

THE STATE OF TEXAS §
 COUNTY OF CAMERON §

BE IT REMEMBERED on the 3rd day of February 2010, there was conducted a Special Meeting of the Cameron County Regional Mobility Authority, at the Dancy Courthouse, thereof, in Brownsville, Texas, for the purpose of transacting any and all business that may lawfully be brought before the same.

THE BOARD MET AT:

12:00 Noon

PRESENT:

DAVID E. ALEX
 CHAIRPERSON

FRANK PARKER, JR.
 DIRECTOR

 DIRECTOR

VICTOR ALVAREZ
 DIRECTOR

 DIRECTOR

MICHAEL SCAIEF
 DIRECTOR

DAVID N. GARZA
 DIRECTOR

 Secretary

YOLANDA VILLALOBOS
 ABSENT

RUBEN GALLEGOS, JR.
 ABSENT

 ABSENT



The meeting was called to order by Chairman David E. Alex at 12:01 P.M. At this time, the Board considered the following matters as posted and filed for Record in the Office of the County Clerk on this January 29, 2010 at 3:40 P.M.:

AGENDA

**Special Meeting of the Board of Directors
of the
Cameron County Regional Mobility Authority**

**Dancy Courthouse
1100 E. Monroe Street
Brownsville, TX 78520**

Wednesday, February 3, 2010

12:00 Noon

ACCEPTED FOR FILING
CAMERON COUNTY

2010 JAN 29 P 3:40

JOE G. RIVERA
COUNTY CLERK

I. Public Comments

CONSENT ITEMS:

II. Consideration and Approval of the Minutes for January 28, 2010 Special Meeting

ITEMS FOR DISCUSSION AND ACTION:

III. Consideration and approval of an advance funding agreement between the Cameron County Regional Mobility Authority and the Texas Department of Transportation for the SH550 Project

EXECUTIVE SESSION ITEMS:

IV. Executive Session:

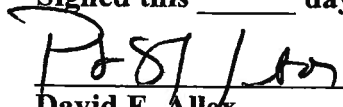
A. Consultation with, and advice from Legal Counsel concerning negotiations and related contract issues with the Texas Department of Transportation regarding the Cameron County Regional Mobility Authority's projects, specifically SH 550 Toll Project and other legal issues affecting the authority, Pursuant to V.T.C.A. Government Code, Section 551.071 (2)

V. Action relative to Executive Session

A. Possible Action

VI. Adjournment

Signed this 29th day of January 2010



David E. Alex
Chairman

PUBLIC COMMENTS

I. PUBLIC COMMENTS

By Mr. John Barton, Assistant Executive Director with the Texas Department of Transportation made a few remarks and congratulated the Board on having a very comprehensive system and County wide projects.

CONSENT ITEMS

ALL ITEMS UNDER THE CONSENT RMA AGENDA ARE HEARD COLLECTIVELY UNLESS OPPOSITION IS PRESENTED, IN WHICH CASE THE CONTESTED ITEM WILL BE CONSIDERED, DISCUSSED AND APPROPRIATE ACTION TAKEN SEPARATELY

Director Parker moved that the Minutes for January 28, 2010 be approved. The motion was seconded by Director Alvarez and carried as follows:

AYE: Chairman Alex, Director Parker, and Director Alvarez

NAY: None

ABSTAIN: Director Scaief and Director Garza

II. CONSIDERATION AND APPROVAL OF THE MINUTES FOR JANUARY 28, 2010, SPECIAL MEETING

ACTION ITEMS

III. CONSIDERATION AND APPROVAL OF AN ADVANCE FUNDING AGREEMENT BETWEEN THE CAMERON COUNTY REGIONAL MOBILITY AUTHORITY AND THE TEXAS DEPARTMENT OF TRANSPORTATION FOR THE SH 550 PROJECT.

Mr. Sepulveda, RMA Coordinator, explained to the Board the purpose for the agreement.

Director Garza moved for approval of the Advance Funding Agreement between the Cameron County Regional Mobility Authority and the Texas Department of Transportation for the SH 550 Project. The motion was seconded by Director Scaief and carried unanimously.

The MOU is as follows:

EXECUTIVE SESSION

IV. EXECUTIVE SESSION:

- A. CONSULTATION WITH, AND ADVISE FROM LEGAL COUNSEL CONCERNING NEGOTIATIONS AND RELATED CONTRACT ISSUES WITH THE TEXAS DEPARTMENT OF TRANSPORTATION REGARDING THE CAMERON COUNTY REGIONAL MOBILITY AUTHORITY'S PROJECTS, SPECIFICALLY SH 550 TOLL PROJECT AND OTHER LEGAL ISSUES AFFECTING THE AUTHORITY, PURSUANT TO V.T.C.A. GOVERNMENT CODE, SECTION 551.071(2)**

Upon motion by Director Parker, seconded by Director Scaief and carried unanimously, these items were
TABLED.

V. ACTION RELATIVE TO EXECUTIVE SESSION:

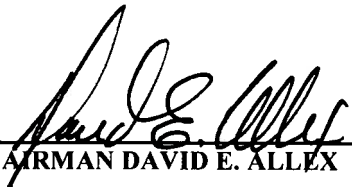
- A. CONSULTATION WITH, AND ADVISE FROM LEGAL COUNSEL CONCERNING NEGOTIATIONS AND RELATED CONTRACT ISSUES WITH THE TEXAS DEPARTMENT OF TRANSPORTATION REGARDING THE CAMERON COUNTY REGIONAL MOBILITY AUTHORITY'S PROJECTS, SPECIFICALLY SH 550 TOLL PROJECT AND OTHER LEGAL ISSUES AFFECTING THE AUTHORITY, PURSUANT TO V.T.C.A. GOVERNMENT CODE, SECTION 551.071(2)**

Upon motion by Director Parker, seconded by Director Scaief and carried unanimously, these items were
TABLED.

VI. ADJOURNMENT

There being no further business to come before the Board and upon motion by Director Scaief, seconded by Director Alvarez and carried unanimously the meeting was **ADJOURNED** at 12:25 P.M.

APPROVED this 16th day of February, 2010.



CHAIRMAN DAVID E. ALLEX

ATTESTED:



SECRETARY RUBEN GALLEGOS, JR.

**III. CONSIDERATION ON APPROVAL OF AN ADVANCE
FUNDING AGREEMENT BETWEEN THE CAMERON
COUNTY REGIONAL MOBILITY AUTHORITY AND THE
TEXAS DEPARTMENT OF TRANSPORTATION FOR
THE SH 550 PROJECT**

CSJ # 0684-01-046, etc.
District # Pharr (21)
Code Chart 64 # _____
Project: FM 511
CFDA#: _____

THE STATE OF TEXAS §

THE COUNTY OF TRAVIS §

**ADVANCE FUNDING AGREEMENT FOR VOLUNTARY
LOCAL GOVERNMENT CONTRIBUTIONS
TO TRANSPORTATION IMPROVEMENT
PROJECTS WITH NO REQUIRED MATCH**

THIS AGREEMENT IS MADE BY AND BETWEEN the State of Texas, acting by and through the Texas Department of Transportation, hereinafter called the "State" and the Cameron County Regional Mobility Authority, acting by and through its duly authorized officials, hereinafter called the "Local Government."

WITNESSETH

WHEREAS, Transportation Code, Chapters 201, 221, 227, and 361, authorize the State to lay out, construct, maintain, and operate a system of streets, roads, and highways that comprise the State Highway System; and,

WHEREAS, Government Code, Chapter 791, and Transportation Code, §201.209 and Chapter 221, authorize the State to contract with municipalities and political subdivisions; and,

WHEREAS, Commission Minute Order Numbers 110753, 110481 and 110479 authorized the State to undertake and complete a highway improvement generally described as FM 511 from US 77/83 to SH 48, subsequently re-designated SH 550; and,

WHEREAS, Commission Minute Order Number 112013 identified a section of SH 550 currently under construction from approximately 1.1 miles west of FM 1847 to approximately 0.7 miles east of FM 1847 as a new limited access toll facility, acknowledged that the Local Government had exercised its option to develop the SH 550 project and was authorized to develop, operate and maintain this improvement to the State highway system; and

WHEREAS, Commission Minute Order Number 112079 designated the tolled managed lanes on SH 550 as a toll project on the State highway system; and

WHEREAS, the Local Government has requested that the State allow the Local Government to participate in said improvement by funding that portion of the improvement described as the construction of a toll gantry facility, inclusive of furnishing and installing toll gantry equipment, at approximately 0.08 miles West of FM 1847 along SH 550, hereinafter called the "Project"; and,

WHEREAS, the State has determined that such participation is in the best interest of the citizens of the State;

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements of the parties hereto, to be by them respectively kept and performed as hereinafter set forth, the State and the Local Government do agree as follows:

CSJ # 0684-01-046, etc.
District # Pharr (21)
Code Chart 64 # _____
Project: FM 511
CFDA#: _____

AGREEMENT

Article 1. Time Period Covered

This agreement becomes effective when signed by the last party whose signing makes the agreement fully executed, and the State and the Local Government will consider it to be in full force and effect until the Project described herein has been completed and accepted by all parties or unless terminated, as hereinafter provided.

Article 2. Project Funding and Work Responsibilities

The State will authorize the performance of only those Project items of work which the Local Government has requested and has agreed to pay for as described in Attachment A, Payment Provision and Work Responsibilities which is attached to and made a part of this contract.

In addition to identifying those items of work paid for by payments to the State, Attachment A, Payment Provision and Work Responsibilities, also specifies those Project items of work that are the responsibility of the Local Government and will be carried out and completed by the Local Government, at no cost to the State.

Upon execution of this agreement and prior to beginning any work, the Local Government shall remit its financial share for the State's estimated construction and construction oversight costs.

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.

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 by the State to the Project. 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.

Article 3. Right of Access

If the Local Government is the owner of any part of the Project site, the Local Government shall permit the State or its authorized representative access to the site to perform any activities required to execute the work.

Article 4. Adjustments Outside the Project Site

The Local Government will provide for all necessary right-of-way and utility adjustments needed for performance of the work on sites not owned or to be acquired by the State.

Article 5. 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.

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Article 6. Document and Information Exchange

The Local Government agrees to electronically deliver to the State all general notes, specifications, contract provision requirements and related documentation in a Microsoft® Word or similar document. If requested by the State, the Local Government will use the State's document template. The Local Government shall also provide a detailed construction time estimate including types of activities and month in the format required by the State. This requirement applies whether the local government creates the documents with its own forces or by hiring a consultant or professional provider. At the request of the State, the Local Government shall submit any information required by the State in the format directed by the State.

Article 7. Interest

The State will not pay interest on funds provided by the Local Government. Funds provided by the Local Government will be deposited into, and retained in, the State Treasury.

Article 8. Inspection and Conduct of Work

Unless otherwise specifically stated in Attachment A, Project Budget and Description, to this contract, the State will supervise and inspect all work performed hereunder and provide such engineering inspection and testing services as may be required to ensure that the Project is accomplished in accordance with the approved plans and specifications. All correspondence and instructions to the contractor performing the work will be the sole responsibility of the State. Unless otherwise specifically stated in Attachment A to this contract, all work will be performed in accordance with the *Standard Specifications for Construction and Maintenance of Highways, Streets, and Bridges* adopted by the State and incorporated herein by reference, or special specifications approved by the State.

Article 9. Increased Costs

In the event it is determined that the funding provided by the Local Government will be insufficient to cover the State's cost for performance of the Local Government's requested work, the Local Government will pay to the State the additional funds necessary to cover the anticipated additional cost. The State shall send the Local Government a written notification stating the amount of additional funding needed and stating the reasons for the needed additional funds. The Local Government shall pay the funds to the State within 30 days of the written notification, unless otherwise agreed to by all parties to this agreement. If the Local Government cannot pay the additional funds, this contract shall be mutually terminated in accord with Article 11 - Termination. If this is a fixed price agreement as specified in Attachment A, Project Budget and Description, this provision shall only apply in the event changed site conditions are discovered or as mutually agreed upon by the State and the Local Government.

If any existing or future local ordinances, commissioners court orders, rules, policies, or other directives, including but not limited to outdoor advertising billboards and storm water drainage facility requirements, are more restrictive than State or Federal Regulations, or if any other locally proposed changes, including but not limited to plats or replats, result in increased costs, then any increased costs associated with the ordinances or changes will be paid by the local government. The cost of providing right of way acquired by the State shall mean the total expenses in acquiring the property interests either through negotiations or eminent domain proceedings, including but not limited to expenses related to relocation, removal, and adjustment of eligible utilities.

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Article 10. Maintenance

Upon completion of the Project, the Local Government will assume responsibility for the operation and maintenance of the completed Project unless otherwise specified in Attachment A to this agreement.

Article 11. Termination

This agreement may be terminated in the following manner:

- ◆ by mutual written agreement and consent of both parties;
- ◆ by either party upon the failure of the other party to fulfill the obligations set forth herein;
- ◆ by the State if it determines that the performance of the Project is not in the best interest of the State.

If the agreement is terminated in accordance with the above provisions, the Local Government will be responsible for the payment of Project costs incurred by the State on behalf of the Local Government up to the time of termination.

- ◆ Upon completion of the Project, the State will perform an audit of the Project costs. Any funds due to the Local Government, the State, or the Federal Government will be promptly paid by the owing party.

Article 12. 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 or sent by electronic mail, (electronic notice being permitted to the extent permitted by law but only after a separate written consent of the parties), addressed to such party at the following addresses:

Local Government:	State:
Chairman Cameron County Regional Mobility 1100 E. Monroe Brownsville, Texas 78521	Pharr District Engineer 600 W. US 83 Expressway P.O. Box 1717 Pharr, Texas 78577-1717

All notices shall be deemed given on the date so delivered or so deposited in the mail, unless otherwise provided herein. 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.

Article 13. Sole Agreement

In the event the terms of the agreement are in conflict with the provisions of any other existing agreements between the Local Government and the State, the latest agreement shall take precedence over the other agreements in matters related to the Project.

Article 14. Successors and Assigns

The State and the Local Government each binds itself, its successors, executors, assigns, and administrators to the other party to this agreement and to the successors, executors, assigns, and administrators of such other party in respect to all covenants of this agreement.

Article 15. Amendments

By mutual written consent of the parties, this contract may be amended prior to its expiration.

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Article 16. State Auditor

The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the contract or indirectly through a subcontract under the contract. Acceptance of funds directly under the 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.

Article 17. 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.

Article 18. Signatory Warranty

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

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

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 _____ Date _____
District Engineer

THE LOCAL GOVERNMENT

Name of the Local Government Cameron County Regional Mobility Authority

By _____ Date _____

Typed or Printed Name and Title Mr. David Allex
Chairman, Cameron County Regional Mobility Authority

CSJ # 0684-01-046, etc.
 District # Pharr (21)
 Code Chart 64 # _____
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ATTACHMENT A

Payment Provision and Work Responsibilities

Payment Provisions

The Local Government will be 100% responsible for all costs associated with constructing a toll gantry facility as shown in Attachment B, inclusive of furnishing and installing toll gantry equipment, at approximately 0.08 miles West of FM 1847 along SH 550. The following is an estimate of the construction and direct state costs involved and the required Local Government Participation:

Description	Total Estimate Cost	Federal & State Participation		Local Government Participation	
		%	Cost	%	Cost
Construction Costs					
Toll gantry facility construction and furnishing and installing toll gantry equipment	\$804,773.20	0%	\$0.00	100%	\$804,773.20
<i>Subtotal</i>	<i>\$804,773.20</i>		<i>\$0.00</i>		<i>\$804,773.20</i>
Direct State Costs					
State plan review and construction inspection and oversight. (Estimated @ 11% of Construction Costs)	\$88,525.05	0%	\$0.00	100%	\$88,525.05
<i>Subtotal</i>	<i>\$88,525.05</i>		<i>\$0.00</i>		<i>\$88,525.05</i>
TOTAL	\$893,298.25		\$0.00		\$893,298.25

It is understood that the State will include only those items for the improvements as requested and required by the Local Government. It is further understood that this is an estimate only, and final participation amounts will be based on actual charges to the project.

Work Responsibilities

- A.) State - The State will be responsible for the construction of the toll gantry facility, including furnishing and installing the toll gantry equipment.
- B.) Local Government – The Local government will be responsible for providing the toll gantry facility plans and details, as well as the toll gantry equipment specifications and installation requirements.

CSJ # 0684-01-046, etc.
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ATTACHMENT B
Toll Gantry Facility and Equipment

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