

CSJ # 0923-06-056
District # BWD
Code Chart 64 # 50025
Project: BR 2015 (387)
NBI Structure # 230250AA0225002
Federal Highway Administration
CFDA # 20.205
Not Research and Development

STATE OF TEXAS §

COUNTY OF TRAVIS §

**ADVANCE FUNDING AGREEMENT AMENDMENT
For Bridge Replacement or Rehabilitation
Off the State System**

**AMENDMENT
FOR THE PRESERVATION AND ADAPTIVE USE
OF A HISTORIC BRIDGE
OFF THE STATE SYSTEM (TWO-PARTY)
Amendment # 1**

THIS AMENDMENT is made by and between the State of Texas, acting by and through the Texas Department of Transportation, called the "State"; and Brown County, a political subdivision of this state, called the "Local Government", acting by and through its duly authorized officials.

W I T N E S S E T H

WHEREAS, the State and the Local Government executed an agreement on August 18, 2014 to effectuate a project to replace the bridge under the off-state system federal-aid Highway Bridge Replacement and Rehabilitation Program (HBRRP); and

WHEREAS, the date for letting the highway bridge replacement project to contract construction is tentatively scheduled for April 2016; and

WHEREAS, the existing bridge (the "Historic Bridge") being replaced has been listed or determined eligible for listing on the National Register of Historic Places; and

WHEREAS, Title 23 United States Code Section 144(n) established the Historic Bridge Program to provide for the rehabilitation, reuse, and preservation of historic bridges; and

WHEREAS, the Historic Bridge Program provides that any State which proposes to demolish a historic bridge for a replacement project under the HBRRP shall make the bridge available for donation to recipients which may be public or private entities; and

WHEREAS, it is mutually agreeable between the State and Local Government for ownership of the Historic Bridge to be retained by the Local Government as the recipient of the Historic Bridge for preservation in accordance with the Historic Bridge Program; and

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WHEREAS, the Local Government submitted a proposal to the State evidencing its desire to retain ownership and preserve the Historic Bridge under the provisions of the Historic Bridge Program; and

WHEREAS, the Local Government's proposal is acceptable to the State and is included as Attachment A, which is attached to and made a part of this amendment;

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, it is agreed as follows:

AGREEMENT

Article 1. Ownership of the Historic Bridge

- A. Ownership of and control over the Historic Bridge shall be retained by the Local Government.
- B. Retainage of ownership by the Local Government includes full and continued responsibility for all future legal and financial matters relating to the Historic Bridge, including compliance with applicable federal, state, and local government laws, rules, and regulations.

Article 2. Adaptive Use of the Historic Bridge

- A. The Local Government agrees that the Historic Bridge shall not be used on a public road as a vehicular traffic facility.
- B. The Local Government shall preserve and maintain the Historic Bridge and the features that give it its historical significance, adhering to the provisions of the U.S. Secretary of Interior's Standards for Rehabilitation (36 CFR 67.7), which is incorporated by reference and made a part of this agreement as though fully set forth within this agreement.
- C. The Local Government shall consult with the State Historic Preservation Officer (SHPO) in the future prior to altering, renovating, or transferring ownership of the Historic Bridge.
- D. The Local Government shall permit the State or its authorized representative access to the any temporary or permanent relocation sites and to the current site to perform any activities required to execute the work. The Local Government shall provide for all necessary real property and utility adjustments needed for performance of the work on sites not owned or to be acquired by the State.
- E. After completion of the modification, restoration, or preservation work on the Historic Bridge as described by the Local Government's approved proposal contained in Attachment A, the State will visit the site for the purpose of confirming that the work has been accomplished.

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Article 3. Scope of Work and Funding

- A.** The work to be accomplished by the State is described in Attachment B. The work to be accomplished by the Local Government is described in Attachment C. Attachments B and C are attached to and made part of this agreement. Funding obligations for the State and funding obligations for the Local Government are described in Attachments B and C, respectively.
- B.** 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.

Article 4. Gratuities

Texas Transportation Commission policy mandates that employees of the Texas Department of Transportation (TxDOT) shall not accept any benefit, gifts, favors, or gratuities from any person or business doing business with the State under this agreement. The only exceptions allowed are ordinary business lunches and items that have received the advance approval of the Executive Director of TxDOT. Any person or organization doing business with the TxDOT may not make any offer of benefits, gifts, favors or gratuities to TxDOT employees, except as mentioned in this agreement. Failure on the part of the Local Government to adhere to this policy may result in termination of this agreement.

Article 5. Termination

- A.** This amendment may be terminated by any of the following conditions:
1. By mutual agreement and consent of both parties or by any party, upon thirty (30) days written notice to the other party.
 2. By the State giving written notice to the Local Government as a consequence of Local Government's failure to satisfactorily perform the responsibilities and obligations set forth in this amendment. Reasonable allowance will be made for circumstances beyond the control of the Local Government, as determined by the State. The Local Government will be afforded thirty (30) days to remedy the breach as outlined by the State.
- B.** Termination of this amendment shall extinguish all duties, obligations, and liabilities of the State and Local Government under this amendment. The Local Government shall reimburse the State for any costs incurred by the State on behalf of the Local Government up to the time of termination.

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Article 6. Signatory Warranty

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

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

THE LOCAL GOVERNMENT

E. Ray West III

Signature

E. Ray West III

Typed or Printed Name

Brown County Judge

Title

February 16, 2016

Date

THE STATE OF TEXAS

Gregg A. Freeby, P.E.
Director, Bridge Division
Texas Department of Transportation

Date

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ATTACHMENT A
LOCAL GOVERNMENT'S PROPOSAL

See Attached

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ATTACHMENT B
WORK TO BE PERFORMED BY THE STATE

Based upon the estimated \$17,000 demolition cost to remove the earthen approach roadway, clean the area of debris/vegetation around the foundations, and fence off the area to prevent access by vehicles, the following work will be done by the State's contractor.

All costs associated with the following work shall be borne solely by the State.

- 1) Remove the earthen approaches and/or provide other positive measures to prevent vehicular and pedestrian traffic on the structure.
- 2) Stabilize bridge by replacing connection bolts, cleaning channel, and adding scour protection (ie. riprap) if necessary.

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ATTACHMENT C
WORK TO BE PERFORMED BY THE LOCAL GOVERNMENT

The Recipient or the Recipient's contractor will be responsible for the following items of work:

All costs associated with the following work shall be borne solely by the Recipient.

- 1) Taking additional positive measures to prevent vehicular and pedestrian traffic on the structure.
- 2) Adhering to the items outlined in Agreement Amendment # 1.
- 3) Adhering to the items outlined in Exhibit A to the Agreement Amendment #1.