

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 City of Killeen, acting by and through its duly authorized officials, called the Local Government.

W I T N E S S E T H

WHEREAS, the State and the Local Government executed a contract on September 8 of 2016 to effectuate their agreement to construct a four-lane roadway with center median and off-system bridge over Trimmier Creek; and,

WHEREAS, the Texas Transportation Commission passed Minute Order Number 114670 that provides for the development of, and funding for, the Project; 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:

A G R E E M E N T

1. Description of Amended Items

Attachment A, Resolution or Ordinance, is deleted in its entirety and replaced with Attachment A-1, Resolution or Ordinance, which is attached to this amendment.

Attachment C, Project Estimates and Source of Funds, is deleted in its entirety and replaced with Attachment C-1, Project Estimates and Source of Funds, which is attached to this amendment.

Article 22 Single Audit Report is deleted in its entirety and replaced with the following:

- 22. 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 2 CFR 200.

- B. If threshold expenditures of \$750,000 or more are met during the fiscal year, the Local Government must submit a Single Audit Report and Management Letter (if applicable) to TxDOT's Compliance Division, 125 East 11th Street, Austin, TX 78701 or contact TxDOT's Compliance Division at singleaudits@txdot.gov.
- C. If expenditures are less than the threshold during the Local Government's fiscal year, the Local Government must submit a statement to TxDOT's Compliance Division as follows: "We did not meet the \$_____ 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.

Article 23 Non-Discrimination Provisions is deleted in its entirety and replaced with the following:

23. Pertinent Non-Discrimination Authorities

During the performance of this contract, the Local Government, for itself, its assignees, and successors in interest agree to comply with the following nondiscrimination statutes and authorities; including but not limited to:

- A. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- B. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects).
- C. Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), as amended, (prohibits discrimination on the basis of sex).
- D. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.) as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27. Discrimination Act of 1975, as amended, (49 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age).
- F. Airport and Airway Improvement Act of 1982, (49 U.S.C. Chapter 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex).
- G. The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, subrecipients and contractors, whether such programs or activities are Federally funded or not).

- H. Titles II and III of the Americans with Disabilities Act, which prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38.
deral Aviation Administration's Nondiscrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex).
- J. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations.
- K. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, the parties must take reasonable steps to ensure that LEP persons have meaningful access to the programs (70 Fed. Reg. at 74087 to 74100).
- L. Title IX of the Education Amendments of 1972, as amended, which prohibits the parties from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq.).

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 # 0909-36-156
District # Waco (09)
Code Chart 64 # 22300
Project: Rosewood Extension
Federal Highway Administration
CFDA Title: Highway Planning & Construction
CFDA No.:20.205
Not Research and Development

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

THE LOCAL GOVERNMENT

Ronald L. Olson
City Manager
City of Killeen, Texas

Date

THE STATE OF TEXAS

Kenneth Stewart
Director of Contract Services
Texas Department of Transportation

Date

**ATTACHMENT C-1
 PROJECT BUDGET ESTIMATE AND SOURCE OF FUNDS**

Costs will be allocated based on 80% Federal funding and 20% Local Government funding until the federal funding reaches the maximum obligated amount. The Local Government will then be responsible for 100% of the costs.

| Description | Total Estimated Cost | Federal Participation | | State Participation | | Local Participation | |
|-------------------------------------|----------------------|-----------------------|--------------------|---------------------|-----------------|---------------------|--------------------|
| | | % | Cost | % | Cost | % | Cost |
| Environmental (by Local Government) | \$5,000 | 0% | \$0 | 0% | \$0 | 100% | \$5,000 |
| Engineering (by Local Government) | \$750,000 | 80% | \$600,000 | 0% | \$0 | 20% | \$150,000 |
| Construction (by Local Government) | \$5,711,499 | 80% | \$4,569,199 | 0% | \$0 | 20% | \$1,142,300 |
| Construction (by Local Government) | \$1,695,519 | 0% | \$0 | 0% | \$0 | 100% | 1,695,519 |
| Subtotal | \$8,162,018 | | \$5,169,199 | | \$0 | | \$2,992,819 |
| Environmental Direct State Costs | \$7,155 | 80% | \$5,724 | 0% | \$0 | 20% | \$1,413 |
| Right of Way Direct State Costs | \$7,155 | 80% | \$5,724 | 0% | \$0 | 20% | \$1,413 |
| Engineering Direct State Costs | \$53,085 | 80% | \$40,068 | 0% | \$0 | 20% | \$10,017 |
| Utility Direct State Costs | \$7,155 | 80% | \$5,724 | 0% | \$0 | 20% | \$1,413 |
| Construction Direct State Costs | \$166,950 | 80% | \$133,560 | 0% | \$0 | 20% | \$33,390 |
| Indirect State Costs | \$14,345 | 0% | \$0 | 100% | \$14,345 | 0% | \$0 |
| TOTAL | \$8,414,863 | | \$5,359,999 | | \$14,343 | | \$3,040,465 |

Initial payment by the Local Government to the State: \$14,256

Payment by the Local Government to the State before construction: \$33,390

Estimated total payment by the Local Government to the State \$47,646

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