



March 7, 2019

Request for Additional Funding  
County: Hidalgo  
ROW CSJ Number: 2966-01-012  
Highway and Limits From: SH 364 (SH 495, N to FM 1924)

Honorable Judge Richard F. Cortez  
Judge of Hidalgo County  
100 E. Cano, 2<sup>nd</sup> Floor  
Edinburg, TX 78539

**RECEIVED**

**MAR 11 2019**

**COUNTY JUDGE**

Dear Honorable Judge Cortez:

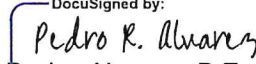
The above captioned project has been reviewed and noted that the present expenditures exceed the federal funding amount authorized for this project. In accordance with the terms of the agreement (copy attached), Hidalgo County is responsible for 100% of all right of way/utilities cost exceeding the approved federal funding amount.

An audit conducted by this office revealed expenditures of \$2,421,616.97 were reimbursed to the County. Reimbursements exceeded the approved federal amount of \$2,344,394.80 leaving a deficit of \$77,222.17. Attached is a statement of cost amounting to the deficit of \$77,222.17.

Please remit a check made payable to The Texas Department of Transportation in the amount of \$77,222.17 within thirty days from receipt of this letter.

If you should have any questions concerning this matter, please contact April Morin at (956) 702-6169.

Sincerely,

DocuSigned by:  
  
Pedro Alvarez, P.E.  
District Engineer  
Pharr District

Attachment  
CC: Right of Way Division

CSJ # 2866-01-009  
District # 21 - Pharr  
Code Chart 64 # 60109  
Project: SH 364 from SH 495 to  
FM 1924  
Federal Highway Administration  
CFDA # 20.205  
Not Research and Development

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, called the State, and County of Hidalgo, acting by and through its duly authorized officials, called the Local Government.

**WITNESSETH**

**WHEREAS**, the State and the Local Government executed a contract on the 26<sup>th</sup> day of June, 2012 to effectuate their agreement for the upgrade to SH 364 to a four lane divided urban highway from SH 495 to FM 1924 in the County of Hidalgo; 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, the State and the Local Government do agree as follows:

**AGREEMENT**

**1. Description of Amended Items**

**Article 24. Disadvantaged Business Enterprise (DBE) Program Requirements** is deleted in its entirety and replaced with:

**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 Department of Transportation's Federally-Approved Disadvantaged Business Enterprise by Entity, and attachments found at web address

CSJ # 2386-01-009  
District # 21 - Pharr  
Code Chart 84 # 60109  
Project: SH 364 from SH 495 to  
FM 1924  
Federal Highway Administration  
CFDA # 20.205  
Not Research and Development

[http://ftp.dot.state.tx.us/pub/bdot-info/bop/dbe/mou/mou\\_attachments.pdf](http://ftp.dot.state.tx.us/pub/bdot-info/bop/dbe/mou/mou_attachments.pdf).

- 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 agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. 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.*

Article 28. Federal Funding Accountability and Transparency Act Requirements is deleted in its entirety and replaced with:

**28. Federal Funding Accountability and Transparency Act Requirements**

- A. Any 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://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22705.pdf> and <http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22706.pdf>.
- B. The Local Government agrees that it shall:
1. Obtain and provide to the State a Central Contracting Registry (CCR) number (Federal Acquisition Regulation, Part 4, Sub-part 4.1100) if this award provides more than \$25,000 in Federal funding. The CCR number may be obtained by visiting the CCR website whose address is: <https://www.sam.gov/portal/public/SAM/>;
  2. Obtain and provide to the State 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 # 2986-01-009  
District # 21 - Pharr  
Code Chart 64 # 50109  
Project: SH 364 from SH 485 to  
FM 1924  
Federal Highway Administration  
CFDA # 20.205  
Not Research and Development

3. Report the total compensation and names of its top five (5) executives to the State if:
  - i. More than 80% of annual gross revenues are from the Federal government, and those revenues are greater than \$25,000,000; and
  - ii. The compensation information is not already available through reporting to the U.S. Securities and Exchange Commission.

Article 29. Single Audit Report is deleted in its entirety and replaced with:

**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/inside-txdot/office/audit/contact.html>.
- 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.

Attachment C "Project Budget" is deleted in its entirety and replaced with Attachment C-1 "Project Budget", which is attached to this amendment.

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

**2. 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: SH 364 from SH 495 to  
FM 1924  
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

Ramon Garcia  
Signature

Ramon Garcia  
Typed or Printed Name

County Judge  
Title

Approved by Comptroller's Clerk  
on 1-21-14 RD

\_\_\_\_\_  
Date

THE STATE OF TEXAS

Janice Mullenix  
Janice Mullenix  
Director of Contract Services  
Texas Department of Transportation

February 12, 2014  
Date

CSJ # 966-01-009  
 District # 21 - Pharr  
 Code Chart 64 # 60109  
 Project: SH 364 from SH 495 to  
 FM 1924  
 Federal Highway Administration  
 CFDA # 20.205  
 Not Research and Development

**ATTACHMENT C - 1  
 PROJECT BUDGET**

This project has received a total of \$11,184,244 in Category 7, Metropolitan Mobility and Rehabilitation (7MM) funds for Right of Way/utilities, construction and construction engineering. Construction and Construction Direct State Costs will be allocated based on 80% Federal funding and 20% State. ROW/utilities costs will be allocated based on 80% Federal funding and 20% Local Government funding. The Local Government is responsible for 100% of all preliminary engineering and 100% of all right of way/utilities costs exceeding the approved Federal funding amount. It is agreed that the Local Government will not seek reimbursement from the State until ROW funds for this project become available. Upon funds being available, the State will process reimbursement request in accordance with the 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:

Description		Total Estimated Cost	Federal Participation		State Participation		Local Participation	
			%	Cost	%	Cost	%	Cost
Preliminary Engineering by LG (funded 100% by LG)		\$ 379,750	0%	\$ 0	0%	\$ 0	100%	\$ 379,750
Right of Way & Compensable Utilities (by LG) Cat 7		\$ 2,930,494	80%	\$ 2,344,395	0%	\$ 0	20%	\$ 586,099
Construction (by State) Cat 7		\$ 7,750,000	80%	\$ 6,200,000	20%	\$ 1,550,000	0%	\$ 0
Subtotal		\$ 11,060,244		\$ 8,644,395		\$ 1,550,000		\$ 965,849
Preliminary Engineering Direct State Costs \$63,681	Environmental (30%)	\$ 19,104	0%	\$ 0	100%	\$ 19,104	0%	\$ 0
	Right of Way (10%)	\$ 6,368	0%	\$ 0	100%	\$ 6,368	0%	\$ 0
	Preliminary Engineering (50%)	\$ 31,841	0%	\$ 0	100%	\$ 31,841	0%	\$ 0
	Utility (10%)	\$ 6,368	0%	\$ 0	100%	\$ 6,368	0%	\$ 0
Construction Direct State Costs (Contingencies) Cat 7		\$ 503,750	80%	\$ 403,000	20%	\$ 100,750		
Indirect State Costs (7.27%)		\$ 480,500	0%	\$ 0	100%	\$ 480,500	0%	\$ 0
Subtotal		\$ 1,047,931		\$ 403,000		\$ 644,931		\$ 0
TOTAL		\$ 12,108,175		\$ 8,947,395		\$ 2,194,931		\$ 965,849

CSJ # 2986-01-009  
District # 21 - Pharr  
Code Charl 64 # 60109  
Project: SH 364 from SH 496 to  
FM 1924  
Federal Highway Administration  
CFDA # 20.205  
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Initial payment by the Local Government to the State: \$0  
Payment by the Local Government to the State before construction: \$0  
Estimated total payment by the Local Government to the State \$0  
This is an estimate. The final amount of Local Government participation will be based on actual costs.

Dept ID	District	ROW CSJ	Parcel	Pynt Exp	Amount	Activity	TxDOT Obj	CPA Obj	Pynt Status	Status Date	Peoplesoft Voucher	Voucher No.	Warrant No.
210000	PHR	2966-01-012	1	Land Acquisition	\$19,076.64	ROW	336	7348	Paid	6/13/2016	514497	5566043	133893397
210000	PHR	2966-01-012	2	Land Acquisition	\$27,560.93	ROW	336	7348	Paid	7/12/2013		5536523	129271865
210000	PHR	2966-01-012	3	Land Acquisition	\$38,470.02	ROW	336	7348	Paid	6/4/2014		5546423	131027437
210000	PHR	2966-01-012	5	Land Acquisition	\$21,378.50	ROW	336	7348	Paid	6/4/2014		5546416	130992920
210000	PHR	2966-01-012	6	Land Acquisition	\$16,180.90	ROW	336	7348	Paid	1/8/2014		5546212	130225873
210000	PHR	2966-01-012	7	Land Acquisition	\$19,274.61	ROW	336	7348	Paid	6/26/2014		5546474	131210140
210000	PHR	2966-01-012	9	Land Acquisition	\$16,567.14	ROW	336	7348	Paid	3/20/2015		5556045	132409647
210000	PHR	2966-01-012	10	Land Acquisition	\$7,358.64	ROW	336	7348	Paid	6/13/2016		5556028	134360760
210000	PHR	2966-01-012	11	Land Acquisition	\$7,895.44	ROW	336	7348	Paid	6/13/2016		5556029	134360761
210000	PHR	2966-01-012	12	Land Acquisition	\$24,802.34	ROW	336	7348	Paid	10/5/2016		5556020	135190907
210000	PHR	2966-01-012	13	Land Acquisition	\$5,817.91	ROW	336	7348	Paid	6/4/2014		5546418	131027345
210000	PHR	2966-01-012	14	Land Acquisition	\$14,853.91	ROW	336	7348	Paid	4/7/2014		5546343	130727807
210000	PHR	2966-01-012	15	Land Acquisition	\$26,656.90	ROW	336	7348	Paid	2/5/2014		5546259	130374415
210000	PHR	2966-01-012	16	Land Acquisition	\$94,962.71	ROW	336	7348	Paid	1/8/2014		5546212	130225874
210000	PHR	2966-01-012	17	Land Acquisition	\$141,918.50	ROW	336	7348	Paid	6/4/2014		5546416	130992921
210000	PHR	2966-01-012	18	Land Acquisition	\$38,900.80	ROW	336	7348	Paid	3/20/2015		5556070	132409928
210000	PHR	2966-01-012	19	Land Acquisition	\$13,658.34	ROW	336	7348	Paid	3/20/2015		5556043	132409645
210000	PHR	2966-01-012	20	Land Acquisition	\$34,528.10	ROW	336	7348	Paid	6/4/2014		5546416	130992922
210000	PHR	2966-01-012	21	Land Acquisition	\$68,533.13	ROW	336	7348	Paid	8/13/2013		5536569	129399521
210000	PHR	2966-01-012	22	Land Acquisition	\$157,455.94	ROW	336	7348	Paid	8/14/2014		5546523	131356797
210000	PHR	2966-01-012	23	Land Acquisition	\$17,888.90	ROW	336	7348	Paid	2/24/2014		5546288	130493731
210000	PHR	2966-01-012	24	Land Acquisition	\$177,862.66	ROW	336	7348	Paid	6/14/2016	299552	5556062	133028204
210000	PHR	2966-01-012	25	Land Acquisition	\$211,597.54	ROW	336	7348	Paid	6/14/2016	142666	5556083	132385998
210000	PHR	2966-01-012	26	Land Acquisition	\$84,369.21	ROW	336	7348	Paid	2/24/2014		5546288	130493732
210000	PHR	2966-01-012	27	Land Acquisition	\$47,422.34	ROW	336	7348	Paid	3/19/2014		5546321	130611405
210000	PHR	2966-01-012	28	Land Acquisition	\$9,885.70	ROW	336	7348	Paid	8/14/2014		5546259	131356798
210000	PHR	2966-01-012	29	Land Acquisition	\$2,371.30	ROW	336	7348	Paid	2/24/2014		5546288	130493733
210000	PHR	2966-01-012	30	Land Acquisition	\$3,498.34	ROW	336	7348	Paid	6/14/2016	142665	5556082	132385997
210000	PHR	2966-01-012	31	Land Acquisition	\$2,104.13	ROW	336	7348	Paid	8/13/2013		5536569	129399522
210000	PHR	2966-01-012	32	Land Acquisition	\$3,943.13	ROW	336	7348	Paid	7/12/2013		5536523	129271866
210000	PHR	2966-01-012	33	Land Acquisition	\$9,049.70	ROW	336	7348	Paid	2/5/2014		5546259	130374417
210000	PHR	2966-01-012	34	Land Acquisition	\$13,189.33	ROW	336	7348	Paid	8/13/2013		5536569	129399523
210000	PHR	2966-01-012	35	Land Acquisition	\$13,363.30	ROW	336	7348	Paid	2/5/2014		5546259	130374418
210000	PHR	2966-01-012	36	Land Acquisition	\$9,436.74	ROW	336	7348	Paid	3/20/2015	143618	5556046	132409648
210000	PHR	2966-01-012	37	Land Acquisition	\$70,400.90	ROW	336	7348	Paid	1/15/2014		5546229	130271807
210000	PHR	2966-01-012	38	Land Acquisition	\$59,741.66	ROW	336	7348	Paid	7/12/2013		5536523	129271867
210000	PHR	2966-01-012	39	Land Acquisition	\$1,498.33	ROW	336	7348	Paid	8/13/2013		5536569	129399524
210000	PHR	2966-01-012	40	Land Acquisition	\$19,956.10	ROW	336	7348	Paid	4/7/2014		5546343	130727808
210000	PHR	2966-01-012	41	Land Acquisition	\$5,105.53	ROW	336	7348	Paid	8/13/2013		5536569	129399525
210000	PHR	2966-01-012	42	Land Acquisition	\$9,068.13	ROW	336	7348	Paid	8/13/2013		5536569	129399526
210000	PHR	2966-01-012	43	Land Acquisition	\$4,856.46	ROW	336	7348	Paid	7/11/2013		5536523	129271868
210000	PHR	2966-01-012	44	Land Acquisition	\$13,840.90	ROW	336	7348	Paid	2/5/2014		5546259	130374419
210000	PHR	2966-01-012	45	Land Acquisition	\$14,438.50	ROW	336	7348	Paid	2/5/2014		5546259	130374420
210000	PHR	2966-01-012	47	Land Acquisition	\$21,304.53	ROW	336	7348	Paid	8/13/2013		5536569	129399527
210000	PHR	2966-01-012	49	Land Acquisition	\$14,538.50	ROW	336	7348	Paid	2/5/2014		5546259	130374421
210000	PHR	2966-01-012	50	Land Acquisition	\$14,835.30	ROW	336	7348	Paid	2/5/2014		5546259	130374422
210000	PHR	2966-01-012	51	Land Acquisition	\$57,777.44	ROW	336	7348	Paid	8/18/2015	372806	5556069	133343177
210000	PHR	2966-01-012	52	Land Acquisition	\$2,491.94	ROW	336	7348	Paid	2/4/2015		5556099	132409927
210000	PHR	2966-01-012	53	Land Acquisition	\$3,616.10	ROW	336	7348	Paid	5/19/2014		5546416	130992923
210000	PHR	2966-01-012	54	Land Acquisition	\$49,654.50	ROW	336	7348	Paid	2/5/2014		5546259	130374423
210000	PHR	2966-01-012	55	Land Acquisition	\$30,267.96	ROW	336	7348	Paid	6/27/2016	844649	5556022	135145070
210000	PHR	2966-01-012	56	Land Acquisition	\$55,325.01	ROW	336	7348	Paid	4/14/2014		5546370	130768969
210000	PHR	2966-01-012	57	Land Acquisition	\$51,324.62	ROW	336	7348	Paid	6/27/2016	844650	5556023	135145071

210000	PHR	2966-01-012	59	Land Acquisition		\$33,681.65	ROW	336	7348	Paid	2/4/2015	143616	5556044	132409646
	PHR	2966-01-012	60	Land Acquisition		\$18,486.50	ROW	336	7348	Paid	2/5/2014		5546259	130374424
	PHR	2966-01-012	61	Land Acquisition		\$32,996.10	ROW	336	7348	Paid	2/5/2014		5546259	130374425
	PHR	2966-01-012	62	Land Acquisition		\$21,396.90	ROW	336	7348	Paid	2/5/2014		5546259	130374426
	PHR	2966-01-012	63	Land Acquisition		\$21,585.01	ROW	336	7348	Paid	4/10/2014		5546363	130747371
	PHR	2966-01-012	64	Land Acquisition		\$28,629.44	ROW	336	7348	Paid	6/14/2016		5566018	134420524
	PHR	2966-01-012	65	Land Acquisition		\$3,544.10	ROW	336	7348	Paid	5/19/2014		5546416	130992924
	PHR	2966-01-012	66	Land Acquisition		\$2,531.30	ROW	336	7348	Paid	4/7/2014		5546343	130727809
	PHR	2966-01-012	67	Land Acquisition		\$85,019.84	ROW	336	7348	Paid	6/14/2016		5566034	134316305
	PHR	2966-01-012	68	Land Acquisition		\$2,433.54	ROW	336	7348	Paid	6/14/2016		5556063	133028205
	PHR	2966-01-012	84	Land Acquisition		\$62,394.20	ROW	336	7348	Paid	8/13/2013		5536569	129399519
	PHR	2966-01-012	88	Land Acquisition		\$22,774.40	ROW	336	7348	Paid	8/13/2013		5536569	129399520
						\$2,237,376.11								
		JV 220	2, 88, 31, 34, 39 42 & 47			\$2,087.77								
<b>Total Acquisition</b>						<b>\$2,235,288.34</b>								
210000	PHR	2966-01-012	UI4210	Utilities		\$90,521.54	ROW	393	7348	Paid	9/13/2017	1424312	5576066	814573
210000	PHR	2966-01-012	UI4211	Utilities		\$95,807.09	ROW	393	7348	Paid	12/1/2017	1539619	5586018	137805745
<b>Total Utilities</b>						<b>\$186,328.63</b>								
<b>Total Acquisition &amp; Utilities</b>						<b>\$2,421,616.97</b>								
<b>Federal Funds Obligated and Expended</b>						<b>\$2,344,394.80</b>								
<b>Expenditures - 100% Local</b>						<b>\$77,222.17</b>								
<b>Miscellaneous Claims - Paid from Comptrollers Appropriation in FUND 6:</b>														
210000	PHR	2966-01-012	46	Land Acquisition		\$15,006.40	ROW	336	7348	Misc Claim Paid	7/31/2018		5576019	
210000	PHR	2966-01-012	69	Land Acquisition		\$7,112.74	ROW	336	7348	Misc Claim Paid	7/31/2018		5586125	