



August 27, 2025
AGENDA ITEM #16

Discuss and consider approving an agreement with the Kaeske Law Firm for legal services associated with the retaining walls on the 183 South Project

Strategic Plan Relevance:	Safety
Department:	Legal
Contact:	Geoff Petrov, General Counsel
Associated Costs:	TBD
Funding Source:	Project Funds
Action Requested:	Consider and act on a draft resolution

Background:

Mobility Authority engineering staff have identified the need for retaining wall repairs along the 183 South corridor based on visual inspections and satellite data that has monitored wall movements across the Mobility Authority's system since early 2025. Staff believe these repairs result from the 183 South developer's failure to properly design and/or construct the retaining walls. The Mobility Authority requires legal counsel that specializes in complex litigation and is highly knowledgeable and experienced in the legal, engineering, and construction issues surrounding retaining wall litigation to pursue claims for monetary damages and other legal remedies associated with the retaining walls. Therefore, the Executive director and General Counsel request the Board to approve an agreement with the Kaeske Law Firm on a contingency fee basis pursuant to Subchapter C of Chapter 2254 of the Texas Government Code.

Backup provided: Draft Resolution; Draft contract for Legal Services; Public Notice

PUBLIC NOTICE
In association with Agenda Item No. 16 at the
August 27, 2025
Regular Meeting of the CTRMA Board of Directors

This notice is given pursuant to Tex. Gov't Code § 2254.1036.

- A. The Central Texas Regional Mobility Authority (“CTRMA”) intends to pursue claims for monetary damages, declaratory relief, and other legal remedies (“Damages”) in relation to the retaining walls located along the US 183 corridor from approximately US 290 to SH 71 (the “Litigation”). CTRMA’s desired outcome in pursuing the Litigation is to recover Damages owed to CTRMA for the failure to properly design and/or construct the subject retaining walls, in addition to other relief allowed under the law. Therefore, there is substantial need for the legal services.
- B. CTRMA wishes to engage Kaeske Law Firm (“Counselors”). Details regarding their competence, qualifications and experience are attached at Exhibit 1.
- C. The legal services for which the Counselors are retained cannot be adequately performed by the attorneys and supporting personnel of CTRMA. CTRMA’s budget is limited, and the legal department only has a single in-house attorney. CTRMA General Counsel is engaged in numerous transactional matters and in overseeing, managing, and litigating other matters. In addition, the investigation, research, and litigation of the claims will require specialized attorneys who have knowledge and experience with complex engineering principles, including structural and geotechnical engineering; retaining walls, including Mechanically Stabilized Earth walls; construction and contract issues, including the procurement, standards, specifications, and designs associated with roadway projects; and professionals with expertise in these fields. Such work will require numerous specialized attorneys, paralegals and others who are familiar with the wrongful actions and/or inactions involved in the design and construction of retaining walls. Thus, CTRMA does not have the resources it believes will be necessary to engage in protracted, time-consuming, and expensive litigation.

D. The legal services for which Counselors are proposed to be retained cannot reasonably be obtained from attorneys in private practice under a contract providing for the payment of hourly fees without regard to the outcome of the matter for the following reasons:

- (1) **TIME:** It is not economically feasible for CTRMA to pay outside counsel on an hourly basis for what CTRMA anticipates, based on similar previous litigation, will require thousands of hours of unbudgeted attorney time advanced in pursuing the relief CTRMA expects to achieve.

The issues involved in CTRMA's claims, including the parties' respective responsibilities for the proper design and construction of Mechanically Stabilized Earth retaining walls, have not been adjudicated and determined. The parties will likely aggressively oppose all aspects of the Litigation. It will require the skill of attorneys who have familiarity with such unique, complex litigation.

- (2) **COMPLEXITY/DAMAGES:** Besides legal issues, determining damages may be complicated. Damages will be based, in part, on: 1) expenses incurred by CTRMA on a limited portion of the subject walls, and 2) anticipated expenses to be incurred by CTRMA on the remaining portion of the walls which have not yet been remediated. The engineering and construction data necessary to formulate the calculation is unclear at this time, but it is anticipated to be complex and difficult to understand. Further, because there are expected to be multiple defendants, it is likely that they have different business practices and ways of maintaining their data. It will require experienced lawyers with the assistance of experts to decipher the data and determine a mathematical or formulaic calculation for each of the retaining walls at issue, each based on their individual needs.

- (3) **EXPENSES:** Finally, while CTRMA has agreed to reimburse certain expenses, Counselors have agreed to advance any expenses in the case required to retain special outside counsel to assist on matters other than prosecuting CTRMA's claims. Examples of such instances include: a defendant may seek bankruptcy protection; a defendant may attempt to transfer some of its assets to avoid paying CTRMA's claim; a complex, multi-party settlement may require an ethics opinion from outside counsel; or a separate lawsuit may need to be filed against a defendant's insurance company. In such an instance, the fees of such special outside counsel shall be advanced by Counselors. If there is no recovery, Counselors will be solely responsible for payment of such special outside counsel expenses. In CTRMA's experience, hourly lawyers are unable and/or unwilling to make such concessions.
- E. The relationship with Counselors would continue until this Litigation is completed. CTRMA's selection of Counselors is based in part on their representation of the North Texas Tollway Authority ("NTTA"), which first began in about April 2012 in another retaining wall civil case captioned Cause No. 12-01431, *North Texas Tollway Authority vs. James Construction Group, LLC, KBR, Inc. and Bureau Veritas North America, Inc.*, then pending in the 160th Judicial District of Dallas County, Texas. In that case and in NTTA's three other retaining wall cases that followed, Counselors demonstrated their specialized skills with respect to this type of complex engineering and construction litigation, and Counselors successfully concluded each of those cases on NTTA's behalf.
- F. The advance of expenses for special outside counsel is risky because there is no guarantee litigation will be successful. In contrast, under the terms of the legal services agreement, such expenses are reimbursed only out of any recovery. Because CTRMA has limited funds, it is especially in CTRMA's interest, and that of its constituents, to have Counselors advance those special counsel expenses and only be reimbursed by CTRMA out of any recovery if CTRMA is successful. Entering a contingent fee contract for legal services is also in the best interest of CTRMA and the constituents of CTRMA because it will allow CTRMA to recoup damages owed CTRMA for retaining wall repairs spent to date and obtain a judgment ordering the defendants to

pay the additional repair expenses not yet spent. The damages recovered in the Litigation will be used to support essential CTRMA services in order to protect against further loss of or damage and prevent or minimize serious disruption in critical CTRMA services that affect health, safety, or the collection of substantial toll revenues. Retaining counsel who will perform these services on a contingency fee and who will advance expenses of outside special counsel will allow CTRMA to use those funds instead to support necessary CTRMA services, and if CTRMA does not obtain a recovery from the litigation, CTRMA additionally benefits from the proposed contract by not having to pay for those expenses or the substantial attorneys' fees that would have been incurred if the services had been performed on an hourly basis.

EXHIBIT 1

KAESKE LAW FIRM

Kaeske Law Firm was founded in 1999 by Michael Kaeske. Mr. Kaeske has decades of courtroom experience. He consistently tries tough, complex cases to verdict. Kaeske Law Firm has successfully handled multiple retaining wall litigation matters.

Mr. Kaeske attended Syracuse University, graduating in 1991 summa cum laude with a degree in International Relations and Philosophy. In 1995, Mr. Kaeske graduated from the University of Texas with a joint J.D./M.B.A.

Mr. Kaeske began his legal career by trying cases for Baron & Budd. At this time, D Magazine selected Mr. Kaeske in the first group of the “Best Lawyers in Dallas Under 40” in 2002 and again in 2004. Mr. Kaeske earned this reputation by achieving multiple verdicts for Baron & Budd’s clients.

In 1999, Mr. Kaeske left Baron & Budd to form his own firm and then opened offices in Austin and Dallas, where he has handled a range of significant cases for the last two decades, including complex business and construction litigation.

Mr. Kaeske continues to be recognized by Texas Super Lawyers. In 2011, he tried a large commercial case to verdict that was recognized as the “#1 Contract Case Verdict in Texas” and the “#8 Top Texas Verdict of 2011” by Texas Lawyer.

Since 2012, Mr. Kaeske has been the lead counsel for the North Texas Tollway Authority’s retaining wall litigation. In 2024, Mr. Kaeske achieved a \$280 million jury verdict on behalf of the NTTA. Mr. Kaeske has successfully resolved each of the four retaining wall cases he litigated for NTTA.

In 2020, Mr. Kaeske led the team that received the Public Justice “Trial Lawyer of the Year” award, including for their achievement of monetary verdict awards for their clients in excess of \$500 million in the subject litigation – as documented in the book Knopf published, “Wastelands” by Corban Addison.

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

RESOLUTION NO. 25-0XX

**APPROVING AN AGREEMENT WITH THE KEASKE LAW FIRM
FOR SPECIAL LITIGATION COUNSEL SERVICES**

WHEREAS, the Central Texas Regional Mobility Authority (“Authority”) intends to pursue claims for monetary damages, declaratory relief, and other legal remedies (“Damages”) in relation to the retaining walls located along the US 183 corridor from approximately US 290 to SH 71 (the “Litigation”); and

WHEREAS, the Authority’s desired outcome in the Litigation is to recover Damages owed to the Authority for the failure to properly design and/or construct the subject retaining walls, in addition to other relief allowed under the law; and

WHEREAS, the Authority has a substantial need of the legal services of counsel to represent it in the Litigation; and

WHEREAS, the Authority requires legal counsel specializing in complex litigation and highly knowledgeable and experienced in the legal, engineering, and construction issues surrounding retaining wall litigation; and

WHEREAS, the Authority now desires to enter into a contingent fee contract (“Contract”) for legal services with Kaeske Law Firm (“Counselors”); and

WHEREAS, pursuant to Subchapter C of Chapter 2254 of the Texas Government Code (“Chapter 2254”), a political subdivision of the State of Texas, including the Authority, may enter into a contingent fee contract for legal services only after: (i) the governing body of the political subdivision has provided written notice to the public stating certain provisions enumerated within Chapter 2254; (ii) the governing body of the political subdivision approved such contract in an open meeting called, in part or in whole, for the purposes of considering such contract; and (iii) the governing body of the political subdivision stated in writing certain findings made by the governing body upon the approval of such contract; and

WHEREAS, before the contingent fee contract for legal services is effective and enforceable, the Authority must receive approval of the Contract by the Office of the Attorney General of Texas or the Contract is otherwise allowed under Tex. Gov’t Code §2254, as amended; and

WHEREAS, the Authority has caused notice of this resolution, this meeting, and certain provisions enumerated within Chapter 2254 to be provided to the public in accordance with the Texas Open Meetings Act and Chapter 2254; and

WHEREAS, the meeting at which this resolution is being considered is an open meeting called, in part or in whole, for the purpose of considering: (i) the Authority’s need for legal counsel to represent it in the Litigation; (ii) terms of the Contract; (iii) the competence, qualifications, and experience of the Counselors; and (iv) the reasons that the Contract is in the best interest of the Authority and complies with Chapter 2254; and

WHEREAS, the Central Texas Regional Mobility Authority's Board of Directors ("Board") hereby finds and determines that the adoption of this resolution is in the best interests of the Authority and its constituents.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS:

SECTION 1. That the recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this resolution for all purposes and are adopted as a part of the judgment and findings of the Board.

SECTION 2. That the Board hereby finds that: (i) there is a substantial need for the legal services to be provided in the Litigation; (ii) the legal services to be provided in the Litigation cannot adequately be performed by the attorneys and supporting personnel currently employed by the Authority; (iii) the legal services to be provided in the Litigation cannot reasonably be obtained from attorneys in private practice under a contract providing only for the payment of hourly fees, without regard to the outcome of the matter, because of the nature of the Litigation and without imposing an unnecessary cost and burden on the Authority's finances; and (iv) the relationship between the Authority or the Board and the Counselors is not improper and would not appear improper to a reasonable person.

SECTION 3. That based on the findings by the Board described above, the Board hereby authorizes the Executive Director to execute a legal services contract with Kaeske Law Firm, approved as to form by the Authority's General Counsel, effective only upon approval by the Office of the Attorney General of Texas or as otherwise allowed under Tex. Gov't Code §2254, as amended.

SECTION 4. That it is officially found, determined, and declared that the meeting at which this resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this resolution, was given, all as required by Chapter 551 as amended, Texas Government Code.

SECTION 5. That the Authority will pay the Counselors a contingency fee and expenses in accordance with the rates in Attachment A to this resolution, with such fee being contingent upon the recovery, if any, by the Authority in the Litigation.

SECTION 6. That this Resolution shall take effect immediately from and after its passage in accordance with the policies and regulations of the Authority, and it is accordingly so resolved.

Adopted by the Board of Directors of the Central Texas Regional Mobility Authority on the 27th day of August 2025.

Submitted and reviewed by:

Approved:

James M. Bass
Executive Director

Nikelle Meade.
Vice Chair, Board of Directors

Exhibit A

**AGREEMENT FOR PROVIDING
LEGAL SERVICES TO CENTRAL TEXAS REGIONAL MOBILITY AUTHORITY
IN CONNECTION WITH RETAINING WALL LITIGATION**

Central Texas Regional Mobility Authority (“CTRMA”) and Kaeske Law Firm (“Counselors”) enter into this agreement (“Contract”) to provide legal services on behalf of CTRMA, its officials and employees with such services regarding the matter below. CTRMA and Counselors shall collectively be referred to as the “Parties.”

1. **PROFESSIONAL LEGAL SERVICES**

A. Counselors are hereby retained to provide legal representation to CTRMA in connection with litigation and appeals seeking damages, declaratory relief, attorneys’ fees, interest and other appropriate relief in relation to the retaining walls located along the US 183 corridor from approximately US 290 to SH 71 (the “Litigation”). The services shall be referred to as “Professional Legal Services.”

B. Counselors hereby agree to perform the Professional Legal Services necessary, in accordance with the terms of this Contract. This Contract shall be administered on behalf of CTRMA by its General Counsel. At the request of the General Counsel, Counselors will provide case status reports and will participate from time to time in both open and closed session briefings of the CTRMA Board.

2. **PAYMENT**

For the performance of Professional Legal Services, CTRMA agrees to pay Counselors on a contingency fee basis and reimburse costs as detailed on Exhibit A, which is incorporated herein.

3. **RECITALS PURSUANT TO TEX. GOV’T CODE CH. 2254**

Counselors’ further duties in compliance with Tex. Gov’t Code Ch. 2254, as amended, are set out in Exhibit A.

4. **EFFECTIVE DATE**

The effective date of this Contract shall begin 90 days after it is received by the Office of the Attorney General of Texas (“OAG”) pursuant to Tex. Gov’t Code Ch. 2254, as amended, unless it is not approved by that time. Once it is either approved by the OAG, or 90 days have passed, the Contract shall continue until completion of the Litigation or terminated as provided herein. All services under this Contract are to be completed timely and in the highest professional manner.

5. **TERMINATION**

A. CTRMA’s General Counsel may terminate the performance of services at any time, with or without cause, by giving at least ten (10) days written notice to Counselors. The notice must be delivered by email and by certified mail with return receipt for delivery to CTRMA.

1. Termination Without Cause: (i) if CTRMA terminates this Contract without cause, Counselors shall be paid for the reasonable value of the legal services provided plus reimbursement for all Costs incurred at the time of termination; (ii) if CTRMA resolves the Litigation through final settlement, award, or judgment, Counselors shall be paid Attorneys' Fees pursuant to Exhibit A at the time of a Recovery.

2. Termination with Cause: If Counselors fail to satisfactorily perform any material obligation under this Contract, such failure constitutes a Default. If Counselors fail to satisfactorily cure a Default within thirty (30) calendar days of receiving written notice from CTRMA specifying the nature of the Default, CTRMA may terminate this Contract for cause, in which case compensation due Counselors, if any, shall be calculated considering the particular facts and circumstances involved in such termination, and paid only out of any Recovery.

B. Counselors may withdraw as permitted under the Rules of Professional Conduct of the State Bar of Texas. The circumstances under which withdrawal is permitted include the following: (a) CTRMA consents, (b) CTRMA's conduct renders it unreasonably difficult for Counselors to carry out the employment effectively, (c) CTRMA fails to pay Attorneys' Fees or Costs as required by this Contract, or (d) Counselors determine it is not economically feasible for Counselors to perform the Services. If Counselors properly withdraw from representing CTRMA pursuant to subparagraph (a)–(c) above or because it is required to do so by the Rules of Professional Conduct, CTRMA agrees to compensate Counselors for the reasonable value of the legal services provided, plus reimbursement for Costs. The reasonable value of legal services shall not exceed thirty-three and one-third percent (33 1/3%) of CTRMA's total ~~Recovery~~ or, if reimbursed on an hourly basis, shall not exceed the hourly rates provided in Exhibit A, Section 8.8. If Counselors withdraw from representing CTRMA pursuant to subparagraph (d) above, Attorneys' Fees and Costs due Counselors, if any, shall be calculated considering the particular facts and circumstances involved in such withdrawal, and any Fees will be paid only out of any Recovery. Any disputes regarding the reasonable value of such legal services or Costs shall be mediated by the Judicial Arbitration and Mediation Services (JAMS).

6. VENUE AND GOVERNING LAW

This Contract is made subject to the policies and regulations of CTRMA, as amended, and all applicable laws of the State of Texas. This Contract is performable in Travis County, Texas, and venue for any legal action under this Contract shall lie in Travis County, Texas; and in construing this Contract, the laws and court decisions of the State. Any disputes regarding the Contract including the reasonable value of legal services or Costs shall be mediated by the Judicial Arbitration and Mediation Services (JAMS) before any litigation is undertaken.

7. NO REPRESENTATION OF ANY ADVERSE PARTY

Counselors acknowledge that they are not currently involved in any litigation in which it represents a party who is adverse to CTRMA, and Counselors agree that they will not undertake any litigation adverse to CTRMA or to an employee or officer of CTRMA, except with prior disclosure to and written consent by the General Counsel.

8. CONFLICTS

CTRMA and Counselors acknowledge that multiple parties may become named parties in the Litigation. CTRMA has conferred with the General Counsel and Counselors, and there are no potential or actual conflicts of interest which preclude this Contract.

9. REPRESENTATION OF RELATED INTERESTS

Counselors shall have the right to represent other municipalities, or governmental subdivisions in other similar litigation without the consent of CTRMA, subject to the Texas Disciplinary Rules of Professional Conduct (“Rules of Professional Conduct”) relating to conflicts of interest.

10. CONFLICT OF INTEREST

It is understood and agreed that the Counselors will notify CTRMA in writing of the potential for any conflict of interest in any legal matter or case within 24 hours of its discovery.

11. NOTICES

Except as otherwise provided in Section 14, any notice, payment, statement, or demand required or permitted to be given under this Contract by either party to the other may be affected by email and personal delivery in writing or by mail, postage prepaid. Mailed notices shall be addressed to the parties at the addresses appearing below, but each party may change its address by written notice in accordance with this section. Mailed notices shall be deemed communicated as of three (3) days after mailing.

If intended for CTRMA, to:

Geoff Petrov

General Counsel, Central Texas Regional Mobility Authority

3300 North IH-35, Suite 300

Austin, Texas 78705

If intended for Counselors, to:

Michael Kaeske

KAESKE LAW FIRM

200 Crescent Ct., Suite 1040

Dallas, Texas 75201

12. LEGAL SERVICES SPECIFICALLY EXCLUDED

Counselors do not agree to provide any representation beyond that described in Section 1.A. above. If CTRMA wishes to retain Counselors to provide any legal services not provided under this Contract, a separate written agreement between Counselors and CTRMA will be required.

13. AUTHORITY OF COUNSELORS

Counselors may execute, at his/her option, all reasonable and necessary court documents connected with the handling of the Litigation. If the General Counsel gives Counselors sufficient notice of documents he/she wishes to jointly sign with Counselors, Counselors will undertake good faith efforts to accomplish same.

14. ATTORNEYS' LIEN

Counselors will have a lien to the fullest extent of Texas law for attorneys' fees and costs on all claims and causes of action that are the subject of its representation of CTRMA under this Agreement and on all proceeds of any recovery collected (whether by settlement, Court judgment, or otherwise).

15. COMMUNICATIONS

CTRMA designates Geoff Petrov, the General Counsel, or any other person designated by the General Counsel as the authorized representative of CTRMA to direct Counselors. Correspondence will be forwarded to him at gpetrov@ctrma.org. Counselors designate Michael Kaeske to be the primary individual to communicate with CTRMA regarding the subject matter of Counselor's representation of CTRMA under this Contract. Correspondence will be forwarded to him at mikekaeske@gmail.com.

16. NO ASSIGNMENT

Counselors shall not sell, assign, transfer, or convey this Contract, in whole or in part, without the prior written consent of the General Counsel.

17. COUNTERPARTS

This Contract may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument. If this Contract is executed in counterparts, then it shall become fully executed only as of the execution of the last such counterpart called for by the terms of this Contract to be executed. Any signature delivered by a party by facsimile or electronic transmission (including email transmission of a PDF image) shall be deemed to be an original signature hereto.

18. CAPTIONS

The captions to the various clauses of this Contract are for informational purposes only and shall not alter the substance of the terms and conditions of this Contract.

19. ENTIRE AGREEMENT; NO ORAL MODIFICATIONS

This Contract (with all referenced Exhibits, attachments, and provisions incorporated by reference) embodies the entire agreement of both parties, superseding all oral or written previous and contemporary agreements between the parties relating to matters set forth in this Contract. Except as otherwise provided elsewhere in this Contract, this Contract cannot be modified without written supplemental agreement executed by both parties.

20. MISCELLANEOUS

CTRMA recognizes that no result has been guaranteed by Counselors, and that this Contract is not based upon any such promise or anticipated result. CTRMA further acknowledges that it is exclusively responsible for all personal liability, or potential liability, awarded against it by a court because of a claim, counterclaim, protest suit, or otherwise, and that by undertaking to represent CTRMA pursuant to this Contract, Counselors assume none of CTRMA's joint and/or individual liability.

21. AUTHORITY TO SETTLE LITIGATION

CTRMA does not relinquish authority or responsibility through this Contract to settle the Litigation. CTRMA has the sole authority to settle the Litigation on behalf of CTRMA and its citizens, and Counselors shall inform the General Counsel of all settlement offers.

22. APPROVAL BY THE OFFICE OF THE ATTORNEY GENERAL OF TEXAS

The Parties agree that this Contract is not effective until approved by the Office of the Attorney General of Texas ("OAG") or as otherwise allowed under Tex. Gov't Code Ch. 2254, as amended.

23. COMPLIANCE WITH CERTAIN STATE LAW

1. *Anti-Boycott of Israel.* Each Firm certifies that it is not currently engaged in, and agrees for the duration of this Agreement not to engage in, the boycott of Israel as defined by Section 808.001 of the Texas Government Code.

2. *Anti-Boycott of Energy Companies.* Each Firm certifies that the Firm is not currently engaged in, and agrees for the duration of this Agreement not to engage in, the boycott of energy companies as defined by Section 809.001 of the Texas Government Code.

3. *Anti-Boycott of Firearm Entities or Firearm Trade Associations.* Each Firm certifies that the Firm does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association, or will not discriminate against a firearm entity or firearm trade association for the duration of this Agreement, as defined by Section 2274.001 of the Texas Government Code.

4. *Certification of No Business with Foreign Terrorist Organizations.* For purposes of Section 2252.152 of the Texas Government Code, each Firm certifies that, at the time of this Agreement neither Firm nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of Firm, is a company listed by the Texas Comptroller of Public Accounts under Sections 2252.153 or 2270.0201 of the Texas Government Code as a company known to have contracts with or provide supplies to a foreign terrorist organization.

EXECUTED this the _____ day of _____, 2025.

COUNSELORS

Michael Kaeske
Kaeske Law Firm

**CENTRAL TEXAS REGIONAL
MOBILITY AUTHORITY**

James M. Bass
Executive Director

APPROVED AS TO FORM & LEGALITY:

Geoff Petrov, General Counsel

EXHIBIT A
COMPENSATION AND COSTS

1. **Compensation (“Attorneys’ Fee(s)” or “Contingency Fee(s)”**.

The employment of Counselors will be on a contingency fee basis. Specifically, if CTRMA obtains a recovery and collection on behalf of CTRMA before the filing of litigation in court or arbitration, Counselors will receive Attorneys’ Fees in the amount of Twenty Percent (20%) of the Gross Recovery. If recovery for CTRMA occurs after the filing of litigation, Counselors will instead receive Attorneys’ Fees in the amount of the Thirty Percent (30%), and upon the filing of any response to a motion for summary judgment or appeal, or the beginning of arbitration or trial (at the beginning of jury selection or, if there is no jury, opening argument), Counselors will instead receive Attorneys’ Fees in the amount of Thirty-Three and One-Third Percent (33 1/3%) of the Gross Recovery. The Attorneys’ Fees are not set by law but are negotiable between CTRMA and Counselors.

Counselors shall be entitled to such Contingency Fees regardless of whether the recoveries are a result of an accounting, settlement, judgment, litigation, ordinance, legislation, voluntary payment, credit, refund, adjustment, offset, reduction in future charges, protest suit, in-kind consideration, or some other method or source. Counselors’ Contingent Fee shall be allocated among CTRMA and any other participants in the recovery in proportion to the gross amount of that recovery by each participant.

The sole contingency upon which CTRMA will pay Fees to Counselors is a recovery and collection on behalf of CTRMA, whether by settlement, court judgment, or otherwise.

2. **Gross Recovery**.

The term “Gross Recovery” shall include, without limitation, the then present value of any monetary payments agreed or ordered to be made and the fair market value of any property or services agreed or ordered to be made and the fair market value of any property or services agreed or ordered to be transferred or rendered for the benefit of CTRMA by the adverse parties to the Litigation or their insurance carrier(s), whether by settlement, court judgment, or otherwise.

If payment of any part of the relief to CTRMA will be in the form of property and services (“In-Kind”), the value of such property and services for purposes of calculating the Gross Recovery shall be calculated based on the present value, as of the time of the settlement or final court judgment, of the In Kind relief to be received thereafter. Using the then-existing information, the value of the In-Kind relief shall be determined using CTRMA’s forms for project cost estimation, utilizing the more detailed level of estimation form that the then-existing information reasonably permits. The Attorneys’ Fees for the value of the In-Kind relief shall be paid from CTRMA’s funds within 30 days of the settlement or judgment. The value of the In-Kind relief will be determined through the mutual agreement of CTRMA and Counselors pursuant to the above.

If the Parties disagree with respect to the value of any In-Kind relief, they will proceed as follows: Within thirty (30) days each party will select an appraiser qualified to conduct an appraisal of the value of the In-Kind relief and such appraiser will present their appraisal to the other. The selected appraisers will thereafter meet and confer to agree on the value of the In-Kind relief. If

resolution of the dispute is not reached within sixty (60) days of the initial meet and confer, the appraisers will select a third qualified appraiser within fifteen (15) days. The third appraiser's valuation will be final and binding on the Parties. If a third appraiser is not timely selected or the resolution of the value of the In-Kind relief is otherwise not determined in accordance with these provisions, the value shall be determined by binding arbitration at the Judicial Arbitration and Mediation Services (JAMS).

3. **Costs.**

It will be necessary for Counselors to incur certain court costs and other types of expenses for CTRMA ("Costs"). These Costs and other expenses may include, but are not limited to, the following: filing and service fees; costs of investigative services; travel expenses (including air fare, ground transportation, vehicle mileage, lodging, and meals); deposition expenses and court reporters fees; outside trial services providers and jury consultants; trial equipment rental and operation fees; preparation of exhibits and graphics; the costs of briefs and transcripts on appeal, and miscellaneous copying, postage, shipping, and courier expenses. In addition, it will be necessary to employ expert witnesses, and Counselors, with prior approval from CTRMA, may employ and pay these expert witnesses. Such expenditures shall be included within Costs.

CTRMA agrees to reimburse Counselors for all reasonable Costs; however, Counselors must obtain pre-approval in writing from CTRMA's General Counsel of outside expenditures greater than \$5,000, and requests for reimbursement of expenses exceeding \$500 for Costs must be submitted monthly.

In some instances, it may be necessary for Counselors to retain special outside counsel to assist on matters other than prosecuting CTRMA's claims. Examples of such instances include: a defendant may seek bankruptcy protection; a defendant may attempt to fraudulently transfer some of its assets to avoid paying CTRMA's claim; a complex, multi-party settlement may require an ethics opinion from outside counsel; or a separate lawsuit may need to be filed against a defendant's insurance company. CTRMA agrees that Counselors, with written permission of CTRMA, may retain such special outside counsel to represent CTRMA when Counselors deem such assistance to be reasonably necessary. In such an instance, the fees of such special outside counsel shall be advanced by Counselors and shall be reimbursed to Counselors by CTRMA from its share of the Gross Recovery provided that (1) CTRMA finds that such costs were reasonable, proper, necessary, and were actually incurred on behalf of CTRMA, and (2) such costs were in compliance with, and do not exceed, the rates and limits provided in Section 8.8 of Exhibit A. If there is no recovery, Counselors will be solely responsible for payment of such expenses.

4. **Application for Attorneys' Fees.**

CTRMA and Counselors intend to seek an order for payment by the named defendants of CTRMA's Attorneys' Fees and Costs (as defined in Sections 1-3 above), if CTRMA prevails, in whole or in part, in the Litigation. CTRMA agrees to use its best efforts to support any such application.

If the amount of the Attorneys' Fees awarded and collected from a court order regarding Attorneys' Fees exceeds the amount called for under the contingency fee calculation in Section 1 of Exhibit A, Counselors shall be entitled to the amount of the Attorneys' Fees awarded and collected from the defendants as a reasonable fee, in lieu of payment by CTRMA of the Attorneys' Fees. If, however, the amount of the Attorneys' Fees awarded and collected from a court order regarding Attorneys' Fees is less than the amount as calculated under the Contingency Fee, Counselor's Attorneys' Fees shall remain as calculated by the Contingency Fee calculation in Paragraph 1 of Exhibit A, and, in that instance, CTRMA may direct that the statutory attorneys' fee award be paid directly to Counselors by the defendants, and CTRMA shall pay the difference between the Contingency Fee and the attorneys' fees awarded.

5. **Reasonableness.**

CTRMA and Counselors have discussed the reasonableness of the contingency fees provided for in this Contract, as opposed to an hourly rate, a fixed fee, quantum merit, or some other possible basis for calculating the Attorneys' Fees to be paid to Counselors. CTRMA and Counselors agree that under all the circumstances a contingency fee is the most reasonable and equitable way to compensate Counselors in light of the effort required, the risks to be undertaken in the Litigation, and other applicable factors. CTRMA and Counselors further understand that the substantial effort required of Counselors will not be compensated if there is no recovery. Therefore, CTRMA agrees that it supports and will not contest the reasonableness or fairness of this contingency fee contract.

6. **Possible Efforts of Defendants to Invalidate Agreement.**

Defendants in litigation involving public entities might attempt to challenge or seek to invalidate contingency fee arrangements between public entities and outside counsel. CTRMA and Counselors believe that any such challenges to this Contract would lack merit and that this contingency fee arrangement as set forth above is valid and in the public interest. CTRMA agrees to join Counselors in opposing any such challenge. However, if this contingency fee contract is found to be invalid, Counselors shall be compensated based on the reasonable value of its legal services and will be reimbursed for Costs.

7. **Calculation and Division of Attorneys' Fees.**

Counselors may divide the Attorneys' Fees received for the legal services provided under this Contract with other attorneys or law firms retained as associate counsel and approved by CTRMA in writing. The terms of the division, if any, will be disclosed to CTRMA. CTRMA is informed that, under the Rules of Professional Conduct of the State Bar of Texas, such division may be made only with CTRMA's written consent after a full disclosure to CTRMA in writing that a division of Attorneys' Fees will be made, the identity of the lawyer or law firms involved, the basis upon which Attorneys' Fees will be divided, and of the terms of such division. CTRMA will not unreasonably withhold approval of associate counsel recommended by Counselors or unreasonably refuse to consent to a proposed division of Attorneys' Fees among counsel. Additionally associated counsel who have been approved by CTRMA shall be included in the calculation of the base fee for purposes of the Contingency Fee calculation.

CTRMA agrees that for purposes of the Contract and the Contingency Fee calculation that (a) Counselors' work commenced in June 2025 (and such hours shall be included in the Contingency Fee calculation) and (b) Counselors includes, without limitation, the following attorneys associated with or of counsel to Kaeske Law Firm: Michael Kaeske, Eric Manchin, Jeremy Martin, Lisa Blue, Timothy Perkins, and Jonathan Nockels (each of whom shall be included as a principal/partner of Counselors for purposes of the Contingency Fee calculation), as well as the other professionals working for Kaeske Law Firm.

8. **Recitals Pursuant to Tex. Gov't Code Ch. 2254.**

- 8.1 Counselors shall keep current and complete written time and expense records that describe in detail the time and money spent each day in performing the contract, as required under Tex. Gov't Code § 2254.104(a).
- 8.2 Counselors shall permit the governing body or governing officer of CTRMA, the attorney general, and the state auditor, or other officials as appropriate, to inspect or obtain copies of the time and expense records at any time on request, as required under Tex. Gov't Code § 2254.104(b).
- 8.3 On conclusion of the matter for which Counselors were obtained, Counselors shall provide CTRMA with a complete written statement that describes the outcome of the matter, states the amount of any recovery, shows the Counselors' computation of the amount of the contingent fee, and contains the final complete time and expense records, as required under Tex. Gov't Code § 2254.104(c). The complete written statement required under this section is public information subject to disclosure under Tex. Gov't Code § 2254.104(d).
- 8.4 All time and expense records required herein are public information subject to required public disclosure under Texas Government Code Chapter 552. Information in the records may be withheld from a member of the public under Section 552.103 only if, in addition to meeting the requirements of Section 552.103, the General Counsel determines that withholding the information is necessary to protect CTRMA's strategy or position in pending or reasonably anticipated litigation. Information withheld from public disclosure shall be segregated from information that is subject to required public disclosure. Public disclosure may not be withheld, and is required, regarding the written statement required by Tex. Gov't Code § 2254.104(d).
- 8.5 Any subcontracted legal or support services performed by a person who is not a contracting attorney, partner, shareholder, or employee of Counselors is an expense subject to reimbursement only in accordance with Tex. Gov't Code § 2254.105(4).
- 8.6 The method for payment of litigation and other expenses and, if reimbursement of any expense is contingent on the outcome of the matter or reimbursable from the amount recovered in the matter, whether the amount recovered for purposes of the contingent fee computation is the amount obtained before or after expenses are deducted, as required under Tex. Gov't Code § 2254.105(3).

- 8.7 The amount of the contingent fee and reimbursement of expenses under the Contract will be paid and limited in accordance with Tex. Gov't Code § 2254.105(5).
- 8.8 Counselors' contingent fee is limited to the lesser of 1) the contingent fee set forth in paragraph "1" above or 2) four times Counselors' base fee, as that term is used in Tex. Gov't Code § 2254.106.

Because of the expected difficulties in performing the work under this Agreement, the amount of expenses expected to be risked by Counselors, the expected risk of no recovery, and the expected long delay in recovery, a reasonable multiplier for the base fee in this matter is four. Counselors' reasonable hourly rate for the work performed under the Agreement is \$990 an hour for principals and partners of any members of the Counselors' firms (including Michael Kaeske, Eric Manchin, Jeremy Martin, Timothy Perkins, Lisa Blue, and Jonathan Nockels), \$855 for senior counsel, \$795 an hour for senior level associates practicing 10 years or more, \$550 per hour for other attorneys, and \$325 per hour for paralegals or law clerks consistent based on the reasonable and customary rate in the relevant locality for the type of work performed and on the relevant experience, demonstrated ability, and standard hourly billing rate, if any, of the person performing the work, as required under Tex. Gov't Code § 2254.106(a). These rates apply to the subcontracted work performed, if any, by an attorney, law clerk, or paralegal. The base fee will be computed pursuant to Subchapter C, Chapter 2254 of the Texas Gov't Code by multiplying the number of hours the attorney, paralegal or law clerk worked in providing legal or support services for CTRMA times the reasonable hourly rate for the work performed by the attorney, paralegal or law clerk. The base fee is computed by adding the resulting amounts. The computation of the base fee does not include hours or costs attributable to work performed by a person who is not employed by Counselors.