



CENTRAL TEXAS REGIONAL  
**MOBILITY AUTHORITY**

November 17, 2021  
**AGENDA ITEM #6**

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Discuss and consider approving  
Change Order No. 1 to the Design-Build  
Agreement with Great Hills  
Constructors for the 183 North  
Mobility Project for contract price  
escalation in accordance with contract  
terms

Strategic Plan Relevance:	Regional Mobility
Department:	Engineering
Contact:	Mike Sexton, P.E., Acting Director of Engineering
Associated Costs:	\$14,742,133.32
Funding Source:	Project Contingency Funds
Action Requested:	Approve Change Order No. 1

**Project Description/Background:**

The 183 North Mobility Project is approximately 9-miles along the existing US 183 corridor between SH 45 and MoPac. Currently ranked the 69th most congested roadway in the state of Texas, the 183 North Mobility Project aims to improve mobility, reduce congestion and provide more reliable travel times for transit and emergency responders along this portion of US 183.

The project includes the construction of two express lanes in each direction and the addition of a general-purpose lane to bring the number of non-tolled lanes to four in each direction. Express lane direct connectors will be constructed with MoPac to the south. The project also includes operational improvements to southbound MoPac, new shared use path connections, new sidewalks and cross-street connections for bicycles/pedestrians.

### **Previous Actions & Brief History of the Program/Project:**

Following a procurement process, prospective proposers submitted detailed proposals on August 18, 2020 (the Proposal Date). The Board of Directors approved the selection of Great Hills Constructors (GHC) as the DB Contractor on February 8, 2021. Project development and procurement history is below:

<b>Date</b>	<b>Action/Milestone</b>
April 27, 2016	Environmental Approval (FONSI)
April 26, 2017	CTRMA exercises primacy
October 19, 2017	TxDOT and CTRMA agree to extend CTRMA primacy
October 26, 2017	Texas Transportation Commission (TTC) authorizes TxDOT to issue request for qualifications (RFQ) for design-build contractor and authorizes TxDOT's Executive Director (ED) to enter into a PDA with CTRMA
November 2017	TxDOT pauses activities on tolled projects in response to governor's orders
March 28, 2018	TxDOT and CTRMA agree to extend CTRMA primacy
August 17, 2018	TxDOT and CTRMA agree to extend CTRMA primacy
January 31, 2019	TTC rescinds previous Oct. 26, 2017 action and authorizes CTRMA to issue RFQ, ED to enter into PDA with CTRMA, and commit funding for the non-tolled elements of project
March 15, 2019	CTRMA issues request for qualifications (RFQ)
July 24, 2019	CTRMA Board approves short-list of proposers
November 20, 2019	CTRMA issues final request for detailed proposals (RFDP)
May 18, 2020	Original Proposal Due Date
August 18, 2020	Revised Proposal Due Date with approval from governor's office due to impacts from COVID-19

The Mobility Authority executed the Design-Build Agreement with GHC on March 2, 2021 and issued Notice to Proceed No. 1 (NTP1) on April 15, 2021. NTP1 allows limited activity including design, surveying and site investigations. Due to financing reasons during the COVID-19 pandemic, the Mobility Authority issued Notice to Proceed No. 2 (NTP2) and Notice to Proceed No. 3 (NTP3) on June 28, 2021. NTP2 allows GHC to perform all other design/build work on the Project and NTP3 allows GHC to commence work on the MoPac collector-distributor road. The table below notes efforts and milestones that occurred after Proposal Due Date:

Date	Efforts/Milestones
August 19, 2020 thru early October 2020	Proposal evaluations
October 2020	Updated traffic counts
October 2020 thru January 2021	Development of draft and final traffic and revenue forecasts to confirm financial viability of the project
February 8, 2021	CTRMA Board approval of selection of apparent best value proposer
February 28, 2021	CTRMA Board authorized execution of Design-Build Agreement (DBA)
March 3, 2021	Execution of DBA
March 16, 2021	210-day expiration entitling GHC to an adjustment in the DB Price for the Work.
April 14, 2021	Financial Close
April 15, 2021	Issuance of NTP1
April thru June	Developer prepares contract development manuals
June 28, 2021	Issuance of NTP2

Pursuant to the terms of the Design-Build Agreement, GHC is entitled to an escalation payment if NTP1 and NTP2 are not issued within 210 days of the Proposal Due Date. The escalation is based on the Engineering News Record Construction Cost Index for Construction Costs ("ENR CCI"), from a base date commencing as of the expiration of such 210 Day period and until the date of issuance of NTP2. The Mobility Authority issued NTP2 and NTP3 314 days after the Proposal Date; therefore, GHC is entitled to an escalation payment in the amount of \$14,742,133.32 which is calculated using the ENR-CCI from March 2021 (expiration of 210 Day period) to June 2021 (execution of NTP2).

**Financing:** The change order will be funded by 183 North project contingency funds.

**Staff Recommendation:** Staff recommends approval of this item, proposed Change Order No. 1, which will provide and additional \$14,742,133.32 in contractually required escalation to Great Hills Constructors.

**Backup provided:** Draft Resolution  
Change Order No. 1

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

**RESOLUTION NO. 21-0XX**

**APPROVING CHANGE ORDER NO. 1 TO THE DESIGN-BUILD AGREEMENT WITH  
GREAT HILLS CONSTRUCTORS FOR THE 183 NORTH MOBILITY PROJECT**

WHEREAS, by Resolution No. 17-023, dated April 26, 2017, the Central Texas Regional Mobility Authority Board of Directors (Board) exercised its option as a local toll project entity to develop, finance, construct, and operate the 183 North Mobility Project that includes construction of two express lanes in each direction along a 9-mile stretch of US 183 between SH 45/RM 620 and MoPac, the addition of a fourth general purpose lane in each direction and connections from the 183 North Express Lanes to the MoPac Express Lanes, as well as new shared use path connections, new sidewalks, and cross-street connections for bicycles/pedestrians; and

WHEREAS, in March 2019, the Mobility Authority initiated a procurement seeking firms interested developing the 183 North Mobility Project through a design-build agreement; and

WHEREAS, on August 18, 2020, the Mobility Authority received proposals from the three short-listed firms remaining in the procurement; and

WHEREAS, changes to traffic patterns resulting from the COVID pandemic necessitated updates to the Traffic & Revenue Study in order to obtain financing for the 183 North Mobility Project; and

WHEREAS, at the January 27, 2021 Board Meeting, the Interim Executive Director and Chief Financial Officer presented the results of the updated Traffic & Revenue Study for the 183 North Mobility Project including new toll rate assumptions; and

WHEREAS, the need to update the Traffic & Revenue Study and revise the tolling scheme caused delays in finalizing the financial plan and contract award for the 183 North Mobility Project; and

WHEREAS, by Resolution No. 21-011, dated February 24, 2021, the Board approved a design-build agreement with Great Hills Constructors for the development of the 183 North Mobility Project (the “Design-build Agreement”) in an amount not to exceed \$477,149,654.00 (the “DB Price”); and

WHEREAS, the Mobility Authority closed financing for the 183 North Mobility Project on April 14, 2021; and

WHEREAS, the Mobility Authority issued NTP1 on April 15, 2021 and NTPs 2 & 3 on June 28, 2021; and

WHEREAS, pursuant to the terms of the Design-Build Agreement, Great Hills Constructors is entitled to an adjustment to the DB Price in the amount of \$14,742,133.32 for price escalation based on the Engineering News Record Construction Cost Index for Construction Costs since the Mobility Authority did not issue NTP1 and NTP2 within 210 days of the August 18, 2020 proposal due date; and

WHEREAS, the Executive Director recommends that the Board approve Change Order No. 1 to the Design-Build Agreement in the form attached hereto as Exhibit A to increase the DB Price from \$477,149, 654.00 to \$491,891,787.32 to account for price escalation.

NOW THEREFORE, BE IT RESOLVED that the Board hereby approves Change Order No. 1 to the Design-Build Agreement with Great Hills Constructors in the form or substantially the same form as attached hereto as Exhibit A to increase the DB Price to \$491,891,787.32.

Adopted by the Board of Directors of the Central Texas Regional Mobility Authority on the 17<sup>th</sup> day of November 2021.

Submitted and reviewed by:

Approved:

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Geoffrey Petrov, General Counsel

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

**Exhibit A**



**CHANGE ORDER #01**

Escalation Payment for Delayed NTP2/NTP3

# CHANGE ORDER #1

**Amount:** \$14,742,133.32

**Description:**



Escalation Due to Delayed NTP2/NTP3

- This Change Order is being issued by the Mobility Authority pursuant to Section 13.2.2 of the Design-Build Agreement related to delay of issuance of NTP2 and in response to the PCO Notice from GHC (see Exhibit A).
- The DB Contractor is contractually entitled to compensation if the Mobility Authority does not issue NTP2 within 210 days of the Proposal Date.
- Proposal Date was 8/18/20; NTP2/NTP3 were issued 6/28/21, 314 days after the Proposal Date
- Design-Build Agreement includes a formula for determining the escalation amount due the DB Contractor (see Exhibit B). That formula results in a payment to the DB Contractor in the amount of \$14,742,133.32.
- Sharp reductions in traffic volumes between March 2020 and August 2020 required updated traffic counts in October 2020 to confirm financial viability and to secure funding for the Project.

**Change Order Contents:**

1. Change Order Forms
2. Agency Cost Distribution
3. Description of Change Order
4. Exhibit A – PCO-004 Notice
5. Exhibit B – NTP Escalation Calculations
6. Exhibit C – Contractual Language





**CENTRAL TEXAS REGIONAL MOBILITY AUTHORITY**

**CHANGE ORDER NUMBER: 1**

- 1. CONTRACTOR: Great Hills Constructors ("GHC")
- 2. Change Order Work Limits: Sta. N/A to Sta. N/A
- 3. Type of Change(on federal-aid non-exempt projects): Major (Major/Minor)
- 4. Reasons: 4D (3 Max. - In order of importance - Primary first)

<b>Project Name:</b>	<u>183 North Mobility Project</u>
<b>Contract No:</b>	<u>Design-Build Agreement</u>
<b>CSJ:</b>	<u>0151-05-113; 0151-05-114</u>
	<u>0151-06-142; 0151-06-143</u>
	<u>3136-01-187</u>
<b>Highway:</b>	<u>183N</u>
<b>County:</b>	<u>Travis/Williamson</u>
<b>TxDOT Dist:</b>	<u>Austin (14)</u>
<b>FAP Number:</b>	<u>2021339</u>

5. Describe the work being revised:

Pursuant to Section 13.2.2 of the Design-Build Agreement, Great Hills Constructors (GHC) is contractually entitled to escalation as a result of delayed issuance of NTP2/NTP3. This change order compensates GHC accordingly.

Sharp reductions in traffic volumes between March 2020 and August 2020 required updated traffic counts in October 2020 to confirm financial viability of the Project.

- 6. Work to be performed in accordance with Items: N/A
  - 7. New or revised plan sheet(s) are attached and numbered: N/A
  - 8. New general notes to the contract are attached:  Yes  No
  - 9. New Special Provisions to Item No. \_\_\_\_\_ and Special Specification Item \_\_\_\_\_ are attached. N/A
- Each signatory hereby warrants that each has the authority to execute this Change Order (CO).

*This Change Order Proposal includes all known and anticipated direct, indirect and consequential impacts or amounts which may be incurred as a result of the event, occurrence or matter giving rise to this change, and D/B Contractor has no reason to believe and does not believe that the factual basis for this Change Order is falsely represented. If the Change Order Proposal includes claims of Sucontractors or Suppliers, the D/B Contractor has reviewed such claims and has determined in good faith that the claims are justified as to both entitlement and amount.*

**The following information must be provided**

Time Ext. #: N/A Days added on this CO: 0

Amount added by this change order: \$ 14,742,133.32

**For TxDOT/CTRMA/FHWA use only:**

Current Contract Amount \$ 477,149,654.00

Revised Contract Amount To Date \$ 491,891,787.32

Days FHWA Non-Participating N/A

CO Portion FHWA Non-Participating \_\_\_\_\_

THE CONTRACTOR \_\_\_\_\_ Date \_\_\_\_\_  
 By \_\_\_\_\_  
 Typed/Printed Name \_\_\_\_\_  
 Typed/Printed Title \_\_\_\_\_

**RECOMMENDED FOR EXECUTION:**

Engineer's Seal:

_____	CTRMA Director of Engineering	_____	Date
_____	CTRMA Deputy Executive Director	_____	Date
_____	GEC Deputy PM / Construction Manager	_____	Date
_____	CTRMA Executive Director	_____	Date
_____	GEC Project Manager	_____	Date
_____	TxDOT Representative	_____	Date
_____	CTRMA Construction Representative	_____	Date
_____	FHWA Area Engineer	_____	Date

# 183 North Mobility Project

CHANGE ORDER NUMBER:   1  

Estimated Cost:

**\$0.00**

**TABLE A:** Force Account Work and Materials Placed into Stock

	LABOR	QTY	HOURLY RATE	TOTAL	EQUIPMENT	DAYS	HOURLY RATE	TOTAL

**TABLE B:** Contract Items

				ORIGINAL + PREVIOUSLY REVISED			NEW			
CHANGE ITEM	REASON CODE	DESCRIPTION	UNIT	QUANTITY	UNIT PRICE	ITEM COST	QUANTITY	UNIT PRICE	ITEM COST	OVERRUN/ UNDERRUN
		N/A								
EXTRA WORK ITEM	REASON CODE	DESCRIPTION	UNIT	QUANTITY	UNIT PRICE	ITEM COST	QUANTITY	UNIT PRICE	ITEM COST	OVERRUN/ UNDERRUN
XXX-XXXX	4D	Escalation Resulting from Delayed NTP2/NTP3	LS				1.0	\$14,742,133.32	\$ 14,742,133.32	
<b>TOTALS</b>						\$ -			\$ 14,742,133.32	\$ -

# CHANGE ORDER REASON(S) CODE CHART

<p>1. Design Error or Omission</p>	<p>1A. Incorrect PS&amp;E 1B. <u>Other</u></p>
<p>2. Differing Site Conditions (unforeseeable)</p>	<p>2A. Dispute resolution (expense caused by conditions and/or resulting delay) 2B. Unavailable material 2C. New development (conditions changing after PS&amp;E completed) 2D. Environmental remediation 2E. Miscellaneous difference in site conditions (unforeseeable)(Item 9) 2F. Site conditions altered by an act of nature 2G. Unadjusted utility (unforeseeable) 2H. Unacquired Right-of-Way (unforeseeable) 2I. Additional safety needs (unforeseeable) 2J. Other</p>
<p>3. CTRMA Convenience</p>	<p>3A. Dispute resolution (not resulting from error in plans or differing site conditions) 3B. Public relations improvement 3C. Implementation of a Value Engineering finding 3D. Achievement of an early project completion 3E. Reduction of future maintenance 3F. Additional work desired by the CTRMA 3G. Compliance requirements of new laws and/or policies 3H. Cost savings opportunity discovered during construction 3I. Implementation of improved technology or better process 3J. Price adjustment on finished work (price reduced in exchange for acceptance) 3K. Addition of stock account or material supplied by state provision 3L. Revising safety work/measures desired by the CTRMA 3M. Other</p>
<p>4. Third Party Accommodation</p>	<p>4A. Failure of a third party to meet commitment 4B. Third party requested work 4C. Compliance requirements of new laws and/or policies (impacting third party) 4D. Other</p>
<p>5. Contractor Convenience</p>	<p>5A. Contractor exercises option to change the traffic control plan 5B. Contractor requested change in the sequence and/or method of work 5C. Payment for Partnering workshop 5D. Additional safety work/measures desired by the contractor 5E. Other</p>
<p>6. Untimely ROW/Utilities</p>	<p>6A. Right-of-Way not clear (third party responsibility for ROW) 6B. Right-of-Way not clear (County responsibility for ROW) 6C. Utilities not clear 6D. Other</p>

**Change Order No. 1 -- Revised Contract Amount to Date Summary**

Original Contract: \$ 477,149,654.00

	<b>Amount</b>	<b>Description</b>	<b>Revised Contract Amt to Date:</b>
DRB	\$ -	Contractually Allowed DRB Expenditures	\$ 477,149,654.00
Partnering	\$ -	Contractually Allowed Partnering Expenditures	\$ 477,149,654.00
LRs/LDs	\$ -	Contractual Liquidated Damages	\$ 477,149,654.00
C.O. #1	\$ 14,742,133.32	NTP Escalation	\$ 491,891,787.32

Summary Prepared by:   
Daniel Freeman, PE

10/5/2021  
Date

## Description of Change Order #01

### Escalation due to Delayed NTP2/NTP3 Issuance

This change order is being issued for an escalation payment resulting from delayed issuance of NTP2/NTP3 that the Design Build Contractor is entitled to under Section 13.2.2 of the Design-Build Agreement. According to this provision of the Design-Build Agreement, the DB Contactor is entitled to escalation if there is a delay to the issuance of either NTP1, NTP2, or NTP3. The Design-Build Agreement requires the Mobility Authority to issue NTP2/NTP3 within 210 days of the Proposal Date. The Mobility Authority issued NTP2/NTP3 314 days after the Proposal Date. Accordingly, the Design Build Contractor is entitled to compensation using the following formula:

$$\text{Adjusted DP} = (\text{Proposal DP}) \times (\text{ENR CCI}) / (\text{BI})$$

Where:

The Base Index (BI) is the Engineering News Record Construction Cost Index for the calendar month which occurs 210 days after the Proposal Date [March 2021].

The ENR CCI is the Engineering News Record Cost Index for the month in which NTP2 is issued [June 2021].

Detailed calculations are included in Exhibit B.

The resulting overall Change Order cost for Change Order #01 is a payment to Great Hills Constructors in the amount of \$14,742,133.32. This change does not result in an impact to the Project milestones.

### Delay of Issuance of NTP1 and NTP2

Significant decreases in traffic around the State, region and on CTRMA facilities led to T&R Consultants not being able to certify traffic volumes. The table below illustrates transactions on CTRMA facilities in 2020:

Week Ending	Combined CTRMA Facilities		Mopac Express Lanes	
	Transactions	% Change*	Transactions	% Change*
March 7, 2020	2,647,064	-	252,863	-
April 11, 2020	1,061,442	-59.9%	22,216	-91.2%
August 15, 2020	1,937,740	-26.8%	79,940	-68.4%

\* The percent change values are calculated against the March 7, 2020 transactions.

To confirm viability of the project and secure bonds, CTRMA needed to re-develop its traffic and revenue (T&R) forecasts and variable tolling scheme. This included updating traffic counts to current conditions. It is standard industry practice to take traffic counts during the fall or spring seasons to account for normal traffic conditions, thus, traffic counts could not be taken until October 2020. Draft T&R forecasts were completed in November 2020 and investment-grade T&R forecasts were completed in January 2021.

**The following exhibits are provided with this change order:**

Exhibit A – PCO Notice

Exhibit B – NTP Escalation Calculations

Exhibit C – Contractual Language

**Exhibit A**

PCO-004 Notice

# TRANSMITTAL



183 North Mobility Project  
Project Number: 20183N22701C

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**Sent Date:** October 5, 2021

**Transmitted Via SharePoint To:**  
Central Texas Regional Mobility Authority  
Attn: Dan Freeman  
daniel.freeman@atkinglobal.com

**Transmitted By:**  
Great Hills Constructors  
9430 Research Blvd. Suite 400  
Austin, TX 78959

**Submittal Number:** SUB-0098-GHC-CW-AD-R0-PCO-0004-2021-10-05

**Submittal Title:** PCO-0004 Delay in Issuance of NTP

**Spec Section:** DBA 13.2.2

**Spec Section Title:** Delay in Issuance of NTP1, NTP2, and NTP3

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The following files are included with the submission.

- PCO-004-GHC-RMA-CW-R0-Delay of NTP.pdf
- EXTERNAL RE CCI Request.msg
- CCI Request.msg



# PCO Notice



**183 North Mobility Project**  
Project Number: 20183N22701C

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**PCO Notice:** 0004                      **Date:** October 5, 2021

**Transmitted To:**  
Central Texas Regional Mobility Authority  
Attn: Dan Freeman  
daniel.freeman@atkinglobal.com

**Transmitted By:**  
Great Hills Constructors  
9430 Research Blvd. Suite 400  
Austin, TX 78959

**Change Title:** Delay in Issuance of NTP

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**Change Description:**

Per section 13.2.2 of the DBA, the delay in the issuance of NTP 2 to the DB Contractor entitles the DB contractor to a contractor to an adjustment in the DB price for the Work, based on the Engineering News Record Construction Cost Index (“ENR CCI”)

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**Mobility Authority Personnel with knowledge:**

Include Name, Title, and associated activity  
Dan Freeman - CTRMA  
Oscar Solis – CTRMA

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**Supporting Documents (including emails, telephone calls, other correspondence written or verbal):**

- Meeting with CTRMA on 8-11-2021
  - E-mails from Pat Pluenneke to Dan Freeman on 8-10-2021, E-mail from Dan Freeman to Pat Pluenneke on 8-13-2021
- 

**Schedule Impact:** N/A

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**Basis of Additional Work:** Per escalation calculation – request is for \$14,742,133.32

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**Requested Response Date from Mobility Authority:**

October 15, 2021

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**Impact of Delayed Response:**

N/A

## Freeman, Daniel W

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**From:** Pluenneke, Pat  
**Sent:** Tuesday, August 10, 2021 7:45 AM  
**To:** Freeman, Daniel W  
**Subject:** CCI Request  
**Attachments:** Construction Index Presentation.pdf

Dan,  
Attached is our request for the CCI escalation payment. We would like to discuss during the partnering meeting tomorrow.  
Thanks,

**Pat Pluenneke**  
**Program Manager**

**Archer Western | The Walsh Group**  
C: 512.619.5238

[www.walshgroup.com](http://www.walshgroup.com)

Facebook | LinkedIn | Twitter | Instagram

Construction Cost Index Presentation  
Great Hills Constructors  
8-10-2021

**Contract Requirements:**

**13.2.2 Delay in Issuance of NTP1, NTP2, and NTP3; Escalation**

13.2.2.1 The Mobility Authority intends to issue NTP1 following the Finance Closing Date, which will authorize the DB Contractor to proceed with the NTP1 Work. The Mobility Authority intends to issue NTP2 for the remaining Work following the Finance Closing Date. If NTP1 and NTP2 have not been issued by the Mobility Authority as of 210 Days after the Proposal Date, due to no fault of any member of the DB Contractor Group, this DB Agreement shall remain in full force and effect, without any modification to the terms and conditions hereof, provided that the DB Contractor shall be entitled to an adjustment in the DB Price for the Work, based on the Engineering News Record Construction Cost Index for Construction Costs ("ENR CCI"), from a base date commencing as of the expiration of such 210 Day period and until the date of issuance of NTP calculated as follows:

$$\text{Adjusted DP} = (\text{Proposal DP}) \times (\text{ENR CCI}) / (\text{BI})$$

The Base Index (BI) is the Engineering News Record Construction Cost Index for the calendar month which occurs 210 Days after the Proposal Date. The ENR CCI is the Engineering News Record Construction Cost Index for the month in which NTP2 is issued.

- We have examined how cost increases have impacted this project specifically in Austin, TX. The Construction Cost Index includes 4 components, all of which must be purchased or hired locally for our Austin project. The city closest to Austin and reflective of the Texas buying market is Dallas.
- GHC's analysis utilizes the Dallas CCI provided by ENR, as this is the most appropriate and comparable to this project and Austin TX.
- The Dallas and especially the Austin markets have experienced surges in growth and expansion that have far outpaced the National Market. These markets are incurring higher prices proportionally to this growth

**CCI Calculation:**

The Calculated Delta for Escalation Days addresses escalations being based on the percentage of the monthly cycle for which escalations were counted. For example, the escalations started on March 16, which was 13 days into the cycle, GHC accounted for only 62.9% of that month's increase. This approach is most appropriate as it avoids situations where full months escalation would be applied to potentially a shortened cycle, or conversely to a longer cycle. The table below establishes the exact time frames the CI applies to the project.

**Significant Dates:**

3-16-21 (210 Days after proposal submission date = start of escalation period)

4-5-2021 (NTP1)

6-28-2021 (NTP2 & NTP3 = end of escalation period)

DALLAS										
ENR CCI	ENR Cycle Start	ENR Cycle End	Escalation Start in Cycle	Escalation End in Cycle	Delta over Month	Days in Cycle	Escalation Days / Cycle	Escalation Days / Cycle (%)	Calculated Delta for Escalation Days	Calculated Escalation
6206.66	3-Mar	6-Apr	16-Mar	6-Apr	0.84%	35	22	62.9%	0.53%	\$ 2,516,614
6259.18	7-Apr	5-May	7-Apr	5-May	2.05%	29	29	100.0%	2.05%	\$ 9,814,140
6389.92	6-May	9-Jun	6-May	9-Jun	0.53%	35	35	100.0%	0.53%	\$ 2,571,733
6423.67	10-Jun	6-Jul	10-Jun	28-Jun	2.27%	27	19	70.4%	1.60%	\$ 7,867,066
6573.01	7-Jul	N/A	7-Jul	N/A	N/A					
								TOTAL	4.70%	\$ 22,769,553
								GHC Price	\$ 477,149,654	
								Adjustment	\$ 22,769,553	
								Adjusted Price	\$ 499,919,207	

## Freeman, Daniel W

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**From:** Freeman, Daniel W <Daniel.Freeman@atkinsglobal.com>  
**Sent:** Friday, August 13, 2021 12:03 PM  
**To:** Pluenneke, Pat  
**Subject:** [EXTERNAL] RE: CCI Request  
**Attachments:** NTP Delay Calcs.xlsx

**CAUTION:** This email originated from outside the organization. Do not click links or open attachments unless you are expecting them and know the content is safe.

Pat,

As stated in the Executive Partnering Meeting, attached are the CTRMA's calculations for NTP Escalation. Of particular importance, these calculations are consistent with the language in Section 13.2.2 of the Design-Build Agreement (applicable data from this section provided below). A couple of points of note:

1. Engineering News-Record (ENR) defines the Construction Cost Index (CCI) as the 20-city average. The following language is extracted directly from ENR's CCI webpage:

**"HOW ENR BUILDS THE INDEX:** 200 hours of common labor at the 20-city average of common labor rates, plus 25 cwt of standard structural steel shapes at the mill price prior to 1996 and the fabricated 20-city price from 1996, plus 1.128 tons of portland cement at the 20-city price, plus 1,088 board ft of 2 x 4 lumber at the 20-city price."

Accordingly, the Mobility Authority used the ENR CCI, the 20-city average, as defined by ENR.

2. The Mobility Authority used the *monthly* values for the ENR CCI and Base Index (BI) as stated in the Design-Build Agreement. These values include:

The monthly ENR CCI value for June 2021 of 12112 (the month NTP2/3 were issued)

The monthly ENR CCI value for March 2021, the BI, of 11749 (the month 210 days beyond the Proposal Date)

Again, this methodology is consistent with that stated in the Design-Build Agreement.

### Design-Build Agreement, Section 13.2.2 (emphasis added)

Adjusted DP = (Proposal DP) x (ENR CCI)/(BI)

The Base Index (BI) is the Engineering News Record Construction Cost Index for the **calendar month** which occurs 210 Days after the Proposal Date. The ENR CCI is the Engineering News Record Construction Cost Index for the **month** in which NTP2 is issued.

Pat, if you disagree with this approach, we may need to escalate the issue above us (since those above us are already briefed on the subject). Please let me know if you would like to discuss this further.

Best Regards,

**Daniel W. Freeman, P.E.**

Sr. Project Director, Tolls

**ATKINS, member of the SNC-Lavalin Group**

11801 Domain Blvd, Suite 500, Austin, Texas 78758

Tel: +1 (512) 327 6840 | Fax: +1 (512) 327 2453 | Cell: +1 (512) 413 6764

Email: [daniel.freeman@atkinsglobal.com](mailto:daniel.freeman@atkinsglobal.com) | Web: [www.atkinsglobal.com/northamerica](http://www.atkinsglobal.com/northamerica) | Careers: [www.atkinsglobal.com/careers](http://www.atkinsglobal.com/careers)

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**From:** Pluenneke, Pat <ppluenneke@walshgroup.com>  
**Sent:** Tuesday, August 10, 2021 7:45 AM  
**To:** Freeman, Daniel W <Daniel.Freeman@atkinsglobal.com>  
**Subject:** CCI Request

Dan,  
Attached is our request for the CCI escalation payment. We would like to discuss during the partnering meeting tomorrow.  
Thanks,

**Pat Pluenneke**  
**Program Manager**

**Archer Western | The Walsh Group**  
C: 512.619.5238

[www.walshgroup.com](http://www.walshgroup.com)

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## **Exhibit B**

### NTP Escalation Payment Calculations

## Escalation Calculations for Delayed NTP2/NTP3

These calculations are based on Section 13.2.2 of the Design-Build Agreement (see Exhibit C)

### Relevant Dates:

Proposal Date	8/18/2020
210 Days after Proposal Date	3/16/2021
NTP1 Issuance Date	4/14/2021
NTP2/NTP3 Issuance Date	6/28/2021

Formula for Escalation due to Delayed NTP2/NTP3:

$$\text{Adjusted DP} = (\text{Proposal DP}) \times (\text{ENR CCI}) / (\text{BI})$$

Where:

- Adjusted DP is the adjusted Design Build Price
- Proposal DP is the original Design Build Price (\$477,149,654.00)
- ENR CCI is the Engineering News Record Construction Cost Index for the month in which NTP2/NTP3 were issued (value for June 2021 is 12112)
- The Base Index (BI) is the Engineering News Record Construction Cost Index for the calendar month which occurs 210 days after the Proposal Date (value for March 2021 is 11749)

The values from ENR Construction Cost Index are included on the following page.

$$\text{Adjusted DP} = (\$477,149,654) \times (12,112)/(11749)$$

$$\text{Adjusted DP} = \$491,891,787.32$$

$$\text{Increased DP} = \$491,891,787.32 - \$477,149,654$$

$$\text{Increased DP} = \$14,742,133.32 \text{ (amount of Change Order 01)}$$



ENR's CONSTRUCTION COST INDEX

YEAR	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	AVG.
2021	11627	11698	11749	11848	11989	12112	12237	12463					
2020	11392	11396	11397	11412	11418	11436	11439	11455	11499	11539	11579	11626	11465.67
2019	11206	11213	11228	11228	11230	11268	11293	11311	11311	11326	11381	11381	11281
2018	10878	10889	10959	10971	11013	11069	11116	11124	11170	11183	11184	11186	11062
2017	10542	10559	10667	10678	10692	10703	10789	10826	10823	10817	10870	10873	10737
2016	10132	10181	10242	10279	10315	10337	10379	10385	10403	10434	10442	10530	10338
2015	9972	9962	9972	9992	9975	10039	10037	10039	10065	10128	10092	10152	10035
2014	9664	9681	9702	9750	9796	9800	9835	9846	9870	9886	9912	9936	9806
2013	9437	9453	9456	9484	9516	9542	9552	9545	9552	9689	9666	9668	9547
2012	9176	9198	9268	9273	9290	9291	9324	9351	9341	9376	9398	9412	9308
2011	8938	8998	9011	9027	9035	9053	9080	9088	9116	9147	9173	9172	9070
2010	8660	8672	8671	8677	8761	8805	8844	8837	8836	8921	8951	8952	8799
2009	8549	8533	8534	8528	8574	8578	8566	8564	8586	8596	8592	8641	8570
2008	8090	8094	8109	8112	8141	8185	8293	8362	8557	8623	8602	8551	8310
2007	7880	7880	7856	7865	7942	7939	7959	8007	8050	8045	8092	8089	7966
2006	7660	7689	7692	7695	7691	7700	7721	7722	7763	7883	7911	7888	7751
2005	7297	7298	7309	7355	7398	7415	7422	7479	7540	7563	7630	7647	7446
2004	6825	6862	6957	7017	7065	7109	7126	7188	7298	7314	7312	7308	7115
2003	6581	6640	6627	6635	6642	6694	6695	6733	6741	6771	6794	6782	6694
2002	6462	6462	6502	6480	6512	6532	6605	6592	6589	6579	6578	6563	6538
2001	6281	6272	6279	6286	6288	6318	6404	6389	6391	6397	6410	6390	6343

## **Exhibit C**

Contractual Language from Design-Build Agreement

and other fees, costs and/or royalties imposed with respect to the Work and any equipment, materials, labor or services included therein.

### **13.2 NTP1 and NTP2 Work Payments; Delay in Issuance of NTP1 and/or NTP2**

#### **13.2.1 NTP1 and NTP2 Work Payments**

13.2.1.1 The DB Contractor acknowledges and agrees that (i) the Mobility Authority will not pay for NTP1 Work prior to issuance of the NTP1, (ii) except for NTP1 Work, the Mobility Authority will not pay for any other Work prior to issuance of NTP2, (iii) any NTP1 Work performed by the DB Contractor prior to the issuance of NTP1 and any other Work performed by the DB Contractor prior to issuance of NTP2 shall, therefore, be performed solely at the DB Contractor's risk and (iv) the Mobility Authority shall have no liability hereunder and no responsibility to pay the DB Contractor for any Work performed by the DB Contractor unless and until the subject NTP is issued by the Mobility Authority, in its sole discretion.

#### **13.2.2 Delay in Issuance of NTP1, NTP2, and NTP3; Escalation**

13.2.2.1 The Mobility Authority intends to issue NTP1 following the Finance Closing Date, which will authorize the DB Contractor to proceed with the NTP1 Work. The Mobility Authority intends to issue NTP2 for the remaining Work following the Finance Closing Date. If NTP1 and NTP2 have not been issued by the Mobility Authority as of 210 Days after the Proposal Date, due to no fault of any member of the DB Contractor Group, this DB Agreement shall remain in full force and effect, without any modification to the terms and conditions hereof, provided that the DB Contractor shall be entitled to an adjustment in the DB Price for the Work, based on the Engineering News Record Construction Cost Index for Construction Costs ("ENR CCI"), from a base date commencing as of the expiration of such 210 Day period and until the date of issuance of NTP calculated as follows:

$$\text{Adjusted DP} = (\text{Proposal DP}) \times (\text{ENR CCI}) / (\text{BI})$$

The Base Index (BI) is the Engineering News Record Construction Cost Index for the calendar month which occurs 210 Days after the Proposal Date. The ENR CCI is the Engineering News Record Construction Cost Index for the month in which NTP2 is issued.

13.2.2.2 If NTP1 and NTP2 have not been issued as of 365 Days after the Proposal Date due to no fault of any member of the DB Contractor Group, the DB Contractor may seek to negotiate a Change Order, including an extension in time for issuance of NTP1 and/or NTP2 and an increase in the DB Price mutually acceptable to the DB Contractor and the Mobility Authority, provided that any extension in time for issuance of NTP2 beyond 365 Days after the Proposal Date shall be subject to the concurrence of Surety. If the DB Contractor does not wish to seek a Change Order as provided above or the Mobility Authority fails to issue a Change Order acceptable to the DB Contractor, then following 365 Days after the Proposal Date, the DB Contractor's sole remedy shall be to terminate this DB Agreement by delivery of notice of termination to the Mobility Authority.

13.2.2.3 If NTP2 has not been issued within 90 Days after the date of issuance of NTP1 through no fault of any member of the DB Contractor Group, the DB Contractor may be entitled to a Change Order to extend the Completion Deadline to the extent the DB