



**CENTRAL TEXAS  
Regional Mobility Authority**

July 27, 2016  
AGENDA ITEM #16

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Discuss and consider authorizing the Executive Director to take any and all actions necessary to enforce the terms of the design-build contract with CH2M for the Mopac Improvement Project

Strategic Plan Relevance: Regional Mobility  
Department: N/A  
Contact: Jeff Dailey, Deputy Executive Director  
Associated Costs: N/A  
Funding Source: N/A  
Action Requested: Consider and act on draft resolution

**Summary:**

The purpose of this resolution is to authorize the Executive Director to take and actions to necessary to enforce the terms of the Design Build Contract and Cure Agreement (approved February 2016) with CH2M. The Cure Agreement contemplated the completion of the Interim Milestone Work and the opening of the northern section of the Project to traffic by June 8, 2016. To date, the Interim Milestone Work is not completed.

Per the terms of the Design Build Contract and Cure Agreement, liquidated damages will be accrued and assessed until the the work is complete. Additionally, there is a default provision in the event that work does not progress per the approved plan.

CH2M reports that they are working to add workforce and sub consultant resources in an effort to get the work progress back on track. We intend to use all contractual mechanisms as needed to work with CH2M to complete the work northbound express lanes in August and open all lanes by the end of the year. Under consideration is the possibility of a global settlement should the northbound express lanes be opened to traffic in August.

Backup provided: Draft Resolution

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

**RESOLUTION NO. 16-XXX**

**AUTHORIZING THE EXECUTIVE DIRECTOR TO TAKE ANY AND ALL ACTIONS  
NECESSARY TO ENFORCE THE TERMS OF THE DESIGN/BUILD CONTRACT  
WITH CH2MHILL FOR THE MOPAC IMPROVEMENT PROJECT**

WHEREAS, by Resolution No. 13-010 dated February 27, 2013, the Board of Directors (“Board”) of the Central Texas Mobility Authority (“Mobility Authority”) authorized the Executive Director to finalize and execute a design-build contract (the “Contract”) with CH2M Hill Engineers, Inc. (“CH2M”) for development of the MoPac Improvement Project (the “Project”); and

WHEREAS, by Resolution No. 16-005 dated February 16, 2016, the Board authorized the Executive Director to take all actions necessary to negotiate, execute and implement Amendment No. 1 to the Contract in order to implement a plan for completing the Project;

WHEREAS, to date, CH2M has failed to complete the Interim Milestone Work, which provides for opening of the northbound and southbound toll lanes, immediately north of 2222 to approximately Parmer Lane (the northern terminus), to tolled traffic for revenue generation;

WHEREAS, the Mobility Authority has accrued liquidated damages due to CH2M’s failure to timely deliver the Project by the Completion Deadline;

NOW, THEREFORE, BE IT RESOLVED that the Board hereby authorizes the Executive Director to take any and all actions necessary to enforce the terms of the Contract, as amended, including without limitation terms associated with the recovery schedule and actions authorized for the failure to comply therewith.

Adopted by the Board of Directors of the Central Texas Regional Mobility Authority on the 27<sup>th</sup> day of July, 2016.

Submitted and reviewed by:

Approved:

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Geoffrey Petrov, General Counsel

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Ray A. Wilkerson  
Chairman, Board of Directors