



Texas Department of Transportation

PO BOX 1717 • PHARR TEXAS 78577-1717 • (956) 702-6100

June 2, 2009

The Honorable J.D. Salinas
County Judge, Hidalgo County
P O Box 1356
Edinburg, TX 78540

**RE: Advance Funding Agreement Amendment #1
Economically Disadvantaged County Program Application
I Rd., CSJ 0921-02-132, Owassa to US 281**

Dear Judge Salinas:

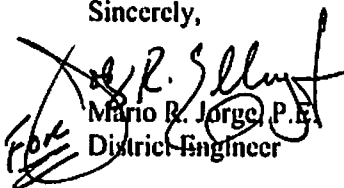
We are pleased to inform you that this project received American Recovery and Reinvestment Act (ARRA) funds and is now scheduled for a July 2009 letting. The Advance Funding Agreement (AFA) executed Aug 26, 2004, must be amended to include the ARRA funds and to reflect revised project limits since the segment between Owassa Rd and Nolana was constructed under a prior project. The AFA also reflects the increased construction cost estimate of \$5,700,000 and an Economically Disadvantaged County Program (EDCP) reduction for the county.

Two copies of Amendment #1 are attached. As shown on "Attachment C-1, PROJECT BUDGET," Hidalgo County's 3.0% share of costs for construction and construction engineering and contingencies is \$ 95,760.00. The amount now due from Hidalgo County is \$93,410.00, which is the county's total share less a previously paid amount of \$2,350.00. It is our understanding that the county plans to execute an interlocal agreement with Edinburg to address the city covering the county's share. However, since the project is located within the county's jurisdiction, the AFA with the county is still needed and we must receive payment from the county for their share.

The attached EDCP application needs to be completed and returned so the county's 85% reduction in required local share of funding can be approved by our office prior to final execution of Amendment #1. Please verify the data on the Project Information Sheet, and sign and return the Affidavit.

In order to maintain the scheduled July 2009 letting, it is critical that we receive the signed AFA Amendment #1 (both originals), a check in the amount of \$93,410.00 and the EDCP Project Information Sheet and Affidavit no later than June 16, 2009. If you have any questions contact me or Jody Ellington, our Director of Transportation Planning and Development, at 702-6100.

Sincerely,


Mario R. Jorge, P.E.
District Engineer

RLB
Attachments

cc: Hector "Tito" Palacios, Hidalgo County Commissioner, Precinct 2
Oscar Garza, Hidalgo County Commissioner, Precinct 4
Richard H. Garcia, Mayor, City of Edinburg
Hector Gonzalez, P.E., Pharr Area Engineer
Jody Ellington, P.E., Director of Transportation Planning and Development
EDC File
Project File

THE TEXAS PLAN
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INCREASE THE VALUE OF OUR TRANSPORTATION ASSETS

An Equal Opportunity Employer

CSJ # 0921-02-132
District # 21 (Pharr)
Code Chart 64 # 50109 (Hidalgo)
Project: I Road from US 281 South to Owassa Rd.
CFDA # 20.205(A)

STATE OF TEXAS §
COUNTY OF TRAVIS §

**ADVANCE FUNDING AGREEMENT
AMENDMENT # 1**

THIS AMENDMENT IS MADE BY AND BETWEEN the State of Texas, acting through the Texas Department of Transportation, hereinafter called the State, and the County of Hidalgo, acting by and through its duly authorized officials, hereinafter called the Local Government.

WITNESSETH

WHEREAS, the State and the Local Government executed a contract on the 26th day of August 2004 to effectuate their agreement to reconstruct "I" Rd. from US 281 South to FM 3461 (Nolana Road); and,

WHEREAS, it has become necessary to amend that contract;

NOW THEREFORE, in consideration of the premises and of the mutual covenants and agreements of the parties hereto, the State and the Local Government do agree as follows:

AGREEMENT

Article 1. Description of Amended Items

- 1) The 6th WHEREAS is voided and replaced with the following to address the reduction in project limits "from US 281 South to FM 3461 (Nolana Road)" to "from US 281 South to Owassa Rd.":

"WHEREAS, the Governing Body of the Local Government has approved entering into this Agreement by resolution or ordinance dated July 30, 2004 which is attached hereto and made a part hereof as Attachment "A" for the reconstruction of "I" Rd. from US 281 South to Owassa Rd., as shown in Attachment "B-1, PROJECT LOCATION MAP", hereinafter referred to as the Project.

- 2) "Article 2. Scope of Work" is voided and replaced with the following to address the reduction in project limits "from US 281 South to FM 3461 (Nolana Road)" to "from US 281 South to Owassa Rd.":

"This project consists of the reconstruction of "I" Rd. from US 281 South to Owassa Rd., as shown on Attachment B-1."

- 3) "Attachment C, Project Payment Provisions and Work Responsibilities" is voided and replaced by "Attachment C-1, PROJECT BUDGET" to address the American Recovery and Reinvestment Act of 2009 (ARRA) funds, an 85% local match Economically Disadvantaged County Program (EDCP) reduction for Construction and Construction Engineering & Contingencies, and an increased cost estimate.

- 4) "Article 22. Inspection of Books and Records," of the original contract is being amended to add the following language to address ARRA funding requirements:

"In accordance with Section 902 of the American Recovery and Reinvestment Act of 2009 (ARRA), should this agreement involve the expenditure of ARRA funds, then the U.S. Comptroller General and its representatives shall have the authority to:

- a. examine any records of the contractor or any of its subcontractors, or any State or local agency administering such contract, that directly pertain to, and involve transactions relating to the contract or subcontract; and*
- b. interview any officer or employee of the contractor or any of its subcontractors, or any State or local agency administering the contract regarding such contracts.*

Nothing in the section previously mentioned shall be interpreted to limit or restrict in any way the existing authority of the Comptroller General.

In accordance with Section 1515(a) of the ARRA, with respect to each contract or grant awarded using covered funds, any representative of an appropriate inspector general appointed under Section 3 or 8G of the Inspector General Act of 1978 (5 U.S.C. App.), is authorized:

- a. to examine any records of the contractor or grantee, any of its subcontractors or subgrantees, or any State or local agency administering such contract that pertain to and involve transactions relating to the contract, subcontract, grant, or subgrant; and
- b. to interview any officer or employee of the contractor, grantee or subgrantee, or agency regarding such transactions.

Section 1515(b) further provides that nothing in the section previously mentioned shall be interpreted to limit or restrict in any way the existing authority of an inspector general.

The ARRA Act requires that the Contractor report monthly employment information for its firm as well as that of all of its subcontractors. The Contractor, similarly, shall include this reporting requirement in all of its subcontracts. Failing to include the requirement in agreements with subcontractors can serve as grounds for contract termination.

Form FHWA-1589, Monthly Employment Report, promulgated by the Federal Highway Administration (FHWA), captures the necessary monthly employment information and shall be submitted by the Contractor on a regular basis to the LG (Local Government). It is the responsibility of the LG to obtain this form from the prime Contractor and any subcontractors and, the LG shall verify the accuracy, completeness, and reasonableness of the data contained in the form. The LG shall ensure that this form is submitted by the LG to the State according to the policies and at the direction of the State.

In order to meet any other FHWA and ARRA reporting requirements, the LG shall provide to the State all information requested by the State, including data or information in possession of contractors and subcontractors for completing other necessary reporting forms, and the information shall be submitted in the manner required and according to all due dates as set by the State.

Furthermore, the ARRA mandates that the U.S. Comptroller General's Office shall have authority to examine the records of the contractor, subcontractor, or local agency relating to the project at any time."

5) All other provisions of the original contract are unchanged and remain in full force and effect.

Article 2. Signatory Warranty

The signatories to this amendment warrant that each has the authority to enter into this agreement on behalf of the organization they represent.

IN WITNESS WHEREOF, THE STATE AND THE LOCAL GOVERNMENT have executed duplicate counterparts to effectuate this agreement.

THE LOCAL GOVERNMENT

Hidalgo County
Name of Local Government

By: _____
Signature

Printed Name

Title

Date

THE STATE OF TEXAS

Executed for the Executive Director and approved for the Texas Transportation Commission for the purpose and effect of activating and/or carrying out the orders, established policies or work programs heretofore approved and authorized by the Texas Transportation Commission.

By: _____
Janice Mullenix

Director, Contract Services Section

Date

**ATTACHMENT C-1
PROJECT BUDGET**

The Hidalgo County Metropolitan Planning Organization (HCMPO) allocated Federal American Recovery and Reinvestment Act (ARRA) Funds in the amount of \$4,750,298 for this project. These funds are to be used exclusively for construction costs and are capped. Per HCMPO direction, use of these ARRA funds requires Local Government participation at a rate equal to that of the required Local Government participation for the funding being used for construction engineering and contingency costs as well as the funding being used for construction costs above that covered by the ARRA funds and associated Local Government participation. Metropolitan Mobility/Rehabilitation and/or District Discretionary funds will be used to cover construction costs which exceed the capped ARRA funds and associated required Local Government participation. The Local Government will also be responsible for 100% of all preliminary engineering, right of way and utility adjustment costs.

The project costs will be split equally between the two Local Governments (50% for the City of Edinburg, and 50% for Hidalgo County) since the project segment lengths within each entity's jurisdiction are equal. Considering this, the usual 20% Local Government match, and taking into account approved Economically Disadvantaged County Program (EDCP) reductions of 90% for the City of Edinburg and 85% for Hidalgo County, Local Government participation for construction and construction engineering and contingencies is 1% for the City of Edinburg and 1.5% for Hidalgo County. For non ARRA funding, State participation to cover the Local Government's EDCP reductions will be 17.5%. There will be no State participation for the ARRA funding.

The following is an estimated breakdown of the project costs and funding participation. It is understood that the costs shown are estimates only, and Local Government participation will be based on actual charges to the project.

Description	Total Estimated Cost	Federal Participation		State Participation		Local Government Participation			
		%		Cost		City of Edinburg		Hidalgo County	
		%	Cost	%	Cost	%	Cost	%	Cost
Preliminary Engineering	\$ 443,160.00	0.00%	\$ -	0.00%	\$ -	50.00%	\$ 221,580.00	50.00%	\$ 221,580.00
ROW & Utility Adjustments	\$ -	0.00%	\$ -	0.00%	\$ -	50.00%	\$ -	50.00%	\$ -
Construction	\$5,700,000.00	# 84.86%	\$ 5,412,617.59	@ 2.54%	\$ 144,882.41	1.00%	\$ 57,000.00	1.50%	\$ 85,500.00
Construction Engineering & Contingencies (E&C) (estimated at 12% of Construction Costs)	\$ 684,000.00	80.00%	\$ 547,200.00	17.50%	\$ 119,700.00	1.00%	\$ 6,840.00	1.50%	\$ 10,260.00
PROJECT TOTAL	\$6,827,160.00		\$ 5,959,817.59		\$ 284,582.41		\$ 285,420.00		\$ 317,340.00

- 97.5% Participation for the first \$4,872,100.51 in construction costs incurred, and 80% thereafter.

@ - 0% Participation for the first \$4,872,100.51 in construction costs incurred, and 17.5% thereafter.

**FY 2009 ECONOMICALLY DISADVANTAGED COUNTIES PROGRAM
INFORMATION SHEET**

COUNTY Hidalgo APPLICANT Hidalgo County

District Contact Information

Name: Melba R. Schaus Telephone: (956) 702-8181

If the project is an "OFF-SYSTEM" project, is the project in the Unified Transportation Program (UTP) and have a local funding agreement in place, or in a District Bank Balance Program?

(Circle as appropriate) YES or NO

If the applicant is a CITY within an eligible county, please answer the two following questions:

1 Economic Development Sales Tax? (Circle as appropriate) YES or NO

2 Population (2006 Census)? _____

PROJECT INFORMATION

UTP PRIORITY STATUS:	Construct
CSJ:	0821-02-132
ESTIMATED LETTING DATE	Jul, 2009

On-System? (Circle as appropriate) YES or NO

LOCATION AND LIMITS - Give highway number with limits from and to

City Street, "I" Rd, from US 281 to Owassa Rd.
0.9 miles within county limits, 50% of project)

PROJECT SCOPE- Give type of work

Widen to 4 lanes

ADJUSTMENT RATIONAL- Give reason why the adjustment is needed

Hidalgo County is marked with high unemployment rates and poverty rates. Meeting the needs of basic necessities along with addressing the infrastructure demands places a heavy burden on the county. We therefore request a reduction in our match for this project.

ANTICIPATED PROJECT COST BREAKDOWN OF ELIGIBLE COMPONENTS

Adjustment - 85%

1. Project Component	2. Est. Total Cost (\$)	3. Local Participation (%)	4. Est. Required Local Match (\$)	5. Local Participation After Adjustment (\$)
Construction	\$2,880,000	20%	\$570,000	\$88,800
Construction Engineering	\$142,500	20%	\$28,500	\$4,278
TOTAL	\$2,982,500		\$598,500	\$89,778

Approved by _____ Date _____

AFFIDAVIT

The State of Texas,

County of _____

Before me, _____, a notary public in and for the State of Texas, on this day personally appeared _____, who being by me duly sworn, upon oath says:

I, _____, representing the city/county of _____, having been duly elected on _____ and having served continuously since that time, certify in my official capacity that, to the best of my knowledge, the information contained in this application is true and correct.

Signature

Date

Subscribed and sworn to before me, by the said _____, this _____ day of _____, _____, to certify which witness my hand and seal of office.

My commission expires _____, _____.

Official Signature

Printed or stamped name of Notary