

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

**RESOLUTION NO. 21-077**

**APPROVING AMENDMENT NO. 3 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 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 (“City”), including certain betterments requested by the City; and

WHEREAS, by Resolution No. 16-018, dated March 30, 2016, the Board authorized the Executive Director to execute an interlocal agreement with the City, identifying roles and responsibilities of the parties involved, including payment obligations for utility betterments requested by the City in which the City deposited \$6,717,548.97 into an escrow account payable to the Mobility Authority as the betterments were performed (the “Interlocal Agreement”); and

WHEREAS, by Resolution No. 17-049, dated September 6, 2017, the Board approved Amendment No. 1 to the Interlocal Agreement to incorporate an additional \$1,009,999.64 in funding from the City for requested wastewater betterments at Little Walnut Creek; and

WHEREAS, by Resolution No. 19-044, dated September 11, 2019, the Board approved Amendment No. 2 to the Interlocal Agreement to incorporate an additional \$206,167.22 in funding from the City for additional utility betterments not included in the Interlocal Agreement or Amendment No. 1; and

WHEREAS, the Mobility Authority and the City have agreed not to proceed with \$1,387,330.69 worth of previously funded betterments on the Bergstrom (183 South) Expressway Project that were previously requested by the City; and

WHEREAS, the Executive Director and the City have negotiated Amendment No. 3 to the Interlocal Agreement to reimburse the City unexpended funds in the amount of \$1,387,330.69; and


WHEREAS, the Executive Director recommends approval of proposed Amendment No. 3 to the Interlocal Agreement with the City in in the form or substantially the same form attached hereto as Exhibit A.

NOW THEREFORE, BE IT RESOLVED that the Board hereby approves Amendment No. 3 to the Interlocal Agreement to reimburse unexpended funds in the amount of \$1,387,330.69 that were previously allocated for utility betterments on the to the Bergstrom (183 South) Expressway Project requested by the City of Austin; and

BE IT FURTHER RESOLVED that the Executive Director is hereby authorized to finalize and execute Amendment No. 3 to the Interlocal Agreement 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 15<sup>th</sup> day of December 2021.

Submitted and reviewed by:

  
\_\_\_\_\_  
James M. Bass  
Executive Director

Approved:

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

**Exhibit A**

**THIRD 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 THIRD AMENDMENT TO INTERLOCAL AGREEMENT (the “Third 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 December 18, 2019, the Parties executed a second amendment to the Interlocal Agreement (“Second Amendment”) related to additional betterments requested by the City to include an additional lump sum payment to the Mobility Authority of \$206,168.

5. WHEREAS, the City is requesting an adjustment to the Interlocal Agreement for work not performed by the Mobility Authority.

6. WHEREAS, the City and Mobility Authority now desire to enter into this Third Amendment related to an adjustment of betterments originally requested by the City to include a reimbursement to the City from the Mobility Authority of \$1,387,330.69

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 Third 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, Second Amendment and this Third Amendment.

2. Exhibit "A1" to the Second Amendment to the Interlocal Agreement entitled Amended Funding and Contributions is hereby amended by the new Exhibit "A2" entitled "Amended Funding and Contributions" in the form attached to this Third Amendment. This form has been amended to include a list of Betterment Reimbursements. From and after the Effective Date of this Third Amendment, all references in the Interlocal Agreement to Exhibit A1 shall mean and refer to Exhibit A1 as amended by Exhibit A2.

3. Payment for the Betterment Reimbursements listed in Exhibit "A2" shall be remitted to:

Austin Water  
AR, Financial Planning  
625 E. 10<sup>th</sup> Street, Suite 500  
Austin, TX, 78701

### 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, the Second Amendment, and this Third Amendment, the parties hereby agree that the terms and conditions of the Interlocal Agreement remain in full force and effect as written.

2. This Third Amendment may be executed in duplicate originals, each of equal dignity.

3. This Third Amendment becomes effective from and after the date when it is signed by the last party whose signing makes this Third 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 Third Amendment, as of the date(s) indicated below.

Approved as to form:

CITY OF AUSTIN:

By: Sean Creegan

By: Gina Fiandaca

Name: Sean Creegan

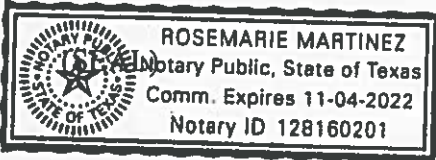
Name: Gina Fiandaca

Title: Assistant City Attorney

Title: Assistant City Manager

THE STATE OF TEXAS §  
                                                          §  
COUNTY OF TRAVIS §

THIS INSTRUMENT was acknowledged before me on this 1 day of December, 2021, by Gina Fiandaca, Assistant City Manager of the City of Austin, Texas, a municipal corporation, on behalf of said municipal corporation.



[Signature]  
Notary Public, State of Texas

CENTRAL TEXAS REGIONAL MOBILITY AUTHORITY

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

Name: James Bass

Title: Executive Director

THE STATE OF \_\_\_\_\_ §  
                                                          §  
COUNTY OF TRAVIS §

THIS INSTRUMENT was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 2021, by James Bass, Executive Director on behalf of Central Texas Regional Mobility Authority.

(SEAL)

\_\_\_\_\_  
Notary Public, State of Texas