



Texas Department of Transportation

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

May 2, 2012

Honorable Ramon Garcia
Hidalgo County Judge
P.O. Box 1356
Edinburg, Texas 78540

RECEIVED

MAY 08 2012

COUNTY JUDGE

**RE: Advance Funding Agreement
SH 364 From SH 495 to FM 1924
CSJ# 2966-01-009**

Dear Judge Garcia:

As you are aware the Hidalgo County Metropolitan Planning Organization has authorized \$9,052,410 in Category 7, Metropolitan Mobility and Rehabilitation funds for Right Of Way, Utilities, Construction costs and Direct State Costs for construction on the SH 364 (La Homa Rd) project from SH 495 to FM 1924. To utilize these funds, an Advance Funding Agreement (AFA) needs to be executed between the County of Hidalgo and TxDOT. Attached for your signature are two originals of the AFA.

Please sign and return both originals, along with the County's resolution authorizing the AFA, to the attention of Mr. Homero Bazan, Jr., our Director of Transportation Planning and Development, at the above address for further processing.

If you have any questions please contact Mr. Bazan or me at 702-6100.

Sincerely,

Mario R. Jorge, P.E.
District Engineer

MRJ: mps

Attachments

cc: Homero Bazan, Jr., P.E., Director of Transportation Planning and Development
Valente Olivarez, P.E., Pharr Area Engineer
Joseph Leal, P.E., Project Manager
Project File

THE TEXAS PLAN

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CSJ # 2966-01-009
District # 21 – Pharr
Code Chart 64 # 50109
Project: Widen SH 364 to 4 Lane Divided
Federal Highway Administration
CFDA # 20.205
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STATE OF TEXAS §
COUNTY OF TRAVIS §

**ADVANCE FUNDING AGREEMENT
For A
Metropolitan Mobility and Rehabilitation Project**

THIS AGREEMENT is made by and between the State of Texas, acting by and through the Texas Department of Transportation called the "State", and the County of Hidalgo, acting by and through its duly authorized officials, called the "Local Government."

WITNESSETH

WHEREAS, federal law establishes federally funded programs for transportation improvements to implement its public purposes; and

WHEREAS, the Texas Transportation Code, Sections 201.103 and 222.052 establish that the State shall design, construct and operate a system of highways in cooperation with local governments; and

WHEREAS, federal and state laws require local governments to meet certain contract standards relating to the management and administration of State and federal funds; and

WHEREAS, the Texas Transportation Commission passed Minute Order Number 108423, authorizing the State to undertake and complete a highway improvement generally described as upgrade SH 364 to a four lane divided urban highway called the "Project"; and,

WHEREAS, the Governing Body of the Local Government has approved entering into this agreement by resolution or ordinance dated _____, 20__, which is attached to and made a part of this agreement as Attachment "A" for the improvement covered by this agreement. A map showing the Project location appears in Attachment "B," which is attached to and made a part of this agreement.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements of the parties, to be by them respectively kept and performed as set forth in this agreement, 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 until the Project is completed or unless terminated as provided below.

2. Scope of Work

Upgrade SH 364 to a four lane divided urban highway from SH 495 to FM 1924, in the County of Hidalgo, as shown on Attachment "B", Location Map Showing Project.

3. Local Project Sources and Uses of Funds

- A. The total estimated cost of the Project is shown in the Project Budget – Attachment "C", which is attached to and made a part of this agreement. The expected cash contributions from the Federal or State government, the Local Governments, or other parties is shown in Attachment "C". The State will pay for only those project costs that have been approved by the Texas Transportation Commission. The State and the Federal Government will not reimburse the Local Government for any work performed before the federal spending authority is formally obligated to the Project by the Federal Highway Administration. After federal funds have been obligated, the State will send to the Local Government a copy of the formal documentation showing the obligation of funds including federal award information. The Local Government is responsible for 100% of the cost of any work performed under its direction or control before the federal spending authority is formally obligated.
- B. If the Local Government will perform any work under this contract for which reimbursement will be provided by or through the State, the Local Government must complete training before federal spending authority is obligated. Training is complete when at least one individual who is working actively and directly on the Project successfully completes and receives a certificate for the course entitled *Local Government Project Procedures Qualification for the Texas Department of Transportation*. The Local Government shall provide the certificate of qualification to the State. The individual who receives the training certificate may be an employee of the Local Government or an employee of a firm that has been contracted by the Local Government to perform oversight of the Project. The State in its discretion may deny reimbursement if the Local Government has not designated a qualified individual to oversee the Project.
- C. This Project cost estimate shows how necessary resources for completing the Project will be provided by major cost categories. These categories may include but are not limited to: (1) costs of real property; (2) costs of utility work; (3) costs of environmental assessment and remediation; (4) cost of preliminary engineering and design; (5) cost of construction and construction management; and (6) any other local project costs.
- D. The State will be responsible for securing the Federal and State share of the funding required for the development and construction of the local Project. If the Local Government is due funds for expenses incurred, these funds will be reimbursed to the Local Government on a cost basis.
- E. The Local Government will be responsible for all non-federal or non-state participation costs associated with the Project, including any overruns in excess of the approved local project budget unless otherwise provided for in this agreement or approved otherwise in an amendment to this agreement.
- F. Prior to the performance of any engineering review work by the State, the Local Government will pay to the State the amount specified in Attachment C. At a minimum, this amount shall equal the Local Government's funding share for the estimated cost of preliminary engineering for the Project. At least sixty (60) days prior to the date set for

receipt of the construction bids, the Local Government shall remit its remaining financial share for the State's estimated construction oversight and construction cost.

- G.** In the event that the State determines that additional funding by the Local Government is required at any time during the Project, the State will notify the Local Government in writing. The Local Government shall make payment to the State within thirty (30) days from receipt of the State's written notification.
- H.** Whenever funds are paid by the Local Government to the State under this agreement, the Local Government shall remit a check or warrant made payable to the "Texas Department of Transportation Trust Fund." The check or warrant shall be deposited by the State in an escrow account to be managed by the State. Funds in the escrow account may only be applied to the State Project.
- I.** Upon completion of the Project, the State will perform an audit of the Project costs. Any funds due by the Local Government, the State, or the Federal government will be promptly paid by the owing party. If, after final Project accounting, excess funds remain in the escrow account, those funds may be applied by the State to the Local Government's contractual obligations to the State under another advance funding agreement with approval by appropriate personnel of the Local Government.
- J.** The State will not pay interest on any funds provided by the Local Government.
- K.** If a waiver has been granted, the State will not charge the Local Government for the indirect costs the State incurs on the local Project, unless this agreement is terminated at the request of the Local Government prior to completion of the Project.
- L.** If the Project has been approved for a "fixed price" or an "incremental payment" non-standard funding or payment arrangement under 43 TAC §15.52, the budget in Attachment C will clearly state the amount of the fixed price or the incremental payment schedule.
- M.** If the Local government is an Economically Disadvantaged County and if the State has approved adjustments to the standard financing arrangement, this agreement reflects those adjustments.
- N.** The state auditor may conduct an audit or investigation of any entity receiving funds from the State directly under this contract or indirectly through a subcontract under this contract. Acceptance of funds directly under this 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.
- O.** Payment under this contract beyond the end of the current fiscal biennium is subject to availability of appropriated funds. If funds are not appropriated, this contract shall be terminated immediately with no liability to either party.
- P.** The Local Government is authorized to submit requests for reimbursement by submitting the original of an itemized invoice in a form and containing all items required by the State no more frequently than monthly, and no later than ninety (90) days after costs are incurred. If the Local Government submits invoices more than ninety (90) days after the costs are incurred, and if federal funding is reduced as a result, the State shall have no responsibility to reimburse the Local Government for those costs.

Q. The State will not execute the contract for the construction of the Project until the required funding has been made available by the Local Government in accordance with this agreement.

4. Termination of this Agreement

This agreement shall remain in effect until the project is completed and accepted by all parties, 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;
- C. The Local Government elects not to provide funding after the completion of preliminary engineering, specifications, and estimates (PS&E) and the Project does not proceed because of insufficient funds, in which case the Local Government agrees to reimburse the State for its reasonable actual costs incurred during the Project; or
- D. The Project is inactive for thirty-six (36) months or longer and no expenditures have been charged against federal funds, in which case the State may in its discretion terminate this agreement.

5. 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.

6. 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.

7. Utilities

The Local Government shall be responsible for the adjustment, removal, or relocation of utility facilities, in accordance with applicable Federal and State laws, regulations, rules, policies, and procedures, including any cost to the State of a delay resulting from the Local Government's failure to ensure that utility facilities are adjusted, removed, or relocated before the scheduled beginning of construction.

Reimbursement for eligible compensable utility costs will be made to the Local Government in an amount not to exceed eighty percent (80%) of eligible compensable utility reimbursements. The Local Government will be responsible for one hundred percent (100%) of all utility adjustment costs exceeding the amount shown in Attachment C.

The Local Government must obtain advance approval for any variance from established procedures. Before a construction contract is let, the Local Government shall provide, at the State's request, a certification stating that the Local Government has completed the adjustment of all utilities that must be adjusted before construction is completed.

8. Environmental Assessment and Mitigation

Development of a transportation project must comply with the National Environmental Policy Act and the National Historic Preservation Act of 1966, which require environmental clearance of federal-aid projects.

- A. The Local Government is responsible for the identification and assessment of any environmental problems associated with the development of a local project governed by this agreement.
- B. The Local Government is responsible for the cost of any environmental problem's mitigation and remediation.
- C. The Local Government is responsible for providing any public meetings or public hearings required for development of the environmental assessment. Public hearings will not be held prior to the approval of project schematic.
- D. The Local Government is responsible for the preparation of the NEPA documents required for the environmental clearance of this Project.
- E. Before the advertisement for bids, the Local Government shall provide to the State written documentation from the appropriate regulatory agency or agencies that all environmental clearances have been obtained.

9. Compliance with Texas Accessibility Standards and ADA

All parties to this agreement shall ensure that the plans for and the construction of all projects subject to this agreement are in compliance with the Texas Accessibility Standards (TAS) issued by the Texas Department of Licensing and Regulation, under the Architectural Barriers Act, Article 9102, Texas Civil Statutes. The TAS establishes minimum accessibility requirements to be consistent with minimum accessibility requirements of the Americans with Disabilities Act (P.L. 101-336) (ADA).

10. Architectural and Engineering Services

The Local Government has responsibility for the performance of architectural and engineering services. The engineering plans shall be developed in accordance with the applicable *State's Standard Specifications for Construction and Maintenance of Highways, Streets and Bridges* and the special specifications and special provisions related to it. For projects on the state highway system, the design shall, at a minimum conform to applicable State manuals. For projects not on the state highway system, the design shall, at a minimum, conform to applicable *American Association of State Highway and Transportation Officials* design standards. In procuring professional services, the parties to this agreement must comply with federal requirements cited in 23 CFR Part 172 if the project is federally funded and with Texas Government Code 2254, Subchapter A, in all cases. Professional contracts for federally funded projects must conform to federal requirements, specifically including the provision for participation by Disadvantaged Business Enterprises (DBEs), ADA, and environmental matters.

11. Construction Responsibilities

- A. The State shall advertise for construction bids, issue bid proposals, receive and tabulate the bids, and award and administer the contract for construction of the Project.
Administration of the contract includes the responsibility for construction engineering and for issuance of any change orders, supplemental agreements, amendments, or additional

CSJ # 2966-01-009
District # 21 – Pharr
Code Chart 64 # 50109
Project: Widen SH 364 to 4 Lane Divided
Federal Highway Administration
CFDA # 20.205
Not Research and Development

work orders that may become necessary subsequent to the award of the construction contract. In order to ensure federal funding eligibility, projects must be authorized by the State prior to advertising for construction.

- B. The State will use its approved contract letting and award procedures to let and award the construction contract.
- C. Prior to their execution, the Local Government will be given the opportunity to review contract change orders that will result in an increase in cost to the Local Government.
- D. Upon completion of the Project, the party constructing the Project will issue and sign a "Notification of Completion" acknowledging the Project's construction completion.
- E. For federally funded contracts, the parties to this agreement will comply with federal construction requirements cited in 23 CFR Part 635 and with requirements cited in 23 CFR Part 633, and shall include the latest version of Form "FHWA-1273" in the contract bidding documents. If force account work will be performed, a finding of cost effectiveness shall be made in compliance with 23 CFR 635, Subpart B.

12. Project Maintenance

The Local Government shall be responsible for maintenance of locally owned roads after completion of the work and the State shall be responsible for maintenance of state highway system after completion of the work if the work was on the state highway system, unless otherwise provided for in existing maintenance agreements with the Local Government.

13. Right of Way and Real Property

- A. Right of way and real property acquisition shall be the responsibility of the Local Government. Title to right of way and other related real property must be acceptable to TxDOT before funds may be expended for the improvement of the right of way or real property.
- B. If the Local Government is the owner of any part of the Project site under this agreement, the Local Government shall permit TxDOT or its authorized representative access to occupy the site to perform all activities required to execute the work.
- C. All parties to this agreement will comply with and assume the costs for compliance with all the requirements of Title II and Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Title 42 U.S.C.A. Section 4601 et seq., including those provisions relating to incidental expenses incurred by the property owners in conveying the real property to the Local Government, and benefits applicable to the relocation of any displaced person as defined in 49 CFR Section 24.2(g). Documentation to support such compliance must be maintained and made available to TxDOT and its representatives for review and inspection.
- D. The Local Government shall assume all costs and perform necessary requirements to provide any necessary evidence of title or right of use in the name of the State to the real property required for development of the Project. The evidence of title or rights shall be acceptable to TxDOT, and be free and clear of all encroachments. The Local Government shall secure and provide easements and any needed rights of entry over any other land needed to develop the Project according to the approved Project plans. The Local Government shall be responsible for securing any additional real property required for completion of the Project.

CSJ # 2966-01-009
District # 21 – Pharr
Code Chart 64 # 50109
Project: Widen SH 364 to 4 Lane Divided
Federal Highway Administration
CFDA # 20.205
Not Research and Development

- E.** In the event real property is donated to the Local Government after the date of TxDOT's authorization, the Local Government will provide all documentation to TxDOT regarding fair market value of the acquired property. TxDOT will review the Local Government's appraisal, determine the fair market value and credit that amount towards the Local Government's financial share. If donated property is to be used as a funding match, it may not be provided by the Local Government. TxDOT will not reimburse the Local Government for any real property acquired before execution of this agreement and the obligation of federal spending authority.
- F.** The Local Government shall prepare real property maps, property descriptions, and other data as needed to properly describe the real property and submit them to TxDOT for approval prior to the Local Government acquiring the real property. Tracings of the maps shall be retained by the Local Government for a permanent record.
- G.** The Local Government agrees to make a determination of property values for each real property parcel by methods acceptable to TxDOT and to submit to TxDOT a tabulation of the values so determined, signed by the appropriate Local Government representative. The tabulations shall list the parcel numbers, ownership, acreage and recommended compensation. Compensation shall be shown in the component parts of land acquired, itemization of improvements acquired, damages (if any) and the amounts by which the total compensation will be reduced if the owner retains improvements. This tabulation shall be accompanied by an explanation to support the determined values, together with a copy of information or reports used in calculating all determined values. TxDOT will review the data submitted and may base its reimbursement for parcel acquisitions on these values.
- H.** Reimbursement for real property costs will be made to the Local Government for real property purchased in an amount not to exceed eighty percent (80%) of the cost of the real property purchased in accordance with the terms and provisions of this agreement. Reimbursement will be in an amount not to exceed eighty percent (80%) of TxDOT's predetermined value of each parcel, or the net cost of the parcel, whichever is less. The costs incidental to negotiation, recording the right of way instruments, and securing possession of the parcels will be the responsibility of the Local Government. The cost of title insurance, closing services, and all costs of relocation assistance as authorized by applicable Federal and State laws will be eligible for reimbursement.
- I.** If the Project requires the use of real property to which the Local Government will not hold title, a separate agreement between the owners of the real property and the Local Government must be executed prior to execution of this agreement. The separate agreement must establish that the Project will be dedicated for public use for a period of not less than 10 (ten) years after completion. The separate agreement must define the responsibilities of the parties as to the use of the real property and operation and maintenance of the Project after completion. The separate agreement must be approved by TxDOT prior to its execution. A copy of the executed agreement shall be provided to TxDOT.
- J.** Upon payment to the property owner of the agreed purchase price, the Local Government is authorized and directed to secure for the State possession of each parcel in accordance with all applicable Federal and State laws governing relocation assistance, notices to vacate and forcible detainer.

CSJ # 2966-01-009
District # 21 – Pharr
Code Chart 64 # 50109
Project: Widen SH 364 to 4 Lane Divided
Federal Highway Administration
CFDA # 20.205
Not Research and Development

14. Notices

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:
County of Hidalgo Attn: County Judge P.O. Box 1356 Edinburg, Texas 78540	Director of Contract Services Texas Department of Transportation 125 E. 11 th Street Austin, Texas 78701

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.

15. Legal Construction

If 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.

16. 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.

17. Ownership of Documents

Upon completion or termination of this agreement, all documents prepared by the State shall remain the property of the State. All data prepared under this agreement shall be made available to the State without restriction or limitation on their further use. All documents produced or approved or otherwise created by the Local Government shall be transmitted to the State in the form of photocopy reproduction on a monthly basis as required by the State. The originals shall remain the property of the Local Government. At the request of the State, the Local Government shall submit any information required by the State in the format directed by the State.

18. 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.

19. 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.

20. Cost Principles

In order to be reimbursed with federal funds, the parties shall comply with the Cost Principles established in OMB Circular A-87 that specify that all reimbursed costs are allowable, reasonable, and allocable to the Project.

21. Procurement and Property Management Standards

The parties shall adhere to the procurement standards established in Title 49 CFR §18.36 and with the property management standard established in Title 49 CFR §18.32.

22. Inspection of Books and Records

The parties to this agreement shall maintain all books, documents, papers, accounting records, and other documentation relating to costs incurred under this agreement and shall make such materials available to the State, the Local Government, and, if federally funded, the Federal Highway Administration (FHWA), and the U.S. Office of the Inspector General, or their duly authorized representatives for review and inspection at its office during the contract period and for four (4) years from the date of completion of work defined under this contract or until any impending litigation, or claims are resolved. Additionally, the State, the Local Government, and the FHWA and their duly authorized representatives shall have access to all the governmental records that are directly applicable to this agreement for the purpose of making audits, examinations, excerpts, and transcriptions.

23. Civil Rights Compliance

The Local Government shall comply with the regulations of the United States Department of Transportation as they relate to non-discrimination (49 CFR Part 21 and 23 CFR Part 200), and Executive Order 11246 titled "Equal Employment Opportunity," as amended by Executive Order 11375 and supplemented in the Department of Labor Regulations (41 CFR Part 60).

24. Disadvantaged Business Enterprise (DBE) Program Requirements

- A. The parties shall comply with the Disadvantaged Business Enterprise Program requirements established in 49 CFR Part 26.
- B. The Local Government shall adopt, in its totality, the State's federally approved DBE program.
- C. The Local Government shall set an appropriate DBE goal consistent with the State's DBE guidelines and in consideration of the local market, project size, and nature of the goods or services to be acquired. The Local Government shall have final decision-making authority regarding the DBE goal and shall be responsible for documenting its actions.
- D. The Local Government shall follow all other parts of the State's DBE program referenced in TxDOT Form 2395, Memorandum of Understanding Regarding the Adoption of the Texas

CSJ # 2966-01-009
District # 21 – Pharr
Code Chart 64 # 50109
Project: Widen SH 364 to 4 Lane Divided
Federal Highway Administration
CFDA # 20.205
Not Research and Development

Department of Transportation's Federally-Approved Disadvantaged Business Enterprise by Entity, and attachments found at web address http://txdot.gov/business/business_outreach/mou.htm.

- E. The Local Government shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any U.S. Department of Transportation (DOT)-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Local Government shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non-discrimination in award and administration of DOT-assisted contracts. The State's DBE program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this LPAFA. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this LPAFA. Upon notification to the Local Government of its failure to carry out its approved program, the State may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).
- F. Each contract the Local Government signs with a contractor (and each subcontract the prime contractor signs with a sub-contractor) must include the following assurance: *The contractor, sub-recipient, or sub-contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this agreement, which may result in the termination of this agreement or such other remedy as the recipient deems appropriate.*

25. Debarment Certifications

The parties are prohibited from making any award at any tier to any party that is debarred or suspended or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549, "Debarment and Suspension." By executing this agreement, the Local Government certifies that it is not currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Programs under Executive Order 12549 and further certifies that it will not do business with any party that is currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549. The parties to this contract shall require any party to a subcontract or purchase order awarded under this contract to certify its eligibility to receive federal funds and, when requested by the State, to furnish a copy of the certification.

26. Lobbying Certification

In executing this agreement, each signatory certifies to the best of that signatory's knowledge and belief, that:

- A. No federal appropriated funds have been paid or will be paid by or on behalf of the parties to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into

CSJ # 2966-01-009
District # 21 – Pharr
Code Chart 64 # 50109
Project: Widen SH 364 to 4 Lane Divided
Federal Highway Administration
CFDA # 20.205
Not Research and Development

of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

- B. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with federal contracts, grants, loans, or cooperative agreements, the signatory for the Local Government shall complete and submit the Federal Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- C. The parties shall require that the language of this certification shall be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and all sub-recipients shall certify and disclose accordingly. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Title 31 U.S.C. §1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

27. Insurance

If this agreement authorizes the Local Government or its contractor to perform any work on State right of way, before beginning work the entity performing the work shall provide the State with a fully executed copy of the State's Form 1560 Certificate of Insurance verifying the existence of coverage in the amounts and types specified on the Certificate of Insurance for all persons and entities working on State right of way. This coverage shall be maintained until all work on the State right of way is complete. If coverage is not maintained, all work on State right of way shall cease immediately, and the State may recover damages and all costs of completing the work.

28. Federal Funding Accountability and Transparency Act Requirements

- A. Any recipient or sub-recipient of funds under this agreement agrees to comply with the Federal Funding Accountability and Transparency Act (FFATA) and implementing regulations at 2 CFR Part 170, including Appendix A. This agreement is subject to the following award terms: <http://edocket.access.gpo.gov/2010/pdf/2010-22705.pdf> and <http://edocket.access.gpo.gov/2010/pdf/2010-22706.pdf>.
- B. For sub-awards greater than \$25,000, the Local Government, as a recipient of federal funding, shall:
 - 1. Obtain and provide to the State and the Federal government, a Central Contracting (CCR) number with the Federal government (Federal Acquisition Regulation, Part 4, Sub-part 4.1100). The CCR number may be obtained by visiting the CCR website whose address is: <https://www.bpn.gov/ccr/default.aspx>;
 - 2. Obtain and provide to the State and the Federal government, a Data Universal Numbering System (DUNS) number, a unique nine-character number that allows Federal government to track the distribution of federal money. The DUNS may be requested free of charge for all businesses and entities required to do so by visiting the Dun & Bradstreet (D&B) on-line registration website <http://fedgov.dnb.com/webform>; and

CSJ # 2966-01-009
District # 21 – Pharr
Code Chart 64 # 50109
Project: Widen SH 364 to 4 Lane Divided
Federal Highway Administration
CFDA # 20.205
Not Research and Development

3. Report the total compensation and names of its top executives to the State and Federal government if:
 - i. More than 80% of annual gross revenues are from the Federal government, and those revenues are greater than \$25,000,000 annually; and
 - ii. Compensation information is not already available through reporting to the U.S. Securities and Exchange Commission (SEC).

29. Single Audit Report

- A. The parties shall comply with the requirements of the Single Audit Act of 1984, P.L. 98-502, ensuring that the single audit report includes the coverage stipulated in OMB Circular A-133.
- B. If threshold expenditures of \$500,000 or more are met during the Local Government's fiscal year, the Local Government must submit a Single Audit Report and Management Letter (if applicable) to TxDOT's Audit Office, 125 E. 11th Street, Austin, TX 78701 or contact TxDOT's Audit Office at http://www.txdot.gov/contact_us/audit.htm.
- C. If expenditures are less than \$500,000 during the Local Government's fiscal year, the Local Government must submit a statement to TxDOT's Audit Office as follows: "We did not meet the \$500,000 expenditure threshold and therefore, are not required to have a single audit performed for FY _____."
- D. For each year the project remains open for federal funding expenditures, the Local Government will be responsible for filing a report or statement as described above. The required annual filing shall extend throughout the life of the agreement, unless otherwise amended or the project has been formally closed out and no charges have been incurred within the current fiscal year.

30. Signatory Warranty

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

CSJ # 2966-01-009
District # 21 – Pharr
Code Chart 64 # 50109
Project: Widen SH 364 to 4 Lane Divided
Federal Highway Administration
CFDA # 20.205
Not Research and Development

THIS AGREEMENT IS EXECUTED by the State and the Local Government in duplicate.

THE LOCAL GOVERNMENT

Signature

Typed or Printed Name

Title

Date

THE STATE OF TEXAS

Janice Mullenix
Director of Contract Services
Texas Department of Transportation

Date

CSJ # 2966-01-009
District # 21 – Pharr
Code Chart 64 # 50109
Project: Widen SH 364 to 4 Lane Divided
Federal Highway Administration
CFDA # 20.205
Not Research and Development

ATTACHMENT A
RESOLUTION OR ORDINANCE

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ATTACHMENT B
LOCATION MAP SHOWING PROJECT



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ATTACHMENT C - PROJECT BUDGET

Category 7 funding in the amount of \$9,052,410 was approved for this project for right of way, utilities, construction and direct state costs for construction. Costs will be allocated based on 80% Federal funding and 20% Local Government funding for right of way/utilities and 80% Federal funding and 20% State funding for Construction and Construction Direct State Costs (Construction Engineering and Contingencies) until the federal funding reaches the maximum obligated amount. The Local Government is responsible for its share of the match as noted, 100% of all Preliminary Engineering costs and 100% of all right of way costs exceeding the approved Federal funding amount. It is agreed that the Local Government will not seek reimbursement from the State until right of way funds for this project become available. Upon funds being available, the State will process reimbursement requests in accordance with this Agreement. This project is considered off-system until the State awards the construction contract, as per Commission Minute Order #108423.

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 Participation	
			%	Cost	%	Cost	%	Cost
Engineering (by Local Government)		\$312,981.00	0%	\$0	0%	\$0	100%	\$312,981.00
Right of Way & Compensable Utilities (by Local Government)		\$1,930,494.00	80%	\$1,544,395.20	0%	\$0	20%	\$386,098.80
Construction (by State)		\$6,387,369.00	80%	\$5,109,895.20	20%	\$1,277,473.80	0%	\$0
Subtotal		\$8,630,844.00		\$6,654,290.40		\$1,277,473.80		\$699,079.80
Preliminary Engineering Direct State Costs \$45,035.00	Environm. Direct State Costs (30%)	\$13,510.50	0%	\$0	100%	\$13,510.50	0%	\$0
	Right of Way Direct State Costs (10%)	\$4,503.50	0%	\$0	100%	\$4,503.50	0%	\$0
	Engineering Direct State Costs (50%)	\$22,517.50	0%	\$0	100%	\$22,517.50	0%	\$0
	Utility Direct State Costs (10%)	\$4,503.50	0%	\$0	100%	\$4,503.50	0%	\$0
Construction Direct State Costs (Construction Engineering and Contingencies)		\$734,547.00	80%	\$587,637.60	20%	\$146,909.40	0%	\$0
Indirect State Costs (7.27%)		\$627,462.36	0%	\$0	100%	\$627,462.36	0%	\$0
Subtotal		\$1,407,044.36		\$587,637.60		\$819,406.76		\$0
TOTAL		\$10,037,888.36		\$7,241,928.00		\$2,096,880.56		\$699,079.80

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Initial payment by the Local Government to the State: \$0.00.

Payment by the Local Government to the State before construction: \$0.00.

Estimated total payment by the Local Government to the State: \$0.00.

This is an estimate. The final amount of Local Government participation will be based on actual costs.