

CCSJ #		0914-24-029	
AFA CSJs		0914-24-029	
District #		AFA ID	
Code Chart 64 #			
Project Name		RAILROAD REPLANKING, INSTALLATION OF SIGNS AND MARKINGS	

STATE OF TEXAS §

COUNTY OF BURNET §

**ADVANCE FUNDING AGREEMENT FOR
LOCAL GOVERNMENT MAINTENANCE OF
RAILROAD CROSSING APPROACHES
(OFF-SYSTEM)**

THIS AGREEMENT is made by and between the State of Texas (“State”), acting by and through the Texas Department of Transportation (“**TxDOT**”), and Burnet County, acting by and through its duly authorized officials (“**Local Government**”).

WITNESSETH

WHEREAS, 23 U.S.C. § 302 provides that a state desiring to avail itself of the provisions of Title 23 of the United States Code shall have a department of transportation with adequate powers to discharge to the duties required by Title 23.; and,

WHEREAS, 23 U.S.C. § 106 and the Stewardship and Oversight Agreement between the Federal Highway Administration (“**FHWA**”) and TxDOT provide that TxDOT must provide adequate oversight of any sub-recipients.; and,

WHEREAS, 23 U.S.C. § 130 (“**Section 130**”) provides for the federal funding of construction of projects for the elimination of hazards of railway-highway crossings; and,

WHEREAS, TxDOT has identified the Austin Western Railroad (“**Railroad**”) highway-rail grade crossing DOT 745347T, crossing Oaks Road – County Road 269 in Burnet County, that is located as shown in Attachment A; and

WHEREAS, TxDOT has initiated a **Section 130 project** with the Railroad to bring the highway-grade crossing into compliance with federal, state, and industry regulatory standards; and

WHEREAS, Transportation Code, §201.209 allows TxDOT to enter into an agreement with the Local Government; and,

WHEREAS, providing adequate oversight, as it relates to a **Section 130 project**, requires TxDOT to gain a commitment from the Local Government that it will maintain signs and pavement markings installed or upgraded on a Local Government facility as part of a **Section 130 project**; and,

WHEREAS, the Local Government desires a **Section 130 project** within its jurisdiction consisting of passive grade crossing warning to active grade crossing signal upgrade (“**Section 130 Project**”) and understands that the **Section 130 Project** will upgrade or install new signs, pavement markings,

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approach transitions, and other items as listed in Attachment B, that the Local Government will be responsible for maintaining; and

WHEREAS, the Governing Body of the Local Government has approved entering into this agreement by resolution, ordinance, or commissioners court order dated 8/___/24, which is attached to this agreement as Attachment C.

WHEREAS, TxDOT has determined that such participation is in the best interest of the citizens of the State;

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements of the parties hereto, to be by them respectively kept and performed as hereinafter set forth, it is agreed as follows:

AGREEMENT

1. Period of the Agreement

This agreement becomes effective when signed by the last party whose signing makes the agreement fully executed. This agreement shall remain in effect unless terminated as provided below.

2. Scope of Work

Upon completion of the **Section 130 Project**, the Local Government will fund and maintain the signs, pavement markings, approach transitions, and other items as listed in Attachment B in accordance with applicable standards of the Local Government and in compliance with the TMUTCD.

3. Termination of this Agreement

This agreement shall remain in effect unless:

- A.** The agreement is terminated in writing with the mutual consent of the parties;
- B.** The agreement is terminated by one party because of a breach, in which case any cost incurred because of the breach shall be paid by the breaching party; or

4. Amendments

Amendments to this agreement due to changes in the character of the work, terms of the agreement, or responsibilities of the parties relating to the Project may be enacted through a mutually agreed upon, written amendment.

5. Remedies

This agreement shall not be considered as specifying the exclusive remedy for any agreement default, but all remedies existing at law and in equity may be availed of by either party to this agreement and shall be cumulative.

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6. Compliance with Accessibility Standards

The Local Government shall ensure that maintenance is in compliance with standards issued or approved by the Texas Department of Licensing and Regulation ("TDLR") as meeting or consistent with minimum accessibility requirements of the Americans with Disabilities Act (P.L. 101-336) (ADA).

7. Notice

All notices to either party by the other required under this agreement shall be delivered personally or sent by certified or U.S. mail, postage prepaid, addressed to such party at the following addresses:

Local Government:	State: Director of Contract Services Texas Department of Transportation 125 E. 11th Street Austin, Texas 78701
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All notices shall be deemed given on the date so delivered or so deposited in the mail, unless otherwise provided by this agreement. Either party may change the above address by sending written notice of the change to the other party. Either party may request in writing that such notices shall be delivered personally or by certified U.S. mail and such request shall be honored and carried out by the other party.

8. Legal Construction

This document does not convey any real property interests. In case one or more of the provisions contained in this agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions and this agreement shall be construed as if it did not contain the invalid, illegal or unenforceable provision.

9. Responsibilities of the Parties

The State and the Local Government agree that neither party is an agent, servant, or employee of the other party, and each party agrees it is responsible for its individual acts and deeds as well as the acts and deeds of its contractors, employees, representatives, and agents.

10. Compliance with Laws

The parties shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any manner affecting the performance of this agreement. When required, the Local Government shall furnish the State with satisfactory proof of this compliance.

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11. Sole Agreement

This agreement constitutes the sole and only agreement between the parties and supersedes any prior understandings or written or oral agreements respecting the agreement's subject matter.

12. State Auditor

The state auditor may conduct an audit or investigation of any entity receiving funds from the State directly under the contract or indirectly through a subcontract under the contract. Acceptance of funds directly under the contract or indirectly through a subcontract under this contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

13. Signatory Warranty

Each signatory warrants that the signatory has necessary authority to execute this agreement on behalf of the entity represented.

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Each party is signing this agreement on the date stated under that party's signature.

THE LOCAL GOVERNMENT

Signature

James Oakley

Burnet County Judge

Date

THE STATE OF TEXAS

Kenneth Stewart
Director of Contract Services

Date