



CENTRAL TEXAS REGIONAL
MOBILITY AUTHORITY

December 13, 2023 AGENDA ITEM #5

Discuss and consider approving
Amendment No. 1 to The Lane
Construction Corporation contract to
add an incentive for early substantial
completion of the 183A Phase III
project

| | |
|---------------------------|--|
| Strategic Plan Relevance: | Collaboration |
| Department: | Engineering |
| Contact: | Mike Sexton, P.E., Director of Engineering |
| Associated Costs: | \$2,025,000.00 if full incentive is achieved |
| Funding Source: | 183A Phase III Project Funds |
| Action Requested: | Consider and act on draft resolution |

Project Description/Background - The 183A Phase III Project provides a 5.3-mile extension of the existing six-lane 183A tolled main lanes from their current terminus (approximately 0.4 mile north of Hero Way) to approximately 0.4 mile north of SH 29. The Project includes construction of two 12-foot-wide lanes in each direction and accounts for an option to widen to three lanes in the future. Together with the associated access ramps, frontage road improvements and transitions the overall project length will be approximately 6.6 miles. The Project design includes bridges over cross streets and the South Fork San Gabriel River, and an underpass at State Highway 29. A paved, 10-foot-wide pedestrian/bicycle shared use path will be provided within existing right-of-way along the west side of the Project from Hero Way to the Seward Junction South intersection (approximately 4.6 miles of shared use path). The existing US 183 four-lane divided roadway within the proposed project limits would serve as frontage roads north to SH 29. This Project is being delivered using a standard Design-Bid-Build project delivery method.

Previous Actions & Brief History of the Program/Project:

- November 30, 2016 - the Authority approved Work Authorization No. 5 with WSP USA Inc. for schematic design and environmental services on the 183A Phase III Tollway Project.
- April 2017 - the Authority negotiated and executed the interim (design phase) Project Development Agreement (PDA) with the Texas Department of Transportation (TxDOT).
- January 2019 - the Authority approved a contract with Rodriguez Transportation Group for professional engineering design services.

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

RESOLUTION NO. 23-0XX

**APPROVING AMENDMENT NO. 1 TO THE CONTRACT WITH THE LANE
CONSTRUCTION CORPORATION FOR CONSTRUCTION OF THE 183A PHASE III
PROJECT TO INCENTIVIZE SUBSTANTIAL COMPLETION**

WHEREAS, the 183A Phase III Project consists of an approximately 6.6-mile extension of 183A north from Hero Way to north of SH 29 with two initial tolled lanes in each direction that will ultimately be widened to three-tolled lanes in each direction in the future; and

WHEREAS, by Resolution No. 20-063, dated September 30, 2020, the Board of Directors awarded a contract to The Lane Construction Corporation (the “Contract”) for construction of the Project; and

WHEREAS, The Lane Construction Corporation has proposed a substantial completion incentive payment for providing the completed main lanes and ramps available for tolling prior to the original contractual deadline; and

WHEREAS, the Executive Director and The Lane Construction Corporation have negotiated Amendment No. 1 to the Contract to add an incentive payment of up to \$2,025,00 if the full incentive is achieved; and

WHEREAS, the Executive Director recommends that the Board of Directors approve Amendment No. 1 to the Contract in the form attached hereto as Exhibit A.

NOW THEREFORE, BE IT RESOLVED that the Board of Directors hereby approves Amendment No. 1 to the contract with The Lane Construction Corporation for the construction of the 183A Phase III Project and authorizes the Executive Director to finalize and execute Amendment No. 1 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 13th day of December 2023.

Submitted and reviewed by:

Approved:

James M. Bass
Executive Director

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

Exhibit A

Central Texas Regional Mobility Authority

183A EXTENSION - PHASE III
CONSTRUCTION PROJECT

CONTRACT NO. 19183A24601C

EXTENSION OF A TOLLWAY FACILITY AND ADDITION OF SHARED USE PATH

CONTRACT AGREEMENT
AMENDMENT No. 1

This Amendment to Contract No. 19183A24601C (the “Contract”) is made and entered into to be effective as of _____, 2023, between the Central Texas Regional Mobility Authority, 3300 N. I-35, Suite 300, Austin, Texas, 78705, hereinafter called the “Authority” and The Lane Construction Corporation or his, its or their successors, executors, administrators and assigns, hereinafter called the Contractor.

In consideration of the Authority’s acceptance of the covenants and agreements set forth herein, the undersigned parties hereby agree as follows:

- a. General Notes, Item 8 – Prosecution and Progress is amended as attached.
- b. Pay Item “Substantial Completion Incentive Payment” to be added to the Contract at a rate of \$45,000.00 per calendar day. Substantial Completion Incentive Payment item will only be invoiced by and paid to the Contractor in accordance with the terms of the General Notes, Item 8 – Prosecution and Progress, as attached.
- c. Special Provision to Item 4 – Scope of Work is amended as attached.
- d. Effect of Amendment on the Contract – Except as such terms are specifically modified by this Amendment, all terms and conditions of the Contract shall continue in full force and effect.
- e. Counterparts – This Amendment may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
- f. Entire Agreement – This Amendment constitutes the entire and exclusive agreement between the Parties relating to the specific matters covered herein. All prior or contemporaneous oral or written agreements, understandings, representations and/or practices relative to the foregoing are hereby superseded, revoked and rendered ineffective for any purpose.

- g. Texas Law – This Amendment shall be governed and construed in accordance with the laws of the State without regard to conflict of law principles.

IN WITNESS WHEREOF, the parties hereto have duly executed this Amendment the day and year written above.

CENTRAL TEXAS REGIONAL MOBILITY AUTHORITY

By: _____
Name: James M. Bass
Title: Executive Director

CONTRACTOR: THE LANE CONSTRUCTION CORPORATION

By: _____
Name:
Title:

ITEM 8 – PROSECUTION AND PROGRESS

Working Days will be charged based on a Five-Day Workweek.

Work is allowed to be performed during the nighttime, with prior approval, per Article 8.3.

Electronic versions of schedules will be saved in native format and delivered in both native and PDF formats.

A CPM schedule in Primavera format and a PSSR is required. Use software fully compatible with Primavera P6. The work performed and in accordance to the schedule requirement will be paid for at a price of \$10,000 for the baseline schedule once it is accepted by the Engineer. An additional \$2,500 will be paid monthly for 41 months, or until Final Acceptance is achieved, whichever occurs first, on all subsequent monthly schedules once they are accepted by the Engineer. The quantity paid under this Item will not exceed the total quantity of 41 months except as modified by Change Order. Contractor will be in noncompliance with this work if the Contractor fails to provide an accepted schedule according to contract requirements within the time frame established by the Engineer. No payment will be made for the month(s) in question and the total final payment will be reduced by the number of month(s) the Contractor was in noncompliance. The remaining unpaid months of schedules less non-compliance months will be paid on final acceptance of the project, if all work is complete and accepted in accordance with Standard Specifications Article 5.12, "Final Acceptance."

Provide via email a current-week plus a 3-week look-ahead schedule in Gantt chart format. Submit weekly prior to the project meeting or by noon on Friday, whichever comes first. Designate each activity as night or day shift and include the name of the foreman or contractor. The chart shall have a specific section dedicated solely to lane closures and detours. Each lane closure and detour shall be an individual item on the schedule.

Maintain a Project Fact Sheet to be reviewed and distributed by the Mobility Authority. Update the fact sheet monthly and submit via email to the Engineer by 10th day of each month. Include a supplemental sheet with pictures of previous month's major items and description of the work shown in the picture. The fact sheet template will be provided by the Mobility Authority.

Segment 3 work shall be completed within 344 working days of the issuance of Segment 3 Notice to Proceed (NTP-S3). Segment 3 work shall be considered complete when all work requiring lane or shoulder closures or obstructions is completed, pavement construction, resurfacing, traffic control devices, and pavement markings are in their final position, and traffic is utilizing the lane arrangement as shown on the plans for the finished roadway. For completion of Segment 3 in

excess of 344 working days from NTP-S3, there will be disincentives assessed at \$12,000 per calendar day. The Contractor will be assessed disincentives if completion of Segment 3 is not achieved within 344 working days from NTP-S3 for any reason other than, prior to 344 working days from NTP-S3, a change order is issued to add working days or working days are suspended under article 8.4. There is no cap on the number of days for the disincentive assessment.

For the Project Substantial Completion Milestone, the Contractor will have 818 days from NTP to have the entire project open to traffic. For every day in excess of 818 days, there will be Liquidated Damages assessed at \$51,000 per day. There is no cap on the number of days for this assessment. There will be an Incentive payment for opening to traffic sooner than 818 days, paid to the Contractor at \$45,000 per calendar day, not to exceed 45 total calendar days. For any incentive payment earned, 66% of the total incentive earned will be released upon Mobility Authority’s issuance of Substantial Completion and the remaining 34% released upon Mobility Authority’s issuance of Final Acceptance. The Mobility Authority may withhold all or a portion of the remaining 34% to offset any Liquidated Damages incurred by the Contractor. Substantial Completion shall be as defined in Special Provision 001-001-RMA.

For attaining Final Acceptance, the Contractor will have 881 days from NTP. For every day in excess of 881 days, there will be Liquidated Damages assessed at \$9,000 per day. There is no cap on the number of days for this assessment.

Lane Closure Assessment

Rates for lane closures will be assessed as shown in the **Table 1** below. Unallowable lane closures during specific timeframes will be assessed based on these fees on an hourly basis. For Lane Closure Assessments, the hour will be broken into four 15-minute periods, rounded up to the nearest 15-minute period. These assessments apply to late closure pickup as well.

| Table 1. Lane Closure Assessment (assessed per 15-minute interval) | | | | | | |
|---|---------------------------|---------------------------------|----------------------------|---------------------------------|------------------------------|---|
| | Applicable Closure | Morning Peak 5am-9am | Mid-Day 9am-3pm | Evening Peak 3pm-8pm | Nighttime 8pm-5am | Saturday/ Sunday All Day |
| Existing US 183 Mainlanes and Existing 183A Frontage Roads | | | | | | |
| NB | Shoulder | \$100 | \$100 | \$100 | \$100 | \$100 |
| | 1 Lane | \$100 | \$500 | \$7,500 | \$500 | \$500 |
| | 2 Lane* | \$7,500 | \$7,500 | \$7,500 | \$7,500 | \$7,500 |
| SB | Shoulder | \$500 | \$100 | \$100 | \$100 | \$100 |
| | 1 Lane | \$7,500 | \$7,500 | \$100 | \$2,500 | \$7,500 |
| SH 29 | | | | | | |
| EB | Shoulder | \$1,250 | \$100 | \$100 | \$100 | \$100 |
| | 1 Lane | \$7,500 | \$7,500 | \$7,500 | \$100 | \$7,500 |
| WB | Shoulder | \$100 | \$100 | \$100 | \$100 | \$100 |
| | 1 Lane | \$7,500 | \$7,500 | \$7,500 | \$5,000 | \$7,500 |
| All Other Approaches | | | | | | |
| All Directions | Any | \$100 | \$100 | \$100 | \$100 | \$100 |

* Only valid for existing Northbound segment having three (3) Mainlanes.

Project Number: CC 914-5-192
County: Williamson
Highway: 183A Phase III

Sheet:
Control: 0914-05-192

For example: If the contractor has one southbound lane of traffic closed on US 183 until Monday at 5:32 a.m., the contractor is 32 minutes outside of the allowable lane closure period. Refer to Item 502 for Allowable Lane Closure Times. The late charges will be accrued as follows:

$$1 \text{ lane closed} \times [\$7,500 + \$7,500 + \$7,500] = \$22,500$$

Emergency lane closures are not subject to lane closure charge assessments. Emergency lane closures are defined as closures caused by circumstances other than those caused by the contractor and shall be approved by the authority.

Special Provision to Item 4

Scope of Work

Item 4, "Scope of Work," of the Standard Specifications, is amended with respect to the clauses cited below. No other clauses or requirements of this Item are waived or changed.

Article 4.4., "Changes in the Work," Delete the following paragraph:

"If the changes in quantities or the alternations do not significantly change the character of the work under the Contract, the altered work will be paid for at the Contract unit price. If the changes in quantities or the alterations significantly change the character of the work, the Contract will be amended by a change order. If no unit price exists, this will be considered extra work and the Contract will be amended by a change order. Provide cost justification as requested, in an acceptable format. Payment will not be made for anticipated profits on work that is eliminated."

and replace with the following:

"The Engineer may require deviations to the Work through a written directive. Payment for the deviations and quantity overruns will be made through the Contingency Allowance. Deviations and quantity overruns will be paid for at the unit prices submitted at the bidding stage. Deviations requiring new unit prices will be negotiated and made through the Contingency Allowance.

Upon completion of the Work, the total contract value will be adjusted to provide for the difference, if any, between the total amount of expenditures from the Contingency Allowance and the original amount of the Contingency Allowance. The Contractor is not entitled to all or any part of an unexpended balance of the Contingency Allowance.

When changes are made that do not fall under the Contingency Allowance, the Contract will be amended by a Change Order. Provide cost justification as requested, in an acceptable format. Payment will not be made for anticipated profits on work that is eliminated."

Article 4.6., "Requests for Additional Compensation and Damages," is supplemented by the following:

"Contractor shall not be eligible for Change Order(s) for additional compensation for additional costs, including costs for developing and executing a Recovery Schedule(s), and delay and disruption damages, or additional Days incurred directly or indirectly from the virus known as severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) and the disease known as COVID-19, including any disruptions to, and delays or interruptions in, construction of the Project in accordance with the Contract and any approved Baseline Schedule."

"Release and Waiver of Claims:

Contractor represents and agrees that all PCO Notices, Contractor-Requested Change Orders, potential disputes or claims known to Contractor as of execution of this Amendment No. 1 are stated in Exhibit A to this Amendment No. 1. Contractor further warrants that, to the best of its knowledge, no other known changes or potential claims for either time or compensation exist. Except for the items specifically listed in Exhibit A, Contractor hereby waives any and all claims against the Mobility Authority (including, without limitation any and all claims for additional time and/or additional compensation) based on any fact or circumstance known or that could have been known as of the effective date of this Amendment No. 1."

Contract Agreement Amendment No. 1
Contract No. 19183A24601C

Exhibit A

Exclusions from Release and Waiver of Claims

Potential Change Orders:

- PCO-022 CTB Mix Design
- PCO-023 Compost Manufactured Topsoil
- PCO-024 TIA - Compost Manufactured Topsoil
- PCO-026 Electrical Component Relocation
- PCO-027 MSE Backfill Escalation
- PCO-028 Vehicle Barrier