



CENTRAL TEXAS REGIONAL
MOBILITY AUTHORITY

September 11, 2019
AGENDA ITEM #6

Approve Amendment No. 2 to the interlocal agreement with the City of Austin for utility betterments on the Bergstrom Expressway (183 South) Project

Strategic Plan Relevance:	Regional Mobility
Department:	Engineering
Contact:	Justin Word, P.E., Director of Engineering
Associated Costs:	\$206,168
Funding Source:	City of Austin
Action Requested:	Consider and act on draft resolution

Project Description/Background – The 183 South Project is adding three tolled lanes in each direction on an 8-mile stretch of US 183 between US 290 and SH 71. When the project is complete, it will offer drivers a non-stop, signal free route to get to their destination without delay. This key north-south alternative to I-35 will provide significant improvements to the corridor including enhanced non-tolled general-purpose lanes, and an extensive network of bicycle and pedestrian accommodations.

Previous Actions/Brief History of the Project/Program – As part of the 183 South Project, the Mobility Authority entered into an interlocal agreement (ILA) with the City of Austin for the adjustments of water and wastewater lines in connection with the Project. This item considers amendment No. 2 to the ILA providing additional funding from the City of Austin for additional betterments. By Resolution No. 16-018, dated March 30, 2016, the Board of Directors authorized the Executive Director to execute an ILA with the City of Austin, identifying roles and responsibilities of the parties involved, including payment obligations for utility betterments requested by the City of Austin authorizing \$7,728,157 in betterments.

By Resolution No. 17-049, dated September 6, 2017, the Board of Directors authorized the Executive Director to negotiate and execute an amendment to the Interlocal Agreement with the City of Austin to incorporate and provide funding for the City of Austin's requested wastewater betterments at Little Walnut Creek authorizing \$1,009,999.64 in betterments.

Action requested/Staff Recommendation - The City is requesting that additional betterments be installed by the Mobility Authority including upgrades and new infrastructure. This amendment No. 2 to the ILA includes increases the lump sum payment to the Mobility Authority by \$206,168. Staff recommends approval of this item, proposed amendment No. 2 to the interlocal agreement with the City of Austin, which will provide \$206,168 for additional City of Austin betterments.

Funding - The City is providing 100% of the funding for this item

Backup Provided: Draft Resolution

Draft amendment No. 2 to the interlocal agreement with the City of Austin

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

RESOLUTION NO. 19-0XX

**APPROVING AMENDMENT NO. 2 TO THE INTERLOCAL AGREEMENT
WITH THE CITY OF AUSTIN FOR UTILITY BETTERMENTS ON THE
BERGSTROM EXPRESSWAY (183 SOUTH) PROJECT**

WHEREAS, by Resolution No. 15-049, dated July 29, 2015, the Board of Directors authorized the Executive Director to execute a design-build contract with Colorado River Constructors for design and construction of the Bergstrom (183 South) Expressway Project (“Project”); and

WHEREAS, under the terms of the design-build contract, Colorado River Constructors is bound to adjust and relocate utilities that are within the jurisdiction of the City of Austin, including betterments as requested by the City of Austin; and

WHEREAS, by Resolution No. 16-018, dated March 30, 2016, the Board of Directors authorized the Executive Director to execute an Interlocal agreement with the City of Austin, identifying roles and responsibilities of the parties involved, including payment obligations for utility betterments requested by the City of Austin; and

WHEREAS, by Resolution No. 17-049, dated September 6, 2017, the Board of Directors authorized and directed the Executive Director to negotiate and execute Amendment No. 1 to the Interlocal Agreement with the City of Austin to incorporate and provide funding for the City of Austin’s requested wastewater betterments and Little Walnut Creek; and

WHEREAS, the City of Austin has requested additional betterments, including upgrades and new infrastructure not included in the Interlocal Agreement or Amendment No. 1; and

WHEREAS, the Executive Director and the City of Austin have negotiated Amendment No. 2 to the Interlocal Agreement to include an additional lump sum payment from the City of Austin in the amount of \$206,167.22 for the additional betterments to be installed by the Mobility Authority, which is attached hereto as Exhibit A; and

WHEREAS, the Executive Director recommends approval of proposed Amendment No. 2 to the Interlocal Agreement with the City of Austin in the form or substantially the same form as is attached hereto as Exhibit A.

NOW THEREFORE, BE IT RESOLVED that the Board of Directors hereby approves Amendment No. 2 to the Interlocal Agreement with the City of Austin for utility betterments on the Bergstrom (183 South) Expressway Project; and

BE IT FURTHER RESOLVED that the Executive Director is hereby authorized to finalize and execute Amendment No. 2 to the Interlocal Agreement with the City of Austin in the form or substantially the same form as is attached hereto as Exhibit A.

Adopted by the Board of Directors of the Central Texas Regional Mobility Authority on the 11th day of September 2019.

Submitted and reviewed by:

Approved:

Geoffrey Petrov, General Counsel

Bobby Jenkins
Chairman, Board of Directors

Exhibit A

SECOND AMENDMENT TO INTERLOCAL AGREEMENT FOR THE ADJUSTMENTS OF CITY OF AUSTIN WATER AND WASTEWATER SYSTEM UTILITY IN CONNECTION WITH THE BERGSTROM EXPRESSWAY (183) PROJECT

THIS SECOND AMENDMENT TO INTERLOCAL AGREEMENT (the “Second Amendment”) is made and entered into by and between the City of Austin, a Texas home-rule city (the “City”) and the Central Texas Regional Mobility Authority (the “Mobility Authority” and together with the City the “Parties”)

I.
RECITALS:

1. WHEREAS, on December 17, 2015, the City Council for the City of Austin (the “Council”) authorized the negotiation and execution of an interlocal agreement with the Mobility Authority for the relocation and improvement of water and wastewater utilities related to the Mobility Authority’s Bergstrom Expressway (183 South) project (the “Relocation and Improvements”) for the amount of \$6,717,549 plus a contingency amount of \$1,010,608, for a total agreement amount not to exceed \$7,728,157.

2. WHEREAS, on July 1, 2016, the Parties executed an interlocal agreement (the “Interlocal Agreement”) that set forth agreed terms for the design and construction of the Relocation and Improvements.

3. WHEREAS, on September 7, 2017, the Parties executed a first amendment to the Interlocal Agreement (the “First Amendment”) related to additional betterments requested by the City to include an additional lump sum payment to the Mobility Authority of \$1,009,999.64, an amount authorized by the Council’s November 19, 2015, action authorizing the negotiation and execution the Interlocal Agreement.

4. WHEREAS, on November 9, 2017, the Council authorized the negotiation and execution of a second amendment to the Interlocal Agreement to increase the project amount by \$650,031.78 and add an additional contingency amount of \$537,806.22 for a total contract amount not to exceed \$8,915,995.

5. WHEREAS, the City is requesting that additional betterments be installed by the Mobility Authority including upgrades and new infrastructure (the “Additional Betterments”).

6. WHEREAS, the City and the Mobility Authority now desire to enter into this Second Amendment to include the Additional Betterments and increase the lump sum payment to the Mobility Authority by \$206,168.

7. WHEREAS, payment for the Additional Betterments is authorized by the Council’s November 9, 2017, action related to the authorization and negotiation of a second amendment to the Interlocal Agreement.

8. NOW, THEREFORE, in consideration of the foregoing premises and the mutual agreements and covenants set forth below, the Parties hereby amend the Interlocal Agreement as follows:

II. AMENDMENTS

1. From and after the Effective Date of this Second Amendment, all references in the 183 South project to the “Interlocal Agreement” shall mean and refer to the Interlocal Agreement for the Adjustments of City of Austin Water and Wastewater System Utilities in Connection with the Bergstrom Expressway (183 South) Project as amended by the First Amendment and this Second Amendment.
2. Exhibit “A” to the Interlocal Agreement entitled Funding and Contributions is hereby amended by the new Exhibit “A1” entitled “Amended Funding and Contributions” in the form attached to this Second Amendment. From and after the Effective Date of this Second Amendment, all references in the Interlocal Agreement to Exhibit A shall mean and refer to Exhibit A as amended by Exhibit A1.
3. A new Exhibit “E1” entitled List of Additional Betterments, in the form attached to this Second Amendment, is hereby added as an additional exhibit to the Interlocal Agreement.

III. GENERAL CONDITIONS

1. The terms and conditions of the Interlocal Agreement are incorporated by reference for all purposes. Except as specifically amended and modified by the First Amendment and this Second Amendment, the parties hereby agree that the terms and conditions of the Interlocal Agreement remain in full force and effect as written.
2. This Second Amendment may be executed in duplicate originals, each of equal dignity.
3. This Second Amendment becomes effective from and after the date when it is signed by the last party whose signing makes this Second Amendment fully executed (the “Effective Date”).

[The remainder of this page is intentionally blank. The signature page follows]

IN WITNESS WHEREOF, the authorized representatives of the City and the Mobility Authority, have executed this Second Amendment, as of the date(s) indicated below.

Approved as to form:

CITY OF AUSTIN:

By: _____

By: _____

Name: _____

Name: _____

Title: Assistant City Attorney

Title: Assistant City Manager

THE STATE OF TEXAS
COUNTY OF TRAVIS

THIS INSTRUMENT was acknowledged before me on this ____ day of _____, 2019, by Gina Fiandaca, Assistant City Manager of the City of Austin, Texas, a municipal corporation, on behalf of said municipal corporation.

(SEAL)

Notary Public, State of Texas

CENTRAL TEXAS REGIONAL MOBILITY AUTHORITY

By: _____

Name: Mike Heiligenstein

Title: Executive Director

THE STATE OF _____
COUNTY OF TRAVIS

THIS INSTRUMENT was acknowledged before me on this ____ day of _____, 2019, by
Mike Heiligenstein, Executive Director on behalf of Central Texas Regional Mobility Authority.

(SEAL)

Notary Public, State of Texas

EXHIBIT "A1" - Amended Funding and Contributions

	CITY to CTRMA	CTRMA to CITY
NEGOTIATED LUMP SUM COSTS FOR BETTERMENTS		
Construction Costs for Betterments	\$ 9,705,504.02	
Easements Costs for Betterments	\$ 400,580.76	
Subtotal:	<u>\$ 10,106,084.78</u>	
PREVIOUSLY EXPENDED INDIRECT COSTS FOR CITY RELATED TO UTILITY RELOCATIONS		
Engineering/PM/Easement Acq./AWU Design Review/Coordination with CTRMA and DB Contractor	\$ 1,989,393.75	
Credit Adjustment for New Infrastructure against Proposed Indirect Costs - 25%	\$ (497,348.44)	
Subtotal:	<u>\$ 1,492,045.31</u>	
PROPOSED LUMP SUM INDIRECT COSTS FOR CITY RELATED TO UTILITY RELOCATIONS		
Design Reviews and Engineering/Field Support/Administrative (Austin Water Utility, Public Works)	\$ 529,974.00	
Easement Acquisition (Office of Real Estate)	\$ 189,760.00	
Construction Inspection (Public Works)	\$ 904,040.00	
	<u>\$ 1,623,774.00</u>	
Credit Adjustment for New Infrastructure against Proposed Indirect Costs - 25%	\$ (405,943.50)	
Subtotal:	<u>\$ 1,217,830.50</u>	
Project Management (Public Works)	\$ 446,160.00	
Subtotal:	<u>\$ 446,160.00</u>	
PROPOSED LUMP SUM INDIRECT COSTS FOR PERMITTING		
Permitting Assistance		
(Development Services Department)	\$ 260,000.00	
(Austin Transportation Department)	\$ 50,000.00	
	<u>\$ 310,000.00</u>	
Credit Adjustment for New Infrastructure against Proposed Indirect Costs - 25%	\$ (77,500.00)	
Subtotal:	<u>\$ 232,500.00</u>	
Total:	<u><u>\$ 10,106,084.78</u></u>	<u><u>\$ 3,388,535.81</u></u>
City of Austin Cost Responsibility for Betterments	\$ 10,106,084.78	
CTRMA Cost Responsibility for City indirect costs related to Non- Betterment Relocations	<u>\$ (3,388,535.81)</u>	
Initial Pay-out to CTRMA for Project Utility Relocations	\$ 6,717,548.97	
Additional Betterments added in ILA Amendment 1	\$ 1,009,999.64	
Additional Betterments added in ILA Amendment 2 (Exhibit E)	\$ 206,167.22	
Total Pay-out to CTRMA for Project Utility Relocations	<u>\$ 7,933,715.83</u>	

EXHIBIT "E1" - List of Additional Betterments

CITY OF AUSTIN REQUESTED BETTERMENTS	Amount
Pressure Point #23	\$ 84,547.00
New 24" Gate Valve	\$ 40,767.04
Upsize WL 41-1 from 8" to 12"	\$ 14,370.84
NXP Water Connection Improvements	\$ 66,482.34
Total Cost of Requested Betterments payable to CTRMA	\$ 206,167.22