



**CENTRAL TEXAS
Regional Mobility Authority**

AGENDA ITEM #8 SUMMARY

Authorize the Executive Director to execute an amendment to the advance funding agreement with the Texas Department of Transportation for the Bergstrom Expressway Project.

Strategic Plan Relevance:	Regional Mobility
Department:	Engineering
Associated Costs:	\$13,730,000
Funding Source:	Amendment to TxDOT Advance Funding Agreement
Board Action Required:	Yes

Description of Matter: This amendment will add \$13,730,000 to the previously approved Advance Funding Agreement of \$6,500,000 making a total of \$20,230,000 in STP MM funds to the Mobility Authority to cover project development costs for the Bergstrom Expressway Project. These efforts will include, but not be limited to, Project management and oversight, utilities, right of way, administrative tasks, community outreach, and preliminary and final design. Any unused funds can be carried over to cover construction costs.

Reference documentation: Draft Resolution
Advance Funding Agreement Amendment #1

Contact for further information: Wesley M. Burford, P.E., Director of Engineering

**GENERAL MEETING OF THE BOARD OF DIRECTORS
OF THE
CENTRAL TEXAS REGIONAL MOBILITY AUTHORITY**

RESOLUTION NO. 14-___

**AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE AN AMENDMENT TO
THE ADVANCE FUNDING AGREEMENT WITH THE TEXAS DEPARTMENT OF
TRANSPORTATION FOR THE BERGSTROM EXPRESSWAY PROJECT.**

WHEREAS, the Central Texas Regional Mobility Authority (“Mobility Authority”) is empowered to study and develop potential transportation projects; and

WHEREAS, the Mobility Authority is considering a transportation project on U.S. Highway 183 South, commonly referred to as the Bergstrom Expressway Project (the “Project”); and

WHEREAS, the Board of Directors passed Resolution No. 13-066 on October 30, 2013, approving an advance funding agreement with the Texas Department of Transportation for the Bergstrom Expressway; and

WHEREAS, additional funding is needed for the Project and is available from the Texas Department of Transportation by amending the existing advance funding agreement; and

WHEREAS, the Executive Director recommends approval of the proposed amendment to the advance funding agreement in the form or substantially in the form attached as Exhibit 1.

NOW THEREFORE, BE IT RESOLVED, that the Board of Directors approves the amendment, and authorizes the Executive Director to finalize and execute the amendment to the advance funding agreement in the form or substantially in the form attached as Exhibit 1.

Adopted by the Board of Directors of the Central Texas Regional Mobility Authority on the 30th day of July, 2014.

Submitted and reviewed by:

Approved:

Andrew Martin
General Counsel for the Central
Texas Regional Mobility Authority

Ray A. Wilkerson
Chairman, Board of Directors
Resolution Number: 14-___
Date Passed: 7/30/14

Exhibit 1

Amendment to Advance Funding Agreement for Bergstrom Expressway

[on the following 6 pages]

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 the Central Texas Regional Mobility Authority, 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 February 6 of 2014 to effectuate their agreement to complete a highway improvement generally described as construct main lanes (Toll) and frontage roads; and,

WHEREAS, it has become necessary to update the Federal and State provisions and requirement; 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

Under Agreement: Article 3. Local Project Sources and Uses of Funds

3.F is deleted in its entirety and replaced with the following:

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.

3.L is deleted in its entirety and replaced with the following:

If the Project has been approved for a "fixed price" or a "periodic 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 periodic payment schedule.

Article 24, Disadvantaged Business Enterprise (DBE) Program Requirements, Article 25, Debarment Certifications, Article 28, Federal Funding Accountability and Transparency Act Requirements and Article 29, Single Audit Report is deleted in their entirety and replaced with the following:

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 http://ftp.dot.state.tx.us/pub/txdot-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.*

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 and its principals are not currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549 and further certifies that it will not do business with any party, to include principals, 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.

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 System for Award Management (SAM) number (Federal Acquisition Regulation, Part 4, Sub-part 4.11) if this award provides more than \$25,000 in Federal funding. The SAM number may be obtained by visiting the SAM 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
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.

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 \$750,000 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 \$750,000 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 \$750,000 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, contained herein. The Federal and State Participation is updated.

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.

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

THE LOCAL GOVERNMENT

Signature

Mike Heiligenstein

Typed or Printed Name

Executive Director

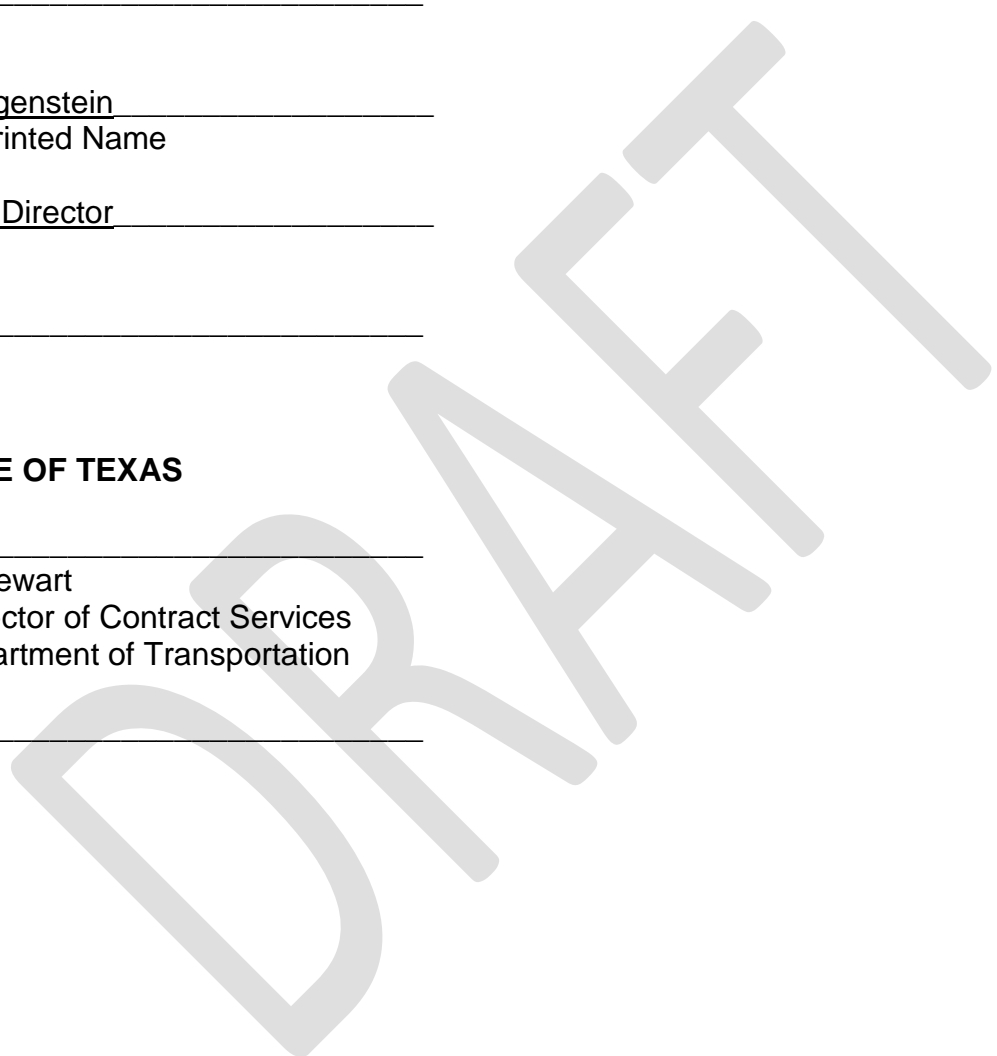
Title

Date

THE STATE OF TEXAS

Kenneth Stewart
Interim Director of Contract Services
Texas Department of Transportation

Date



**ATTACHMENT C-1
PROJECT BUDGET**

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

0151-09-036							
Description	Total Estimated Cost	Federal Participation		State Participation		Local Participation	
		%	Cost	%	Cost	%	Cost
Preliminary Engineering (by LG)	\$7,638,240	100%	\$7,638,240	0%	\$0	0%	\$0
Environmental Support (by LG)	\$87,360	100%	\$87,360	0%	\$0	0%	\$0
Utility (by LG)	\$1,692,000	100%	\$1,692,000	0%	\$0	0%	\$0
Right of Way (by LG)	\$292,800	100%	\$292,800	0%	\$0	0%	\$0
Subtotal	\$9,710,400		\$9,710,400		\$0		\$0
Direct State Costs for PE	\$152,765	0%	\$0	100%	\$152,765	0%	\$0
Direct State Costs for ENV	\$76,382	0%	\$0	100%	\$76,382	0%	\$0
Direct State Costs for UTIL	\$76,382	0%	\$0	100%	\$76,382	0%	\$0
Direct State Costs for ROW	\$76,382	0%	\$0	100%	\$76,382	0%	\$0
Indirect State Costs (4.83%)	\$368,927	0%	\$0	100%	\$368,927	0%	\$0
Subtotal	\$750,839		0%		\$750,839		\$0
TOTAL CSJ 0151-09-036	\$10,461,239		\$9,710,400		\$750,839		\$0
0151-09-127							
Description	Total Estimated Cost	Federal Participation		State Participation		Local Participation	
		%	Cost	%	Cost	%	Cost
Preliminary Engineering (by LG)	\$5,092,160	100%	\$5,092,160	0%	\$0	0%	\$0
Environmental Support (by LG)	\$58,240	100%	\$58,240	0%	\$0	0%	\$0
Utility (by LG)	\$1,128,000	100%	\$1,128,000	0%	\$0	0%	\$0
Right of Way (by LG)	\$195,200	100%	\$195,200	0%	\$0	0%	\$0
Subtotal	\$6,473,600		\$6,473,600		\$0		\$0
Direct State Costs for PE	\$101,843	0%	\$0	100%	\$101,843	0%	\$0
Direct State Costs for ENV	\$50,922	0%	\$0	100%	\$50,922	0%	\$0
Direct State Costs for UTIL	\$50,922	0%	\$0	100%	\$50,922	0%	\$0
Direct State Costs for ROW	\$50,922	0%	\$0	100%	\$50,922	0%	\$0
Indirect State Costs (4.83%)	\$245,951	0%	\$0	100%	\$245,951	0%	\$0
Subtotal	\$500,559		\$0		\$500,559		\$0
TOTAL CSJ 0151-09-127	\$6,974,159		\$6,473,600		\$500,559		\$0

CSJ # 0151-09-036, 0151-09-127,
0265-01-080
District # 14 - AUS
Code Chart 64 #60432
Project: US 183S Bergstrom
Expressway
Federal Highway Administration
CFDA # 20.205
Not Research and Development

0265-01-080							
Description	Total Estimated Cost	Federal Participation		State Participation		Local Participation	
		%	Cost	%	Cost	%	Cost
Preliminary Engineering (by LG)	\$3,182,600	100%	\$3,182,600	0%	\$0	0%	\$0
Environmental Support (by LG)	\$36,400	100%	\$36,400	0%	\$0	0%	\$0
Utility (by LG)	\$705,000	100%	\$705,000	0%	\$0	0%	\$0
Right of Way (by LG)	\$122,000	100%	\$122,000	0%	\$0	0%	\$0
Subtotal	\$4,046,000		\$4,046,000		\$0		\$0
Direct State Costs	\$63,652	0%	\$0	100%	\$63,652	0%	\$0
Direct State Costs for ENV	\$31,826	0%	\$0	100%	\$31,826	0%	\$0
Direct State Costs for UTIL	\$31,826	0%	\$0	100%	\$31,826	0%	\$0
Direct State Costs for ROW	\$31,826	0%	\$0	100%	\$31,826	0%	\$0
Indirect State Costs (4.83%)	\$153,720	0%	\$0	100%	\$153,720	0%	\$0
Subtotal	\$312,850		\$0		\$312,850		\$0
TOTAL CSJ 0151-09-036	\$4,358,850		\$4,046,000		\$312,850		\$0
TOTAL CSJs 0151-09-036, 0151-09-127, 0151-09-036	\$21,794,248		\$20,230,000		\$1,564,248		\$0

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.