



CENTRAL TEXAS REGIONAL  
**MOBILITY AUTHORITY**

August 31, 2022  
**AGENDA ITEM #12**

---

Discuss and consider approving an amendment to the design-build contract with Colorado River Constructors for the 183 South Project to extend the time to informally resolve claims

Strategic Plan Relevance: Not Applicable  
Department: Legal  
Contact: Geoff Petrov, General Counsel  
Associated Costs: None  
Funding Source: Not Applicable  
Action Requested: Consider and act on a draft resolution

**Background:**

Colorado River Constructors (CRC), the contractor for the 183 South Project, submitted a claim for additional compensation and schedule relief for alleged delays in the City of Austin's utility permitting process. CTRMA and CRC have attempted to resolve the claim through the contractual dispute resolution process, which concluded with a disputes review board recommendation on March 8, 2022. Pursuant to Section 25.5.8 of the Design/Build Contract, the parties currently have until September 7, 2022 to submit the matter for judicial resolution. In order to allow more time to explore settlement, CTRMA staff and CRC executives have developed the First Amendment to the Design/Build Contract to extend the deadline to file a lawsuit to October 11, 2022.

**Backup provided:** Draft Resolution  
First Amendment to 183 South D/B Contract

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

**RESOLUTION NO. 22-0XX**

**APPROVING THE FIRST AMENDMENT TO THE  
BERGSTROM EXPRESSWAY (183 SOUTH) PROJECT DESIGN/BUILD CONTRACT**

WHEREAS, on July 29, 2015, the Central Texas Regional Mobility Authority (Mobility Authority) and Colorado River Constructors, an unincorporated joint venture between Fluor Enterprises, Inc. and Balfour Beatty Infrastructure, Inc., entered into a design-build contract (“D/B Contract”) for the development of a toll road and related roadway improvements on existing US 183 extending approximately eight (8) miles from US 290 to SH 71 in Austin, Texas (the “183 South Project”); and

WHEREAS, Colorado River Constructors has made certain claims for additional compensation and schedule relief which have been rejected by the Mobility Authority; and

WHEREAS, pursuant Section 25 of D/B Contract, Colorado River Constructors submitted the claims to a disputes board and a formal hearing was held on February 8-9, 2022; and

WHEREAS, the disputes board issued its findings and recommendations on March 8, 2022; and

WHEREAS, pursuant to the current terms of the D/B Contract, the claims must be submitted to a District Court in Austin, Texas for a judicial determination by September 7, 2022, or the disputes board’s recommendations will be deemed to have been accepted by the Mobility Authority and Colorado River Constructors; and

WHEREAS, the Mobility Authority staff has negotiated the First Amendment to the D/B Contract with Colorado River Constructors in order to extend the deadline to file a lawsuit regarding the claims to October 11, 2022; and

WHEREAS, the Executive Director recommends approval of the First Amendment to the D/B contract in the form or substantially the same form attached hereto as Exhibit A.

NOW, THEREFORE, BE IT RESOLVED that the Board approves the First Amendment to the D/B Contract and hereby authorizes the Executive Director to execute the First Amendment on behalf of the Mobility Authority in the form or substantially the same form attached hereto as Exhibit A.

Adopted by the Board of Directors of the Central Texas Regional Mobility Authority on the 31<sup>st</sup> day of August 2022.

Submitted and reviewed by:

Approved:

---

James M. Bass  
Executive Director

---

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

**Exhibit A**

**FIRST AMENDMENT TO THE  
BERGSTROM EXPRESSWAY (183 SOUTH) PROJECT DESIGN/BUILD CONTRACT**

The Central Texas Regional Mobility Authority (the "Mobility Authority"), a regional mobility authority operating pursuant to Texas Transportation Code Chapter 370, and Colorado River Constructors, an unincorporated joint venture between Fluor Enterprises, Inc. and Balfour Beatty Infrastructure, Inc. ("D/B Contractor") entered into a design-build contract ("D/B Contract") dated July 29, 2015 for the development the Project as defined in the D/B Contract). Pursuant to Section 29.3 of the D/B Contract, the Parties now enter into this First Amendment to the Design/Build Contract ("First Amendment") for the purposes described herein. Capitalized terms not otherwise defined herein shall have the meanings set forth in the D/B Contract.

**I. Recitals**

**1.01 WHEREAS**, D/B Contractor submitted certain claims for additional compensation and schedule relief which have been rejected by the Mobility Authority (the "Proposed Change Order 5 Dispute").

**1.02 WHEREAS**, pursuant to Section 25 of the D/B Contract, D/B Contractor submitted the Proposed Change Order No. 5 Dispute to the Disputes Board and a formal hearing was held on February 8-9, 2022.

**1.03 WHEREAS**, the Disputes Board issued its findings and recommendations for the Proposed Change Order 5 Dispute on March 8, 2022 ("March 8 DRB Recommendations").

**1.04 WHEREAS**, Section 25.5.8 of the D/B Contract currently provides a six-month period following issuance of the Disputes Board's recommendations for either Party to appeal the decision back to the Disputes Board, submit the dispute to judicial resolution or settle the dispute using other methods. If the dispute has not been submitted to judicial resolution or otherwise resolved within this six-month period, the Parties are deemed to have conclusively agreed to accept the recommendation made by the Disputes Board.

**1.05 WHEREAS**, the Parties wish to extend the six-month deadline set forth in Section 25.5.8 of the D/B Contract by an additional month to allow more time to explore settlement of the dispute, and agree that with respect to the March 8 DRB Recommendations and the Proposed Change Order 5 Dispute, the deadline under Section 25.5.8 shall be extended until October 11, 2022.

**NOW, THEREFORE**, in consideration of the foregoing premises and the mutual agreements and covenants set forth herein, the Mobility Authority and D/B Contractor hereby amend the D/B Contract as follows:

## **II. Amendments**

**2.01** From and after the effective date of the D/B Contract, Section 25.5.8 is hereby replaced with the following:

Should the dispute remain unresolved, during the seven-month period following issuance of the Disputes Board recommendations, either Party may appeal the decision back to the Disputes Board, may submit the dispute to judicial resolution or may resort to other methods of settlement. If the dispute has not been submitted for judicial resolution by the filing of a lawsuit within such seven-month period, and there has been no agreement between the Parties for resolution of the dispute, then the Parties shall be deemed to have conclusively agreed to accept the recommendation made by the Disputes Board.

If the seven-month period ends on a weekend or federal holiday, the deadline shall be the following business day.

**2.02** With respect to the March 8 DRB Recommendation and the Proposed Change Order 5 Dispute, the deadline under Section 25.5.8 for either Party to file a lawsuit (thereby submitting the dispute for judicial resolution) is hereby extended through October 11, 2022.

## **III. General Conditions**

**3.01 Effect of First Amendment.** The terms and conditions of the D/B Contract are incorporated by reference for all purposes. Except as specifically amended and modified by this First Amendment, the parties hereby agree that the terms and conditions of the D/B Contract remain in full force and effect as written.

**3.02 Duplicate Originals.** This First Amendment may be executed in duplicate originals, each of equal dignity.

**3.03. Effective Date.** This First Amendment will be effective as of the effective date of the D/B Contract.

**IN WITNESS WHEREOF,** the authorized representatives of the Mobility Authority and D/B Contractor have executed this First Amendment as of the date(s) indicated below.


**[Signature Page to Follow]**

**D/B CONTRACTOR:**

**COLORADO RIVER CONSTRUCTORS**

An unincorporated joint venture between Fluor Enterprises, Inc. and Balfour Beatty Infrastructure, Inc.

**By: Fluor Enterprises Inc., a California corporation**

By:  \_\_\_\_\_

Name: Thomas Nilsson  
Title: Vice-President, Operations



**By: Balfour Beatty Infrastructure, Inc., a Delaware corporation**

By: \_\_\_\_\_

Name: John Rempe  
Title: Executive Vice President

**MOBILITY AUTHORITY:**

**CENTRAL TEXAS REGIONAL MOBILITY AUTHORITY**

A regional mobility authority operating pursuant to Texas Transportation Code, Chapter 370

By: \_\_\_\_\_

Name: James Bass  
Title: Executive Director

**D/B CONTRACTOR:**

**COLORADO RIVER CONSTRUCTORS**

An unincorporated joint venture between Fluor Enterprises, Inc. and Balfour Beatty Infrastructure, Inc.

**By: Fluor Enterprises Inc., a California corporation**

By: \_\_\_\_\_

Name: Thomas Nilsson

Title: Vice-President, Operations

**By: Balfour Beatty Infrastructure, Inc., a Delaware corporation**

By:  \_\_\_\_\_

Name: John Rempe

Title: Executive Vice President

**MOBILITY AUTHORITY:**

**CENTRAL TEXAS REGIONAL MOBILITY AUTHORITY**

A regional mobility authority operating pursuant to Texas Transportation Code, Chapter 370

By: \_\_\_\_\_

Name: James Bass

Title: Executive Director

**D/B CONTRACTOR:**

**COLORADO RIVER CONSTRUCTORS**

An unincorporated joint venture between Fluor Enterprises, Inc. and Balfour Beatty Infrastructure, Inc.

**By: Fluor Enterprises Inc., a California corporation**

By: \_\_\_\_\_

Name: Thomas Nilsson

Title: Vice-President, Operations

**By: Balfour Beatty Infrastructure, Inc., a Delaware corporation**

By: \_\_\_\_\_

Name: John Rempe

Title: Executive Vice President

**MOBILITY AUTHORITY:**

**CENTRAL TEXAS REGIONAL MOBILITY  
AUTHORITY**

A regional mobility authority operating pursuant to Texas Transportation Code, Chapter 370

By: \_\_\_\_\_

Name: James Bass

Title: Executive Director