

FINANCIAL ASSISTANCE AGREEMENT

This Agreement is made by and between the Texas Department of Transportation, an agency of the State of Texas ("TxDOT"), and the Central Texas Regional Mobility Authority, a political subdivision of the State of Texas ("CTRMA"), for the purpose of providing financial assistance in connection with the development of the proposed MoPac Improvement Project; the Manor Expressway; the 183 South Project; the 290 West/71 West Project; and the 45 Southwest Project.

RECITALS

The parties acknowledge the following:

A. The CTRMA is a regional mobility authority operating pursuant to Chapter 370 of the Texas Transportation Code (the "RMA Act") and 43 TEX. ADMIN. CODE § 26.01 *et seq.* (the "RMA Rules").

B. The CTRMA's goals include improving mobility within Travis and Williamson Counties. To further that goal the CTRMA has identified for development the following projects (1) the Loop 1 Managed Lanes Project, from north of Parmer Lane to south of Lady Bird Lake ("MoPac Improvement Project"); (2) the 290 East, Segments 1A, 2 & 3 Project, from east of US 183 to east of State Highway 130 ("Manor Expressway"); (3) the US 183 South Toll Project, from Springdale Road to Patton Avenue ("183 South Project"); (4) a project to improve US 290 West from Joe Tanner Lane to Circle Drive and US 71 West from US 290 West to Silvermine Drive ("290 West/71 West Project"); and (5) the SH 45 Southwest Toll Project, from Loop 1 South to FM 1626 ("SH 45 SW Project") (collectively, the "Projects" and individually a "Project"). The Projects are consistent with the Statewide Transportation Plan and the CAMPO 2035 Regional Transportation Plan approved by the Capital Area Metropolitan Planning Organization on May 24, 2010.

C. TxDOT, pursuant to Article III, Section 52-b of the Texas Constitution and Section 222.103 of the Texas Transportation Code, is authorized to participate, through the expenditure of money from any source, in the acquisition, construction, maintenance, or operation of a toll facility of a public entity.

D. TxDOT has adopted rules at 43 TEX. ADMIN. CODE § 27.50 *et seq.* (the "Toll Equity Rules") setting forth the policies and procedures by which it will participate in the financing of a toll facility which is not under its jurisdiction.

E. On or about July 2, 2010, the CTRMA submitted a request, pursuant to the Toll Equity Rules, for financial assistance to be used for development costs associated with the Projects, including, but not limited to, preparation of environmental documents, traffic and revenue estimates, preliminary engineering studies, general engineering support, procurement support, legal support, railroad coordination, and TxDOT coordination (the "Toll Equity Application").

F. On July 29, 2010, and September 30, 2010, the Texas Transportation Commission, pursuant to its constitutional and statutory authority and the Toll Equity Rules, gave preliminary and final approval of the grant by TxDOT of financial assistance in the amount of \$27 million to be used in connection with the development of the MoPac Improvement Project (approximately \$5.4 million), Manor Expressway (approximately \$2.2 million), 183 South Project (approximately \$4.4 million), 290 West/71 West Project (approximately \$7.6 million), and SH 45 SW Project (approximately \$7.4 million) for the purposes identified in the preceding paragraph. Minute Order No. 112443, approved on September 30, 2010, authorized the Executive Director of TxDOT to enter into a financial assistance agreement with the CTRMA.

G. On January 26, 2011, the CTRMA Board of Directors (the "Board") accepted the grant of financial assistance and, in Resolution No. 11 - 03, authorized the Executive Director of the CTRMA to enter into a financial assistance agreement with TxDOT.

AGREEMENT

In light of the foregoing recitals, and for good and other valuable consideration, the parties agree as follows:

1. TxDOT will provide financial assistance to the CTRMA in the amount of \$27 million, to be used for the development of the Projects, including without limitation the costs of preparation of environmental documents, traffic and revenue estimates, preliminary engineering studies, general engineering support, procurement support, legal support, railroad coordination, and TxDOT coordination. The financial assistance is comprised of \$13.6 million to be disbursed to the CTRMA, subject to the terms of this Agreement, and \$13.4 million to be used to pay for costs of services provided by TxDOT in connection with the development of the Projects. Costs payable through the financial assistance are limited to the salaries and other direct costs described in Attachment A to this Agreement that are incurred during the course of project related work performed by CTRMA staff and legal, financial, engineering, and other consultants, as well as incidental administrative and other expenses of the indirect overhead of the Authority, provided that (a) only those direct and indirect costs determined to be reasonable and allowable under OMB Circular A-87 may be reimbursed, (b) the amount of indirect costs to be reimbursed in a month will be determined by multiplying the percentage of direct costs on the applicable project to total costs in that month by the amount of indirect costs, and (c) in the event the CTRMA subsequently receives additional financial assistance from TxDOT related to other projects the aggregate of incidental expenses and indirect overhead allocations may not exceed 100% of those expenses.

2. Funds to be made available pursuant to this Agreement shall be disbursed in fiscal years 2012, 2013, 2015, and 2018, with the maximum amount to be disbursed in each fiscal year set forth below:

- (a) FY 2012- \$2,200,000.00
- (b) FY 2013- \$1,900,000.00
- (c) FY 2015- \$6,400,000.00

(d) FY 2018- \$3,100,000.00

Funds shall be disbursed within thirty (30) days of receipt and formal acceptance by TxDOT of a request from the CTRMA, which request shall comply with the invoice requirements prescribed in Attachment A to this Agreement, and which shall also include the following:

- A. the amount requested;
- B. a description of the use of the funds requested; and
- C. copies of proposals, invoices, fee statements, or other documentation showing the intended use of the funds requested.

TxDOT shall deny all or part of a request for funds proposed to be used for purposes not authorized by this Agreement or due to a lack of adequate documentation. The CTRMA may submit additional information to clarify the use of the funds requested or to provide any missing documentation.

3. The CTRMA may, but is not obligated to, request pre-approval of costs to be incurred in connection with the Projects and which are to be paid with funds provided under this Agreement, provided the amount of such costs, as determined by TxDOT, is reasonable and consistent with prior invoiced amounts and industry standards.

4. The CTRMA will maintain transaction level expenditure information relating to expenditures made or reimbursed with funds provided under this Agreement, and shall provide, on a monthly basis, a written report detailing the specific expenditures made or reimbursed with the granted funds during the previous month. Costs paid or reimbursed by the CTRMA using funds provided under this Agreement shall be paid or reimbursed in accordance with applicable policies of the CTRMA and other applicable state and federal laws, including the applicable requirements of OMB Circular A-87.

5. To the extent funds disbursed hereunder are utilized, consistent with the authorized purposes under this agreement, to procure tangible work product, TxDOT shall have the right to review such work product as a condition to making a requested disbursement.

6. Subject to paragraph 7 below and this paragraph 6, amounts disbursed to, or on behalf of, the CTRMA pursuant to this Agreement shall not be subject to repayment to TxDOT. Notwithstanding the foregoing, the CTRMA agrees to use surplus revenues (as that phrase is defined in the RMA Act) from each of the Projects to pay the costs of other transportation projects as authorized by Sec. 370.174(b) of the RMA Act, in an amount at least equal to the amount of funds provided under the Agreement for that Project.

7. If a Project is not developed by the CTRMA, all work product associated with that Project procured with funds provided under this Agreement shall, at TxDOT's request, be transferred to TxDOT, along with all right, title and interest in and to such work product and all unexpended funds provided to CTRMA under this Agreement and associated with that Project

that are not needed to pay or reimburse costs incurred by the CTRMA prior to its decision not to develop the Project shall be returned to TxDOT.

8. The CTRMA will comply with applicable state and federal law in the performance of its work under the Agreement and will comply with any other applicable provision of the Toll Equity Rules relating to the performance of work. The CTRMA shall not begin final design and construction on a Project until a project development agreement for that Project is executed by TxDOT and the CTRMA and, if required by law, terms and conditions for development of the Project are approved by CAMPO, a market valuation agreement is executed by TxDOT and the CTRMA, and the CTRMA Board of Directors adopts a resolution exercising the CTRMA's right to deliver the Project pursuant to Sec. 228.0111(g) of the Texas Transportation Code.

9. The parties shall comply with the cost principles established in OMB Circular A-87. The parties shall adhere to the procurement standard established in 49 CFR §18.36 and with the property management standard established in 49 CFR §18.32.

10. The CTRMA will maintain its books and records relating to the Projects, the financial assistance provided under the Agreement, and costs paid or reimbursed using funds provided under the Agreement in accordance with the requirements of the Toll Equity Rules, and will comply with the audit requirements and other requirements relating to project records in accordance with the Toll Equity Rules.

11. The State Auditor may conduct an audit or investigation of any entity receiving funds from the state directly under this Agreement or indirectly through a subcontract under this Agreement. Acceptance of funds directly under this Agreement or indirectly through a subcontract under this Agreement acts as acceptance of the authority of the State Auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the State Auditor with access to any information the State Auditor considers relevant to the investigation or audit.

12. If either party defaults in the performance of any obligation described in this Agreement, the other party may exercise any rights and remedies granted by law or this Agreement.

13. This Agreement does not constitute TxDOT approval of any Project or TxDOT approval for the CTRMA to construct a Project.

14. The parties acknowledge and agree that the CTRMA must comply with all environmental permits, issues and commitments necessary for development and ultimate operation of the Projects. The CTRMA shall provide TxDOT with written certification from appropriate regulatory agencies that identified environmental problems have been addressed in the environmental clearance documentation.

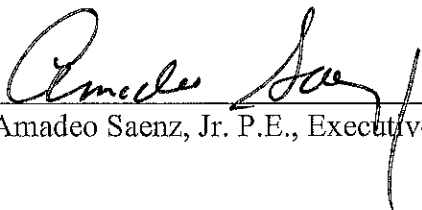
15. The parties shall comply with all federal, state, and local laws, statutes, ordinances, rules, and regulations, and with the orders and decrees of any courts or administrative bodies or tribunals in any manner affecting the performance of this Agreement. When requested, the CTRMA shall furnish TxDOT with satisfactory proof of this compliance. The CTRMA shall provide or obtain all applicable permits, plans, or other documentation required by a federal or state entity.

16. This Agreement shall be effective from the date indicated below until December 31, 2020. Any funds not expended at that time will not be available to the CTRMA.

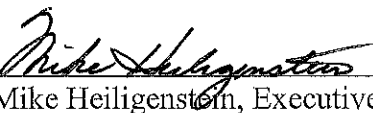
17. The signatories to this Agreement warrant that each has the authority to enter into this Agreement on behalf of the party represented.

This Agreement shall be effective as of the 9th day of February, 2011.

TEXAS DEPARTMENT OF TRANSPORTATION

By: 
Amadeo Saenz, Jr. P.E., Executive Director

**THE CENTRAL TEXAS REGIONAL MOBILITY
AUTHORITY**

By: 
Mike Heiligenstein, Executive Director

Attachment A to Financial Assistance Agreement

Invoice Reimbursement Checklist

Direct Labor/ Timesheets: The invoice must clearly identify each employee name, title, hours worked, date of performance, task or project description, rate per hour and/or cost, and office/company location.

Transportation Costs and Reimbursable Limits: Efforts must be made to secure a *reasonable* and/or lowest rate available in the marketplace.

Airline Costs: TxDOT will only reimburse for airline costs at the Economy or Coach Class rate. Extra insurance and luggage costs are unallowable. Airline ticket "reissue fee" is reimbursable only if the change was at TxDOT's request or change in meeting because of TxDOT.

Personal Automobile Mileage: Up to the state approved rate of **50 cents** per mile or the current state rate applicable at the time cost is incurred. Expense report must clearly identify the departure/arrival time, To/From destinations and purpose of trip.

Automobile Rentals: Not to exceed **\$50.00 per day** plus applicable taxes. Extra optional insurance or rental company gasoline costs are unallowable. Weekly or Monthly rates should be used when applicable. Upgrades beyond economy-sized require an explanation. Use of automobile rental not related to the project is unallowable.

Hotel Rates: Weekly and Monthly rates are encouraged and expected when applicable. Reimbursable costs shall not exceed **\$85.00 per day** plus applicable city/state/county taxes or current state rate applicable at the time cost is incurred.

Meals (Food Costs): Meal receipts are not required. Actual costs are allowable up to a maximum Per Diem allowance of **\$36.00 per day** or current state rate applicable at the time cost is incurred. Meals are only reimbursable with overnight lodging away from headquarters. *Tips and alcohol are not reimbursable. Per meal maximums for partial day travel are as follows: Breakfast \$8.00, Lunch \$10.00 and Dinner \$18.00 and are adjusted proportionately to a change in the current state rate.*

Other - Taxi, Bus, Limousine, Subway, etc.: Only reasonable and prudent costs (with explanations) are reimbursable. *Tips are not reimbursable.*

Entertainment Costs: Entertainment costs are not reimbursable, including: 1. Movie costs for "Pay for View" or Cable service. 2. Alcohol costs. 3. Monetary Tips (tipping) for any and all services related to all forms of travel (and/or entertainment).

Communication Costs: Long Distance telephone calls need to be identified and strictly related to work performed under this Agreement in order to be reimbursable by TxDOT. A log is preferred showing the date, person's name called, and explanation. Cell phone monthly charges

are reimbursable if usage is strictly related to work performed under this Agreement. Legible itemized cell phone records are required.

Receipts: Legible itemized receipts are required for the following: 1. Hotel (lodging) costs. 2. Airfare travel costs. 3. Parking costs. 4. Automobile or Equipment Rental costs. 5. Taxi, Limousine, Bus, Subway, or other travel costs. 6. Reproduction. 7. Shipping and Handling. 8. Local Postage/Deliveries (courier services). 9. Communication Costs. *Tips and alcohol are not reimbursable.*