

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

**RESOLUTION NO. 19-044**

**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

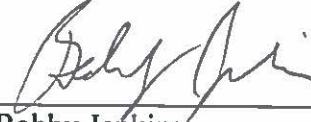
BE IT FURTHER RESOLVED that the Executive Director is hereby authorized to finalize and execute Amendment No. 2 to the Interlocal Agreement with the City of Austin in the form or substantially the same form as is attached hereto as Exhibit A.

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

Submitted and reviewed by:

  
\_\_\_\_\_  
Geoffrey Petrov, General Counsel

Approved:

  
\_\_\_\_\_  
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 §

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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

	<u>CITY to CTRMA</u>	<u>CTRMA to CITY</u>
<b>NEGOTIATED LUMP SUM COSTS FOR BETTERMENTS</b>		
Construction Costs for Betterments	\$ 9,705,504.02	
Easements Costs for Betterments	\$ 400,580.76	
Subtotal:	<u>\$ 10,106,084.78</u>	
<b>PREVIOUSLY EXPENDED INDIRECT COSTS FOR CITY RELATED TO UTILITY RELOCATIONS</b>		
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>
<b>PROPOSED LUMP SUM INDIRECT COSTS FOR CITY RELATED TO UTILITY RELOCATIONS</b>		
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>
<b>PROPOSED LUMP SUM INDIRECT COSTS FOR PERMITTING</b>		
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>
<b>Initial Pay-out to CTRMA for Project Utility Relocations</b>		<b>\$ 6,717,548.97</b>
Additional Betterments added in ILA Amendment 1		\$ 1,009,999.64
Additional Betterments added in ILA Amendment 2 (Exhibit E)		\$ 206,167.22
<b>Total Pay-out to CTRMA for Project Utility Relocations</b>		<u><u>\$ 7,933,715.83</u></u>

## EXHIBIT "E1" - List of Additional Betterments

<b>CITY OF AUSTIN REQUESTED BETTEREMENTS</b>	<b>Amount</b>
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
<b>Total Cost of Requested Betterments payable to CTRMA</b>	<b>\$ 206,167.22</b>