. The Consultant agrees to pay its subconsultants for satisfactory performance of their contracts no later than thirty (30) days from its receipt of payment from the CTRMA. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the CTRMA. This clause applies to payments to all subconsultants.

ARTICLE 14

APPEARANCE AS WITNESS AND ATTENDANCE AT MEETINGS

Consultant shall cooperate with the Authority and requests for attendance at meetings and in various types of proceedings as follows:

- a. **WITNESS.** If requested by the Authority or on its behalf, the Consultant shall prepare such exhibits as may be requested for all hearings and trials related to any of the Projects, the Services, or the Authority's activities generally and, further, it shall prepare for and appear at conferences at the offices of legal counsel and shall furnish competent expert witnesses to provide such oral testimony and to introduce such demonstrative evidence as may be needed throughout all trials and hearings with reference to any litigation relating to the Projects, the Services, or the Authority's activities.
- b. **MEETINGS.** At the request of the Authority, the Consultant shall provide appropriate personnel for conferences at its offices, or attend meetings and conferences at (a) the various offices of the Authority, (b) at the district headquarters or offices of TxDOT, (c) the offices of the Authority's legal counsel, bond counsel, and/or financial advisors, (d) at the site of any Project, or (e) any reasonably convenient location.
- c. **WORK AUTHORIZATION.** In the event that services under this section are not covered by an existing Work Authorization, the Authority will issue a Work Authorization, pursuant to Article 2 hereto, to cover such services.

ARTICLE 15

COMPLIANCE WITH LAWS AND AUTHORITY POLICIES

The Consultant shall comply with all federal, state, and local laws, statutes, ordinances, rules, regulations, codes and with the orders and decrees of any courts or administrative bodies or tribunals in any matter affecting the performance under this Agreement, including, without limitation, workers' compensation laws, antidiscrimination laws, environmental laws, minimum and maximum salary and wage statutes and regulations, health and safety codes, licensing laws and regulations, the Authority's enabling legislation (Chapter 370 of the Texas Transportation

Code), and all amendments and modifications to any of the foregoing, if any. The Consultant shall also comply with the Authority's policies and procedures related to operational and administrative matters, such as, but not limited to, security of and access to CTRMA information and facilities. When requested, the Consultant shall furnish the Authority with satisfactory proof of compliance with said laws, statutes, ordinances, rules, regulations, codes, orders, and decrees above specified.

ARTICLE 16
AUTHORITY INDEMNIFIED

THE CONSULTANT SHALL INDEMNIFY AND SAVE HARMLESS THE AUTHORITY AND ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, AND CONSULTANTS FROM ANY CLAIMS, COSTS OR LIABILITIES OF ANY TYPE OR NATURE AND BY OR TO ANY PERSONS WHOMSOEVER, ARISING FROM THE CONSULTANT'S NEGLIGENT ACTS, ERRORS OR OMISSIONS WITH RESPECT TO THE CONSULTANT'S PERFORMANCE OF THE WORK TO BE ACCOMPLISHED UNDER THIS AGREEMENT, WHETHER SUCH CLAIM OR LIABILITY IS BASED IN CONTRACT, TORT OR STRICT LIABILITY. IN SUCH EVENT, THE CONSULTANT SHALL ALSO INDEMNIFY AND SAVE HARMLESS THE AUTHORITY, ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, AND CONSULTANTS FROM ANY AND ALL EXPENSES, INCLUDING REASONABLE ATTORNEYS' FEES, INCURRED BY THE AUTHORITY IN LITIGATING OR OTHERWISE RESISTING SAID CLAIMS, COSTS OR LIABILITIES. IN THE EVENT THE AUTHORITY, IT'S OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, OR CONSULTANTS IS/ARE FOUND TO BE PARTIALLY AT FAULT, THE CONSULTANT SHALL, NEVERTHELESS, INDEMNIFY THE AUTHORITY FROM AND AGAINST THE PERCENTAGE OF FAULT ATTRIBUTABLE TO THE CONSULTANT, ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SUBCONSULTANTS, AND CONTRACTORS OR TO THEIR CONDUCT.

NOTWITHSTANDING THE FOREGOING, THE CONSULTANT SHALL NOT BE RESPONSIBLE FOR (A) CONSTRUCTION MEANS, METHODS, TECHNIQUES, SEQUENCES, PROCEDURES, OR SAFETY PRECAUTIONS AND PROGRAMS IN CONNECTION WITH THE PROJECTS; (B) THE FAILURE OF ANY CONTRACTOR, SUBCONTRACTOR, VENDOR, OR OTHER PROJECT PARTICIPANT, NOT UNDER CONTRACT TO THE CONSULTANT, TO FULFILL CONTRACTUAL RESPONSIBILITIES TO THE AUTHORITY OR TO COMPLY WITH FEDERAL, STATE OR LOCAL LAWS, REGULATIONS AND CODES; OR (C) PROCURING PERMITS, CERTIFICATES AND LICENSES REQUIRED FOR ANY CONSTRUCTION UNLESS SUCH PROCUREMENT RESPONSIBILITIES ARE SPECIFICALLY ASSIGNED TO THE CONSULTANT IN ACCORDANCE WITH THIS AGREEMENT.

ARTICLE 17
CONFLICTS OF INTEREST

The Consultant represents and warrants to the Authority, as of the effective date of this Agreement and throughout the term hereof, that it, its employees and subconsultants (a) have no

financial or other beneficial interest in any contractor, engineer, product or service evaluated or recommended by the Consultant, except as expressly disclosed in writing to the Authority, (b) shall discharge their responsibilities under this Agreement professionally, impartially and independently, and after considering all relevant information related thereto, and (c) are under no contractual or other restriction or obligation, the compliance with which is inconsistent with the execution of this Agreement or the performance of their respective obligations hereunder. In the event that a firm (individually or as a member of a consortium) submits a proposal to work for the Authority, Consultant shall comply with the Authority's conflict of interest policies and shall make disclosures as if it were one of the key personnel designated under such policies.

ARTICLE 18 **CONSULTANT NON-DISCLOSURE**

The Consultant and each subconsultant who provides Services to CTRMA under this Agreement shall execute a Non-Disclosure Agreement in the form attached as Appendix C no later than the date the Consultant signs the first Work Authorization issued under Article 2 or the date the subconsultant begins providing Services to CTRMA, respectively.

ARTICLE 19 **INSURANCE**

Prior to beginning the Services designated in this Agreement, the Consultant shall obtain and furnish certificates to the Authority for the following minimum amounts of insurance:

- a. **WORKERS' COMPENSATION INSURANCE.** In accordance with the laws of the State of Texas, and employer's liability coverage with a limit of not less than \$500,000. A "Waiver of Subrogation" in favor of the Authority shall be provided.
- b. **COMMERCIAL GENERAL LIABILITY INSURANCE.** With limits not less than \$500,000 for bodily injury, including those resulting in death, and property damage on account of any one occurrence, with an aggregate limit of \$500,000. A "Waiver of Subrogation" in favor of the Authority shall be provided.
- c. **BUSINESS AUTOMOBILE LIABILITY INSURANCE.** Applying to owned, non-owned, and hired automobiles in an amount not less than \$500,000 for bodily injury, including death, to any one person, and for property damage on account of any one occurrence. This policy shall not contain any limitation with respect to a radius of operation for any vehicle covered and shall not exclude from the coverage of the policy any vehicle to be used in connection with the performance of the Consultant's obligations under this Agreement. A "Waiver of Subrogation" in favor of the Authority shall be provided.
- d. **VALUABLE PAPERS INSURANCE.** In an amount sufficient to cover the full restoration of any plans, drawings, field notes, logs, test reports, diaries, or other similar data or materials of Consultant relating to the Services provided under this Agreement in the event of their loss or destruction, until such time as the work has been delivered to the Authority.

- e. **EXCESS UMBRELLA LIABILITY.** With minimum limits of \$500,000 per claim and in the aggregate, annually, as applicable excess of the underlying policies required at a. – d. above. The Umbrella Policy shall contain the provision that it will continue in force as an underlying insurance in the event of exhaustion of underlying aggregate policy limits.
- f. **GENERAL FOR ALL INSURANCE.** The Consultant shall promptly, upon execution of this Agreement, furnish certificates of insurance to the Authority indicating compliance with the above requirements. Certificates shall indicate the name of the insured, the name of the insurance company, the name of the agency/agent, the policy number, the term of coverage, and the limits of coverage.

All policies are to be written through companies (a) registered to do business in the State of Texas; (b) rated: (i), with respect to the companies providing the insurance under subsections 18.a. through d., above, by A. M. Best Company as “A-X” or better (or the equivalent rating by another nationally recognized rating service) and (ii) with respect to the company providing the insurance under subsection 18.e., a rating by A. M. Best Company or similar rating service satisfactory to the Authority and/or its insurance consultant; and (c) otherwise acceptable to the Authority.

All policies are to be written through companies registered to do business in the State of Texas. Such insurance shall be maintained in full force and effect during the life of this Agreement or for a longer term as may be otherwise provided for hereunder. Insurance furnished under subsections 18.b. and 18.c. above shall name the Authority additional insureds and shall protect the Authority, the Consultant, their officers, employees, directors, agents, and representatives from claims for damages for bodily injury and death and for damages to property arising in any manner from the negligent or willful wrongful acts or failures to act by the Consultant, its officers, employees, directors, agents, and representatives in the performance of the Services rendered under this Agreement. Applicable Certificates shall also indicate that the contractual liability assumed in Article 16, above, is included.

The insurance carrier shall include in each of the insurance policies required under this Article the following statement: “This policy will not be canceled or non-renewed during the period of coverage without at least thirty (30) days prior written notice addressed to the Central Texas Regional Mobility Authority, 3300 North IH 35 , Suite 300, Austin, Texas 78705 , Attention: Executive Director.”

ARTICLE 20 **COORDINATION OF CONTRACT DOCUMENTS**

The General Systems Consulting Services Proposal for Central Texas Regional Mobility Authority and Appendices thereto, dated July 7, 2014, submitted by Fagan Consulting, LLC to the Authority (the “Proposal”) is attached hereto and incorporated herein as Appendix E for all purposes, provided, however, that in the event of any conflict between the Proposal and any other provision of,

appendices or exhibits to this Agreement, the Proposal shall be subordinate and the provision, appendices, or exhibits of this Agreement shall control.

ARTICLE 20
RELATIONSHIP BETWEEN THE PARTIES

Notwithstanding the anticipated collaboration between the parties hereto, or any other circumstances, the relationship between the Authority and the Consultant shall be one of an independent contractor. The Consultant acknowledges and agrees that neither it nor any of its employees, subconsultants, or subcontractors shall be considered an employee of the Authority for any purpose. The Consultant shall have no authority to enter into any contract binding upon the Authority, or to create any obligation on behalf of the Authority. As an independent contractor, neither the Consultant nor its employees shall be entitled to any insurance, pension, or other benefits customarily afforded to employees of the Authority. Under no circumstances shall the Consultant, or its employees, subconsultants, or subcontractors, represent to suppliers, contractors or any other parties that it is employed by the Authority or serves the Authority in any capacity other than as an independent contractor. The Consultant shall clearly inform all suppliers, contractors and others that it has no authority to bind the Authority. Nothing contained in this Agreement shall be deemed or construed to create a partnership or joint venture, to create the relationship of employee-employer or principal-agent, or to otherwise create any liability for the Authority whatsoever with respect to the liabilities, obligations or acts of the Consultant, its employees, subconsultants, or subcontractors, or any other person.

ARTICLE 21
DELIVERY OF NOTICES, ETC.

In each instance under this Agreement in which one party is required or permitted to give notice to the other, such notice shall be deemed given either (a) when delivered by hand; (b) one (1) business day after being deposited with a reputable overnight air courier service; or (c) three (3) business days after being mailed by United States mail, registered or certified mail, return receipt requested, and postage prepaid. Any notices provided under this Agreement must be sent or delivered to:

In the case of the Consultant:

Fagan Consulting, LLC
Attn: Mr. Ron Fagan
16001 Spillman Ranch Loop
Austin, TX 78738

In the case of the CTRMA:

Central Texas Regional Mobility Authority
3300 North IH 35, Suite 300
Austin, TX 78705
Attn: Andrew Martin, General Counsel

Either party hereto may from time to time change its address for notification purposes by giving the other party prior written notice of the new address and the date upon which it will become effective.

ARTICLE 22
REPORTS OF ACCIDENTS, ETC.

Within twenty-four (24) hours after occurrence of any accident or other event which results in, or might result in, injury to the person or property of any third person (including an employee or subconsultant or employee of a subconsultant of the Consultant) which results from or involves any action or failure to act of the Consultant or any employee, subconsultant, employee of a subconsultant, or agent of the Consultant or which arises in any manner from the performance of this Agreement, the Consultant shall send a written report of such accident or other event to the Authority, setting forth a full and concise statement of the facts pertaining thereto. The Consultant also shall immediately send the Authority a copy of any summons, subpoena, notice, or other documents served upon the Consultant, its agents, employees, subconsultants, or representatives, or received by it or them, in connection with any matter before any court arising in any manner from the Consultant's performance of the Services under this Agreement.

ARTICLE 23
AUTHORITY'S ACTS

Anything to be done under this Agreement by the Authority or its Executive Director may be done by such persons, corporations, firms, or other entities as the Authority or its Executive Director may designate.

ARTICLE 24
LIMITATIONS

Notwithstanding anything herein to the contrary, all covenants and obligations of the Authority under this Agreement shall be deemed to be valid covenants and obligations only to the extent authorized by Chapter 370 of the Texas Transportation Code and permitted by the laws and the Constitution of the State of Texas, and no officer, director, or employee of the Authority shall have any personal obligations or liability thereunder.

The Consultant is obligated to comply with applicable standards of professional care in the performance of the Services. The Consultant makes no other representation or warranty, whether express or implied, and no warranty or guarantee is included or intended in this Agreement or in any "work product" or otherwise.

The Consultant shall be entitled to rely, without requirement of further investigation, on all information supplied to the Consultant by Authority.

Neither the Authority nor the Consultant shall in any event be liable for any consequential, incidental, indirect, punitive, exemplary or special damages (including, without limitation, loss of profits, business or goodwill of any kind from any causes of action (whether arising in contract, tort or otherwise) unless caused by their willful misconduct,

negligent act or omission, or other wrongful conduct. Each party to this Agreement is obligated to take commercially reasonable steps to mitigate any damages that it may incur. Nothing herein shall constitute a waiver of any other defenses that either party may have at law or in equity.

ARTICLE 25
CAPTIONS NOT A PART HEREOF

The captions or subtitles of the several articles, subsections, and divisions of this Agreement are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of this Agreement or the scope or content of any of its articles, subsections, divisions, or other provisions.

ARTICLE 26
CONTROLLING LAW, VENUE

This Agreement shall be governed and construed in accordance with the laws of the State of Texas. The parties hereto acknowledge that venue is proper in Travis County, Texas, for all disputes arising hereunder and waive the right to sue and be sued elsewhere.

ARTICLE 27
COMPLETE AGREEMENT

This Agreement sets forth the complete agreement between the parties with respect to the Services and, except as provided for in Article 19 above, expressly supersedes all other agreements (oral or written) with respect thereto. Any changes in the character, agreement, terms and/or responsibilities of the parties hereto must be enacted through a written amendment. No amendment to this Agreement shall be of any effect unless in writing and executed by the Authority and the Consultant. This Agreement may not be orally canceled, changed, modified or amended, and no cancellation, change, modification or amendment shall be effective or binding, unless in writing and signed by the parties to this Agreement. This provision cannot be waived orally by either party.

ARTICLE 28
TIME OF ESSENCE

As set forth in Article 4, with respect to any specific delivery or performance date or other deadline provided hereunder, time is of the essence in the performance of the provisions of this Agreement. The Consultant acknowledges the importance to the Authority of the project schedule and will perform its obligations under this Agreement with all due and reasonable care and in compliance with that schedule.

ARTICLE 29
SEVERABILITY

If any provision of this Agreement, or the application thereof to any person or circumstance, is rendered or declared illegal for any reason and shall be invalid or unenforceable, the remainder of this Agreement and the application of such provision to other persons or

circumstances shall not be affected thereby but shall be enforced to the greatest extent permitted by applicable law.

ARTICLE 30
AUTHORIZATION

Each party to this Agreement represents to the other that it is fully authorized to enter into this Agreement and to perform its obligations hereunder, and that no waiver, consent, approval, or authorization from any third party is required to be obtained or made in connection with the execution, delivery, or performance of this Agreement.

ARTICLE 31
SUCCESSORS

This Agreement shall be binding upon and inure to the benefit of the Authority, the Consultant, and their respective heirs, executors, administrators, successors, and permitted assigns.

ARTICLE 32
INTERPRETATION

No provision of this Agreement shall be construed against or interpreted to the disadvantage of any party by any court, other governmental or judicial authority, or arbiter by reason of such party having or being deemed to have drafted, prepared, structured, or dictated such provision.

ARTICLE 33
BENEFITS INURED

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

ARTICLE 34
SURVIVAL

The parties hereby agree that each of the provisions in the Agreement are important and material and significantly affect the successful conduct of the business of the Authority, as well

as its reputation and goodwill. Any breach of the terms of this Agreement, including but not limited to the provisions of Articles 12 and 17, is a material breach of this Agreement, from which the Consultant may be enjoined and for which the Consultant also shall pay to the Authority all damages which arise from said breach. The Consultant understands and acknowledges that the Consultant's responsibilities under Articles 12 and 17 of this Agreement shall continue in full force and effect after the Consultant's contractual relationship with the Authority ends for any reason.

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

**CENTRAL TEXAS REGIONAL MOBILITY
AUTHORITY**

Fagan Consulting, LLC

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

APPENDIX A

SCOPE OF SERVICES

I. Purpose

The Consultant shall provide technical assistance and advice to the Authority and assist in the management and oversight of the Toll Collection System (TCS) and Intelligent Transportation System (ITS) Implementation and Maintenance Services Agreement between the Authority and the Toll Systems Integrator.

The Consultant shall provide qualified technical and professional personnel to perform the duties and responsibilities assigned under the terms of this Agreement. The Authority, at its option, may elect to expand, reduce, or delete the extent of each work element described in this Scope of Services document, provided such action does not alter the intent of this Agreement.

The Authority shall request Services on an as-needed basis. There is no guarantee that any or all of the Services described in this Agreement will be assigned during the term of this Agreement. Further, the Consultant is providing these Services on a nonexclusive basis. The Authority, at its option, may elect to have any of the Services set forth herein performed by other consultants or by the Authority's staff.

II. Services

The Scope of Services to be provided by the Consultant may include, but not be limited to, the following:

- A. Assist the Authority with the oversight of its contracts with the system integrators and participate in system requirements analysis.
- B. Participate in system design reviews.
- C. Review contract deliverables from the systems integrators to include without limitation the Preliminary System Design Document and Final System Design Document, Interface Plans, and the QA/QC Manual to ensure that deliverables conform to system's contract terms and Authority standards.
- D. Review detailed development and implementation schedules and assist with progress reporting.
- E. Participate in system development testing and assist the Authority in monitoring the tests.
- F. Oversee and participate in annual or biennial system accuracy testing.

- G. Review claims and change orders.**
- H. Monitor the systems' Design Testing and Acceptance Testing and advise the Authority regarding test process, progress, and results.**
- I. Advise regarding systems contract performance standards.**
- J. Provide other related technical services as requested by the Authority.**

APPENDIX B

WORK AUTHORIZATION

WORK AUTHORIZATION NO. ____

This Work Authorization is made as of this ____ day of _____, 20____, under the terms and conditions established in the AGREEMENT FOR GENERAL SYSTEMS CONSULTANT SERVICES, dated as of October 1, 2014 (the "Agreement"), between the Central Texas Regional Mobility Authority ("Authority") and Fagan Consulting, LLC ("Consultants"). This Work Authorization is made for the following purpose, consistent with the services defined in the Agreement:

[Brief description of the Project elements to which this Work Authorization applies]

Section A. - Scope of Services

A.1. Consultant shall perform the following Services:

[Enter description of the Scope of Services here for which this Work Authorization applies, or make reference to an attached Appendix]

A.2. The following Services are not included in this Work Authorization, but shall be provided as Additional Services if authorized or confirmed in writing by the Authority.

A.3. In conjunction with the performance of the foregoing Services, Consultant shall provide the following submittals/deliverables (Documents) to the Authority:

Section B. - Schedule

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

Section C. - Compensation

C.1. In return for the performance of the foregoing obligations, the Authority shall pay to Consultant the amount not to exceed \$_____, based on the attached fee estimate. Compensation shall be in accordance with the Agreement.

C.2. Compensation for Additional Services (if any) shall be paid by the Authority to Consultant according to the terms of a future Work Authorization.

Section D. - Authority's Responsibilities

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

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

**CENTRAL TEXAS REGIONAL MOBILITY
AUTHORITY**

Fagan Consulting, LLC

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

APPENDIX C
NONDISCLOSURE AGREEMENT

[FORM TO BE PROVIDED]

WORK AUTHORIZATION

WORK AUTHORIZATION NO. 1

This Work Authorization is made as of this 1st day of October, 2014 under the terms and conditions established in the AGREEMENT FOR GENERAL SYSTEMS CONSULTANT SERVICES, dated as of October 1, 2014 (the "Agreement"), between the Central Texas Regional Mobility Authority ("Authority") and Fagan Consulting LLC ("Consultants"). This Work Authorization is made for the following purpose, consistent with the services defined in the Agreement:

The Consultant shall provide technical assistance and advice to the Authority and assist in the management and oversight of the Toll Collection Implementation and Maintenance Services Agreement between the Authority and the Toll Systems Integrator.

Section A. – Scope of Services

A.1. Consultant shall perform the services described in Appendix A, Scope of Services, to the Agreement.

Section B. – Compensation

B.1. In return for the performance of the foregoing obligations, the Authority shall pay to Consultant an amount not to exceed \$131,250 prior to July 1 2015, based on Article 2A, Basis of Compensation. Compensation shall be in accordance with the Agreement.

B.2. In return for the performance of the foregoing obligations, the Authority shall pay to Consultant an amount not to exceed \$175,000 annually beginning July 1, 2015, based on Article 2A, Basis of Compensation. Compensation shall be in accordance with the Agreement.

B.3. Compensation for Additional Services (if any) shall be paid by the Authority to Consultant according to the terms of a future Work Authorization.

Section C. – Authority's Responsibilities

The Authority shall perform and/or provide the following in a timely manner so as not to delay the Services of the Consultant.

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

**CENTRAL TEXAS REGIONAL MOBILITY
AUTHORITY**

Fagan Consulting LLC

By: _____
Name: _____
Title: _____

By: _____
Name: Ron Fagan
Title: Vice President, Human Capital
Solutions

WORK AUTHORIZATION NO. 2

This Work Authorization No. 2 is made as of this 1st day of October, 2014, under the terms and conditions established in the AGREEMENT FOR GENERAL SYSTEMS CONSULTANT SERVICES, dated as of October 1, 2014 (the "Agreement"), between the Central Texas Regional Mobility Authority ("Authority") and Fagan Consulting ("Consultant").

This Work Authorization is made for the following purpose, consistent with the services defined in the Agreement:

The Consultant shall provide technical assistance and advice to the Authority and assist in the management and oversight of the Toll Collection Implementation and Maintenance Services Agreement between the Authority and the Toll Systems Integrator, as more specifically detailed in the Agreement at Appendix A (Scope of Services), Section II (Services).

Scope of Services

Consultant shall perform the services and provide the deliverables described in Appendix A attached to this Work Authorization No. 2 on an "as needed" basis pursuant to the written request of the Authority.

Compensation

Compensation for providing services and deliverables described by this Work Authorization shall in accordance with Article 2 of the Agreement. Compensation paid for services and deliverables provided under this Work Authorization shall not exceed a total amount of \$715,630. This maximum payment is based on the estimated costs set out in Appendix A.

IN WITNESS WHEREOF, the parties have executed this Work Authorization No. 2 to be effective on the date and year first written above.

**CENTRAL TEXAS REGIONAL MOBILITY
AUTHORITY**

Fagan Consulting LLC

By: _____
Mike Heiligenstein, Executive Director

By: _____
Name: _____
Title: _____

APPENDIX A

Scope of Services

Roadway Projects Support

I. Purpose

The Consultant shall provide technical assistance and advice to the Authority and assist in the management and oversight of the toll system design and implementation for new road projects. The Consultant shall provide qualified technical and professional personnel to perform the duties and responsibilities assigned under this work authorization. The Authority, at its option, may elect to expand, reduce or delete the extent of each work element described in this Scope of Services document, provided such action does not alter the intent of this Agreement.

Any Service provided under this Work Authorization is to be provided on an “as-needed” basis at the written request of the Authority. There is no guarantee that any or all of the Services described in this Agreement will be assigned during the term of this Agreement. Further, the Consultant is providing these Services on a nonexclusive basis. The Authority at its option may elect to have any of the Services set forth herein performed by other consultants or Authority's staff.

II. Services for the MoPac Improvement Project.

The Scope of Services to be provided by the Consultant may include the following:

1. Document existing system architecture and components for use in a change order for the Authority's current systems contractor.
2. Participate in the development of business rules and policies, including pricing policies, system operational plans, and enforcement strategies. Document the same business rules and policies. Ensure rules and policies can be effectively implemented and maintained.
3. Document a high-level system design that will become the basis of a toll system implementation work authorization for the MoPac Improvement Project system. Detail the high level system design to the point that effects on the current Toll Collection (Host and 183A) system can be categorized and assessed. Consider implications of system impact to the existing system and craft required considerations, upgrades and replacements into the design document. Obtain feedback from affected personnel and document the most effective system design based on cost, schedule, features, usability, maintainability, and adherence to the Authority's long-range strategic goals for the MoPac Improvement Project and the existing 183A systems.
4. Using the output of the tasks above, develop the technical specifications for the toll system work authorization to be used for the MoPac Improvement Project system. In addition to technical specifications, the work authorization will prescribe the high-level testing methodology to be used throughout the development and delivery of the toll system.
5. Assist with the evaluation of technical and cost proposal for work authorization negotiation.

6. Facilitate the System Integrator's (SI's) discovery efforts required for the SI to properly customize their existing products/services to meet the particular MoPac Improvement Project requirements. This will include onsite design meetings and other communications required to communicate the Authority's project requirements to the SI in a timely, accurate fashion that does not compromise the project schedule or system functionality.
7. Review, comment, and recommend approval (where appropriate) on all technical submittals provided by the SI related to the Project requirements. This may include the following plans/documents:
 - a) Implementation Schedule
 - b) Project Management Plan
 - c) Security Plan
 - d) Configuration Management and Document Control Plan
 - e) Quality Management Plan
 - f) Software Development Plan
 - g) System Requirements Document
 - h) System Detailed Design Document
 - i) Master Test Plan
 - j) All Required Test Completion Reports
 - k) Training Plan
 - l) Training Schedule and Training Materials
 - m) System User Manuals
 - n) System Administrator Manuals
 - o) Audit Manual
 - p) Maintenance Plan
 - q) Maintenance Service Manual
 - r) Disaster Recovery Plan
 - s) Installation Plan
 - t) Installation Checklist
 - u) Factory Acceptance Test Plan
 - v) Back Office (Host/IOP Hub) Integration Test Plan
 - w) As-Built System Detailed Design Document
8. Oversee system testing to ensure compliance with project requirements.
9. Track the SI's project schedules, risk analysis, and project status reporting.
10. Assist with the telecommunications required for connectivity of the tolling sites with the Authority's Host and disaster recovery site.
11. Assist with the fiber optic connectivity integration to TxDOT fiber infrastructure.
12. Assist in the definition of toll locations naming to comply with the Texas Interoperability requirements.
13. Provide other related technical services as requested by the Authority.
14. Deliverables: Deliverables from the tasks above include the following:

- a) Monthly Project Status Reports.
- b) New business rule and policy documentation.
- c) High level system design document.
- d) Technical requirements of the toll collection system.
- e) Design information required by System Integrator throughout this phase of the project.
- f) Comments related to all SI submitted documentation detailed above.
- g) Testing Status/Results Reports.

Table 1

Proposed Task Distribution of Hours	
Task Name: Mopac Improvement Project	
Sub-Task Description	Total Estimated Hours
Design definitions and requirements	580
Project Document Review	280
Project Meetings / Reports	120
Installation Support	200
System Testing Support/Coordination	1140
Total:	2320

Table 2

Proposed Task Costs and Hours			
Task Name: Mopac Improvement Project			
Resource Name	Total Estimated Hours	Hourly Rate	Estimated Cost
Greg Mack	1800	\$168.00	\$302,400.00
Ron Fagan	100	\$190.00	\$19,000.00
Bill Brownsberger	160	\$190.00	\$30,400.00
Steve Doolin	160	\$177.00	\$28,320.00
Barbara Jewell	40	\$170.00	\$6,800.00
Robin Carty	20	\$138.00	\$2,760.00
Jeff O'Neill	40	\$200.00	\$8,000.00
Total:	2320		\$397,680.00

III. Services for the Manor Expressway Project.

1. Assist the Authority with the oversight of its contract with the Toll System Integrator.
2. Oversee TCS Acceptance testing and advise the Authority regarding testing process, progress and results.
3. Assist with the fiber optic connectivity integration with the TxDOT fiber infrastructure.
4. Assist with integration requirements for interfacing with the Traffic Management Control Center for CTRMA.
5. Provide other related technical services as requested by the Authority.
6. Deliverables

Deliverables from the tasks above include the following:

- 1 High level system design document review
- 2 Communication network documentation review
- 3 Testing Status/Results Reports

Table 3

Proposed Task Distribution of Hours	
Task Name: Manor Expressway	
Sub-Task Description	Total Estimated Hours
System Testing Support/Coordination	300
<i>Total:</i>	<i>300</i>

Table 4

Proposed Task Costs and Hours			
Task Name: Manor Expressway			
Resource Name	Total Estimated Hours	Hourly Rate	Estimated Cost
Greg Mack	200	\$168.00	\$33,600.00
Ron Fagan	20	\$190.00	\$3,800.00
Bill Brownsberger	20	\$190.00	\$3,800.00
Steve Doolin	20	\$177.00	\$3,540.00
Barbara Jewell	20	\$170.00	\$3,400.00
Robin Carty	10	\$138.00	\$1,380.00
Jeff O'Neill	10	\$200.00	\$2,000.00
<i>Total:</i>	<i>300</i>		<i>\$51,520.00</i>

IV. Services for the SH 71 Project.

1. Assist the Authority with the oversight of its contract with the Toll System Integrator.
2. Participate in any Toll Collection System (TCS) design reviews
3. Review contract deliverables from the Toll Systems Integrator to include, without limitation, the System Design documents, Interface Control documents, and testing documentation to ensure that deliverables conform to the TCS contract terms and Authority standards.
4. Participate in system development testing and assist the Authority in monitoring of tests.
5. Oversee TCS Acceptance testing and advise the Authority regarding testing process, progress and results.
6. Assist with the telecommunications required for connectivity of the tolling sites with the CTRMA Host and disaster recovery site.
7. Assist with the fiber optic connectivity integration with the TxDOT fiber infrastructure.
8. Assist with integration requirements for interfacing with the Traffic Management Control Center for CTRMA.
9. Assist in the definition of toll locations naming to comply with the Texas Interoperability requirements.
10. Provide other related technical services as requested by the Authority.

11. Deliverables

Deliverables from the tasks above include the following:

- 1 High level system design document review
- 2 Communication network documentation review
- 3 Testing Status/Results Reports

Table 5

Proposed Task Distribution of Hours	
Task Name: SH71	
Sub-Task Description	Total Estimated Hours
Design definitions and requirements	8
Project Document Review	8
Project Meetings / Reports	8
Installation Support	16
System Testing Support/Coordination	80
Total:	120

Table 6

Proposed Task Costs and Hours			
Task Name: SH71			
Resource Name	Total Estimated Hours	Hourly Rate	Estimated Cost
Greg Mack	80	\$168.00	\$13,440.00
Ron Fagan	8	\$190.00	\$1,520.00
Bill Brownsberger	8	\$190.00	\$1,520.00
Steve Doolin	6	\$177.00	\$1,062.00
Barbara Jewell	6	\$170.00	\$1,020.00
Robin Carty	6	\$138.00	\$828.00
Jeff O'Neill	6	\$200.00	\$1,200.00
Total:	120		\$20,590.00

V. Services for the Bergstrom Expressway Project.

1. Assist the Authority with the oversight of its contract with the Toll System Integrator.
2. Participate in any Toll Collection System (TCS) design reviews
3. Review contract deliverables from the Toll Systems Integrator to include, without limitation, the System Design documents, Interface Control documents, and testing documentation to ensure that deliverables conform to the TCS contract terms and Authority standards.
4. Participate in system development testing and assist the Authority in monitoring of tests.
5. Oversee TCS Acceptance testing and advise the Authority regarding testing process, progress and results.
6. Assist with the telecommunications required for connectivity of the tolling sites with the CTRMA Host and disaster recovery site.
7. Assist with the fiber optic connectivity integration with the TxDOT fiber infrastructure.
8. Assist with integration requirements for interfacing with the Traffic Management Control Center for CTRMA.
9. Assist in the definition of toll locations naming to comply with the Texas Interoperability requirements.
10. Provide other related technical services as requested by the Authority.

Deliverables

Deliverables from the tasks above include the following:

- 1 High level system design document review
- 2 Communication network documentation review
- 3 Testing Status/Results Reports

Table 7

Proposed Task Distribution of Hours	
Task Name: Bergstrom Express	
Sub-Task Description	Total Estimated Hours
Design definitions and requirements	40
Project Document Review	80
Project Meetings / Reports	80
Installation Support	400
System Testing Support/Coordination	850
Total:	1450

Table 8

Proposed Task Costs and Hours			
Task Name: Bergstrom Express			
Resource Name	Total Estimated Hours	Hourly Rate	Estimated Cost
Greg Mack	1250	\$168.00	\$210,000.00
Ron Fagan	40	\$190.00	\$7,600.00
Bill Brownsberger	40	\$190.00	\$7,600.00
Steve Doolin	40	\$177.00	\$7,080.00
Barbara Jewell	40	\$170.00	\$6,800.00
Robin Carty	20	\$138.00	\$2,760.00
Jeff O'Neill	20	\$200.00	\$4,000.00
Total:	1450		\$245,840.00