



April 28, 2021
AGENDA ITEM #7

Authorize the Interim Executive Director to execute an Interlocal Agreement with Texas Department of Transportation for materials inspection and testing services for the Elroy Road Project

Strategic Plan Relevance:	Regional Mobility
Department:	Engineering
Contact:	Mike Sexton, P.E., Acting Director of Engineering
Associated Costs:	Incremental Cost/Service with a not to exceed of \$30,000.00
Funding Source:	Capital Project Funds
Action Requested:	Consider and act on draft resolutions

Project Description/Background – As a part of CTRMA’s quality assurance program, a variety of materials inspection and testing are performed on all transportation construction projects. These inspections and tests, performed by an independent provider, verify that the material installed by the contractor conforms to the requirements outlined in the project specifications. With few exceptions, CTRMA is required to utilize Texas Department of Transportation (TxDOT) specifications and materials on its projects. TxDOT maintains a staff of embedded inspectors at material fabrication plants statewide, testing materials for use on their projects and for compliance with TxDOT specifications. CTRMA has traditionally maintained an executed Interlocal Agreement (ILA) with TxDOT to utilize the services and efficiency of these experienced, embedded TxDOT inspectors for independent quality assurance of these off-site fabricated materials. For remaining quality assurance measures required on projects outside of the limited scope of the ILA, CTRMA procures independent Construction Engineering and Inspection (CE&I) services on each jobsite, ensuring comprehensive inspections and quality assurance are provided.

Previous Actions/Brief History of the Project/Program – In October of 2004, CTRMA entered into a contract with TxDOT for materials inspection and testing services for

transportation projects. CTRMA executed continuing agreements on October of 2013 and July of 2016.

Action requested/Staff Recommendation - Staff recommends that the Board authorize the Interim Executive Director, or his/her designee, to execute an interlocal agreement with TxDOT for continued support in performing offsite inspection and testing and performing the role of Referee Lab if necessary, on an "as requested" basis for the Elroy Road Project in the form or substantially the same form as the attached draft interlocal agreement template. CTRMA will compensate TxDOT for the individual services as they are provided, to a not to exceed threshold of \$30,000.00. The term of the agreement will not exceed the duration of the construction of the project.

Funding - Capital Project Funds

Backup Provided: Draft Resolution
 Draft interlocal agreement template provided by TxDOT

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

RESOLUTION NO. 21-0XX

**AUTHORIZING THE INTERIM EXECUTIVE DIRECTOR TO EXECUTE AN
INTERLOCAL AGREEMENT WITH THE TEXAS DEPARTMENT OF
TRANSPORTATION FOR MATERIAL INSPECTION AND TESTING SERVICES ON
THE ELROY ROAD PROJECT**

WHEREAS, in connection with oversight of the construction of Mobility Authority facilities, it is important to provide for the independent testing and inspection of materials used on each project; and

WHEREAS, the Texas Department of Transportation (TxDOT) has the resources and expertise to provide such material testing and inspection services at a reasonable cost; and

WHEREAS, by Resolution No. 19-019, dated April 24, 2019 the Board approved an interlocal agreement with TxDOT for material inspection and testing services in an amount not to exceed \$1,500,000.00 and with an expiration date of December 31, 2024; and

WHEREAS, following the Board's approval but prior to the execution of the interlocal agreement, TxDOT changed its policy for providing materials testing and inspections services to local entities by removing the independence assurance program from the scope of services and requiring local entities to execute individual agreements for each new transportation project requiring TxDOT services; and

WHEREAS, by Resolution No. 19-055, dated October 30, 2019 the Board authorized the Executive Director to execute project-specific interlocal agreements with TxDOT on behalf of the Mobility Authority for material inspection and testing for Mobility Authority projects in a cumulative amount not to exceed \$1,500,000.00; and

WHEREAS, following the Board's approval but prior to the execution of the project-specific interlocal agreements, TxDOT changed its policy for providing materials testing and inspections services again by adding back the possibility for local entities to utilize TxDOT's independence assurance program and requiring the approval of each project-specific interlocal agreement for materials testing and inspection services through a separate resolution issued by the governing body of the local entity; and

WHEREAS, TxDOT has provided a proposed interlocal agreement for material testing and inspection services on the Elroy Road Project which is attached hereto as Exhibit A; and

WHEREAS, the Interim Executive Director requests that the Board authorize him to execute the proposed interlocal agreement with TxDOT for materials testing and inspection services for the Elroy Road Project in an amount not to exceed \$30,000.00 and in the form or substantially the same form attached hereto as Exhibit A.

NOW THEREFORE, BE IT RESOLVED that the Board hereby authorizes the Interim Executive Director to execute an interlocal agreement with TxDOT on behalf of the Mobility Authority for material inspection and testing services for the Elroy Road Project in an amount not to exceed \$30,000.00 and in the form or substantially the same form attached hereto as Exhibit A. This resolution (Resolution No. 21-0XX) will SUPERSEDE all terms and agreements as outlined in Resolution No. 19-055, dated October 30, 2019.

Adopted by the Board of Directors of the Central Texas Regional Mobility Authority on the 28th day of April 2021.

Submitted and reviewed by:

Approved:

C. Brian Cassidy, Counsel for the
Central Texas Regional Mobility Authority

Robert W. Jenkins, Jr.
Chairman, Board of Directors

Exhibit A

THE STATE OF TEXAS §

THE COUNTY OF TRAVIS §

INTERLOCAL AGREEMENT

THIS CONTRACT is entered into by the Contracting Parties under Government Code, Chapter 791.

I. CONTRACTING PARTIES:

The Texas Department of Transportation _____

TxDOT
Local Government

II. PURPOSE: Perform material inspection and testing services.

III. STATEMENT OF SERVICES TO BE PERFORMED: TxDOT will undertake and carry out services described in **Attachment A**, Scope of Services.

IV. CONTRACT PAYMENT: Payments for services rendered shall be made by the Local Government. The total amount of this contract shall not exceed \$ _____ and shall conform to the provisions of **Attachment B**, Budget. Invoices will be issued monthly.

V. TERM OF CONTRACT: This contract begins when fully executed by both parties and terminates on _____ or when otherwise terminated as provided in this Agreement.

VI. LEGAL AUTHORITY:

THE PARTIES certify that the services provided under this contract are services that are properly within the legal authority of the Contracting Parties.

The governing body, by resolution or ordinance, dated _____, has authorized the Local Government to obtain the services described in **Attachment A**.

This contract incorporates the provisions of **Attachment A**, Scope of Services, **Attachment B**, Budget, **Attachment C**, General Terms and Conditions, **Attachment D**, Resolution or Ordinance and **Attachment E**, Location Map Showing Project.

_____ **(Name of Local Government)**

By _____ Date _____
AUTHORIZED SIGNATURE

_____ TYPED OR PRINTED NAME AND TITLE

Title _____

FOR THE STATE OF TEXAS

Executed for the Executive Director and approved for the Texas Transportation Commission for the purpose and effect of activating and/or carrying out the orders, established policies or work programs heretofore approved and authorized by the Texas Transportation Commission.

By _____ Date _____
Kenneth Stewart
Director of Contract Services

ATTACHMENT A

Scope of Services

The Texas Department of Transportation (TxDOT) agrees to perform material inspection and testing services as requested by the Local Government, and subject to the terms set forth below. Material inspection and testing services to be performed by TxDOT consists of the following:

- Various inspected materials fabricated off-site (structural steel bridge components, pre-cast concrete stressed/non-stressed products, and miscellaneous fabricated products).
- Other materials inspection and testing as agreed upon in writing by TxDOT and the Local Government.

Inspections will be performed in compliance with the specifications and instructions supplied by the Local Government and are subject to the terms and conditions described below. Written inspection or test reports will be provided to the Local Government in accordance with TxDOT's existing policies as inspection and testing services are performed by TxDOT.

TERMS AND CONDITIONS

Prior to the commencement of material inspection and testing services, the Local Government shall provide TxDOT with a single point of contact for this scope of services. TxDOT will direct all invoices, test reports, questions and other issues to this point of contact. The Local Government shall provide an email address to which invoices will be sent. The Local Government shall provide written notification of a change to the point of contact.

INSPECTED MATERIALS

The Local Government will provide TxDOT a list of the materials requiring inspection. Estimated quantities of each material will also be provided. The types of products and the extent of the inspections will be as agreed upon prior to commencement of any inspections. The level of inspection and documentation furnished for Local Government inspections will be as provided for typical TxDOT projects.

TxDOT will only perform inspection services for the Local Government at structural steel fabrication plants, commercial precast prestressed and non-stressed concrete products plants, and other miscellaneous fabrication plants where TxDOT routinely provides such inspection and testing services for its own highway materials or for others. Out-of-state inspections for Local Government will be performed only when TxDOT has employees scheduled to conduct inspections for TxDOT projects at the requested locations, unless agreed upon otherwise. All out-of-state inspections will require reimbursement of the additional costs for travel (airfare, lodging, per diem, vehicle rentals, and other miscellaneous costs). Reimbursement will be requested through invoices from TxDOT.

TxDOT reserves the right to prioritize or reschedule any inspection and testing services according to the following:

- Inspection and testing services may be cancelled or deferred due to unavailability of TxDOT personnel to perform the necessary inspection
- Inspections for the Local Government will be given lower priority than inspections performed by TxDOT for TxDOT projects
- Inspections for the Local Government may be rescheduled to coincide with the inspection of products for TxDOT projects.

The Local Government and its fabricators will abide by the Nonconformance Report (NCR) process utilized by TxDOT for disposition of products that do not meet the requirements of the Local Government's specifications provided.

WORK REQUESTS

A minimum of two (2) weeks prior to TxDOT performing any inspections, the Local Government will submit Work Requests to TxDOT. Submit one Work Request per Fabricator and include the following:

- Project information (i.e. contract number, CSJ, etc.)
- Work description
- Type and estimated quantity of material(s) to be inspected
- Fabricator information (Name, contact person, phone number, physical location)
- Name, title, signature, and telephone number of the Local Government's authorized representative.
- Specification Item or Special Specification to be used for inspection
- List of the Local Government's amendments to Specification Item
- Local Governments Special Specifications
- Complete set of necessary design drawings, material specifications, and shop drawing files in Adobe .pdf format to perform inspection of the material.

Incomplete Work Requests will not be accepted. E-mail completed Work Requests, with attachments, as an Adobe .pdf format to MTD_Structuralcorrespondence@txdot.gov and include "Work Request" in the subject line.

TEST REPORTS

TxDOT will send test reports and pertinent information to the Local Government's designated point of contact for services performed as attachments to invoices for services.

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ATTACHMENT B

Budget

Texas Department of Transportation Inspection & Testing Rates

TxDOT will only perform inspection and testing services outlined in Attachment A.

Charges will be based on rates in effect at the time inspection and testing services are performed.

Current Inspection and Testing Rates are published at

http://ftp.dot.state.tx.us/pub/txdot/mtd/inspection_testing.pdf

Invoices will be sent to the Local Government on a monthly basis. Payments are due within 30 days of date of invoice and will be mailed to the following address:

Texas Department of Transportation
P. O. Box 149001
Austin, Texas 78714-9001

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ATTACHMENT C**General Terms and Conditions****Article 1. Amendments**

This contract may only be amended by written agreement executed by both parties before the contract is terminated.

Article 2. Conflicts Between Agreements

If the terms of this contract conflict with the terms of any other contract between the parties, the most recent contract shall prevail.

Article 3. Disputes

TxDOT shall be responsible for the settlement of all contractual and administrative issues arising out of procurements entered in support of contract services.

Article 4. Ownership of Equipment

Except to the extent that a specific provision of this contract states to the contrary, all equipment purchased by TxDOT under this contract shall be owned by TxDOT.

Article 5. Termination

This contract terminates at the end of the contract term, when all services and obligations contained in this contract have been satisfactorily completed, by mutual written agreement, or 30 days after either party gives notice to the other party, whichever occurs first.

Article 6. Gratuities

Any person who is doing business with or who reasonably speaking may do business with TxDOT under this contract may not make any offer of benefits, gifts, or favors to employees of TxDOT.

Article 7. Responsibilities of the Parties

Each party acknowledges that it is not an agent, servant, or employee of the other party. Each party is responsible for its own acts and deeds and for those of its agents, servants, or employees.

Article 8. Compliance with Laws

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.

Article 9. State Auditor's Provision

The state auditor may conduct an audit or investigation of any entity receiving funds from TxDOT directly under the contract or indirectly through a subcontract under the contract. Acceptance of funds directly under the contract or indirectly through a subcontract under this contract 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.

Article 10. Signatory Warranty

Each signatory warrants that the signatory has necessary authority to execute this agreement on behalf of the entity represented.

Article 11. Notices

All notices to either party shall be delivered personally or sent by certified U.S. mail, postage prepaid, addressed to that party at the following address:

Local Government:	
TxDOT:	Texas Department of Transportation Attention: Director, Contract Services 125 East 11th Street Austin, TX 78701-2483

All notices shall be deemed given on the date delivered in person or deposited in the mail. Either party may change the above address by sending written notice of the change to the other party. Either party may request in writing that notices shall be delivered personally or by certified U.S. mail, and that request shall be carried out by the other party.

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ATTACHMENT D
Resolution or Ordinance

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ATTACHMENT E
Location Maps Showing Project

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