

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

RESOLUTION NO. 14-010

**APPROVING AN AGREEMENT WITH HILL COUNTRY CONSTRUCTORS TO
CLOSE OUT THE CONSTRUCTION CONTRACT FOR 183A.**

WHEREAS, on November 29, 2004, the Mobility Authority entered into a Comprehensive Development Agreement with Hill Country Constructors (“HCC”) for development of the US 183A Turnpike Project; and

WHEREAS, the Executive Director and HCC have negotiated the proposed Close Out Agreement in connection with the completion of the 183A Turnpike Project attached as Exhibit 1 to this Resolution; and

WHEREAS, the Executive Director recommends approval of the attached Close Out Agreement with HCC.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves the Close Out Agreement attached as Exhibit 1, and authorizes the Executive Director to execute for the Mobility Authority the Close Out Agreement in the form or substantially the same form attached as Exhibit 1.

Adopted by the Board of Directors of the Central Texas Regional Mobility Authority on the 29th day of January, 2014.

Submitted and reviewed by:



Andrew Martin
General Counsel for the Central
Texas Regional Mobility Authority

Approved:



Ray A. Wilkerson
Chairman, Board of Directors
Resolution Number: 14-010
Date Passed: 01/29/14

EXHIBIT 1 TO RESOLUTION 14-010

CLOSE OUT AGREEMENT

[on the following 7 pages]

CLOSE OUT AGREEMENT

WHEREAS, Central Texas Regional Mobility Authority (“CTRMA”) entered into a Comprehensive Development Agreement dated November 29, 2004 (“CDA”) with Hill Country Constructors (“HCC”), a joint venture between Granite Construction Company (“Granite”) and J.D. Abrams, L.P. (“Abrams”), pursuant to which HCC, as the Developer, agreed to develop, design and construct the 183-A Turnpike Project (“Project”), as such Project is more fully described in the CDA;

WHEREAS, disputes have arisen between CTRMA and HCC regarding the construction of the Project and warranty repairs asserted by CTRMA to be the responsibility of HCC under the CDA and CTRMA has asserted that HCC is required to perform certain warranty repairs and to do other work in connection with the Project, and has asserted that HCC has liability to CTRMA for damages as a result thereof, all of which has been denied by HCC;

WHEREAS, CTRMA, on the one hand, and HCC, Granite and Abrams (the “Developer Parties”) on the other hand (all collectively referred to herein as “Parties” or individually as a “Party”), now desire to compromise, settle, resolve and conclude any and all claims between them.

NOW, THEREFORE, in consideration of the promises contained herein, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

SETTLEMENT PAYMENTS

1. Within 30 days after the complete execution of this Agreement by all signatory parties, HCC will pay the sum of Two Million Eight Hundred Fifty Thousand and No/100 Dollars (\$2,850,000.00) to CTRMA (the “Cash Settlement Amount”).

2. In consideration of, and conditioned upon, the full and timely payment of the Cash Settlement Amount, CTRMA for itself and on behalf of its members, board members, officers, directors, agents, employees, partners, affiliates, and assigns (hereinafter the "Releasing Parties"), all of which are bound hereby, RELEASES, ACQUITS AND FOREVER DISCHARGES Developer Parties and Sureties (see Exhibit A) and their respective members, board members, officers, directors, shareholders, agents, employees, partners, affiliates, legal representatives, insurers, sureties, attorneys, successors and assigns (hereinafter the "Released Parties"), from any and all existing and potential claims, demands, damages and causes of action, including claims for defense and indemnity, claims on the Warranty Bond for the Project, and any additional claims, that have been or could have been asserted by the Releasing Parties against any of the Released Parties relating directly or indirectly to HCC's asphalt paving work on the Project, whether related to known or unknown defects, latent or otherwise, save and except only potential claims for damage to asphalt paving work caused by latent defects in non-paving work performed by HCC on the Project under the CDA.

3. CTRMA further agrees and stipulates that upon the full and timely payment of the Cash Settlement Amount and in accordance with Section 12.5 of the CDA all Warranties have, in fact, expired, and that all warranty claims raised by CTRMA prior to the date hereof have been fulfilled or settled, except for the one-year warranty term extensions on the following items of warranty repair work:

a. Paint touch-ups at the Park Street Toll Plaza (warranty extension expires February 25, 2014);

b. Repairs to the Northbound straddle bent just south of Avery Ranch (warranty extension expires April 12, 2014); and

c. Repairs to the southbound mainline bridge abutment at the Spanish Oak Bridge (warranty extension expires August 15, 2014)

4. CTRMA hereby represents to the Released Parties that it has no knowledge of any patent defects in the work performed by HCC on the Project pursuant to the CDA, or of any breach of the CDA by HCC, or any facts that would give rise to any other existing or potential claim that it might assert against HCC in connection with the CDA or the Project.

AGREEMENT IS NOT AN ADMISSION OF LIABILITY

5. It is fully understood by the Parties hereto that this Agreement shall not be taken as an admission of liability of any kind or character by any Party, but rather all such liabilities are expressly denied. This Agreement shall not be admissible in any proceeding or cause of action as an admission of liability.

NO ASSIGNMENTS/WARRANTY OF CAPACITY TO EXECUTE AGREEMENT

6. CTRMA represents and warrants that it has not assigned or transferred any right, title, or interest to any claims, demands, actions, or causes of action released hereby to any person, firm, or business entity. All Parties represent and warrant that they have the authority to execute this Agreement.

PRESS RELEASE

7. The Parties agree that neither Party shall issue any press release regarding this Agreement or the terms of this Agreement.

INVALID/ILLEGAL PROVISIONS, IF ANY, TO BE SEVERED AND REPLACED

8. In case any one or more of the provisions contained in this Agreement should be determined to be invalid, illegal, or unenforceable in any respect under any current or future law, such provision shall be fully severable, and this Agreement shall be construed and enforced as if such provisions had never comprised a part of this Agreement, and the remaining provisions of

this Agreement shall remain in full force and effect and shall not be affected by such provision or its severance from the document or Agreement.

GOVERNING LAW/VENUE

9. This Agreement has been made and executed in the State of Texas and shall in all respects be governed by the laws of the State of Texas. Venue of any dispute or action regarding the Agreement shall be in Travis County, Texas.

PARTIES HAVE HAD THE ADVICE OF INDEPENDENT LEGAL COUNSEL

10. The Parties expressly warrant and represent to each other as part of the consideration for the payment of the consideration that before executing this Agreement and in making this settlement each Party has had the benefit of the counsel of its own respective choosing, and no promise or representation of any kind has been made to any Party by any other Party hereby released or anyone acting for it, except as is expressly stated in this Agreement.

AGREEMENT JOINTLY DRAFTED

11. The Parties agree that this Agreement has been jointly drafted and is not to be more strictly construed against one party than against the other.

AGREEMENT MODIFIED ONLY IF IN A WRITING SIGNED BY ALL PARTIES

12. This Agreement cannot be modified except by a subsequent agreement in writing and personally signed by all Parties hereto.

FACSIMILE COUNTERPARTS DEEMED AS ORIGINALS

13. This Agreement may be executed in counterparts by email or facsimile transmission with each counterpart being deemed an original of the document.

HEADINGS OF PROVISIONS DO NOT CONSTITUTE TERMS OF THE AGREEMENT

14. The Parties agree and acknowledge that the headings to the provisions of this Agreement are included solely for the purpose of convenience of reference and are not to be construed as terms of this Agreement.

AUTHORITY TO EXECUTE AGREEMENT

15. The undersigned represents that he/she/it read the Agreement and fully understands the same and that it is executed for the consideration herein expressed, the receipt and sufficiency of which is hereby expressly acknowledged and confessed, and that he/she/it does so with full authority.

IN WITNESS WHEREOF, the Parties do hereby execute this Agreement on the respective dates set forth hereafter, to be effective as of the date that the last Party executes this Agreement.

Central Texas Regional Mobility Authority

By: _____
Name: _____
Title: _____

Hill Country Constructors

By: Granite Construction Company

By: _____
Name: _____
Title: _____

J.D. Abrams, L.P.

By: _____
Name: _____
Title: _____

THE STATE OF TEXAS §
 §
COUNTY OF _____ §

BEFORE ME, the undersigned authority, on this day personally appeared _____, the _____ of Central Texas Regional Mobility Authority, who being by me first duly sworn on his/her oath did depose and state that he/she is the authorized person to sign the foregoing Agreement, that he/she has read the Agreement, and that the same is true and correct based on his/her personal knowledge.

SWORN AND SUBSCRIBED TO BEFORE ME, on this the ____ day of _____, 2014.

[Seal]

NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

THE STATE OF TEXAS §
 §
COUNTY OF _____ §

BEFORE ME, the undersigned authority, on this day personally appeared _____, the _____ of Granite Construction Company, a Joint Venturer of Hill Country Constructors, who being by me first duly sworn on his/her oath did depose and state that he/she is the authorized person to sign the foregoing Agreement, that he/she has read the Agreement, and that the same is true and correct based on his/her personal knowledge.

SWORN AND SUBSCRIBED TO BEFORE ME, on this the ____ day of _____, 2014.

[Seal]

NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

THE STATE OF TEXAS §
 §
COUNTY OF _____ §

BEFORE ME, the undersigned authority, on this day personally appeared _____, the _____ of J.D. Abrams, L.P., a Joint Venturer of Hill Country Constructors, who being by me first duly sworn on his/her oath did depose and state that he/she is the authorized person to sign the foregoing Agreement, that he/she has read the Agreement, and that the same is true and correct based on his/her personal knowledge.

SWORN AND SUBSCRIBED TO BEFORE ME, on this the _____ day of _____, 2014.

[Seal]

NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS