

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

WITNESSETH

WHEREAS, the State and the Local Government executed a contract on July 13 of 2016 to effectuate their agreement to design and install a fiber optic connection to the Dallas North Tollway; 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

- I. Attachment C, Project Budget Estimate and Source of Funds shall be deleted in its entirety and replaced with Attachment C-1, Project Budget Estimate and Source of Funds.
- II. Article 4, Scope of Work is deleted in its entirety and replaced with:

The scope of work for this LPAFA is described as installation of Fiber optic connection with the region fiber connection from the Frisco Transportation Management Center to the Dallas North Tollway

III. Articles 12.D and 12.H, Local Project Sources and Uses of Funds are deleted in their entirety and replaced with the following:

12.D. The Local Government is responsible for all non-federal and non-state funding, unless otherwise provided for in this agreement or through amendment of this agreement. Where Special Approval has been granted by the State, the Local Government shall only in that instance be responsible for overruns in excess of the amount to be paid by the Local Government

12.H. When Special Approval has been granted by the State so that the Local Government bears the responsibility for paying cost overruns, the Local Government shall make payment to the State within thirty (30) days from receipt of the State's written notification of those amounts.

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

- A. If threshold expenditures 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>. 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 Audit Office, 125 East 11th Street, Austin, TX 78701 or contact TxDOT's Audit Office at <http://www.txdot.gov/inside-txdot/office/audit/contact.html>.

V. Article 23, Pertinent Non-Discrimination Authorities is added:

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.

- E. The Age 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, coverage and 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.
- I. The Federal 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.).

VI. Article 23, Signatory Warranty is renumbered as Article 24.

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 #0918-24-182
District #18/DAL
Code Chart 64 #15400
Project: Frisco/NTTA Fiber
Optic Connection
Federal Highway Administration
CFDA Title: Highway Planning and
Construction
CFDA # 20.205
Not Research and Development

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

THE LOCAL GOVERNMENT

Signature

Typed or Printed Name

Title

Date

THE STATE OF TEXAS

Kenneth Stewart
Director of Contract Services
Texas Department of Transportation

Date

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

Costs will be allocated based on fixed Federal funding and an amount of Local Government funding until 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 Cost	State Participation Cost	Local Participation Cost
Construction (by Local Government)	\$326,098.00	\$260,878.00	\$0	\$65,220.00
Subtotal	\$326,098.00	\$260,878.00	\$0	\$65,220.00
Environmental Direct State Costs	\$1.00	\$0.80	\$0	\$0.20
Right of Way Direct State Costs	\$1.00	\$0.80	\$0	\$0.20
Engineering Direct State Costs	\$194.41	\$0	\$0	\$194.41
Utility Direct State Costs	\$1.00	\$0.80	\$0	\$0.20
Construction Direct State Costs	\$1944.00	\$0	\$0	\$1944.00
Indirect State Costs	\$15,750.53	\$0	\$15,750.53	\$0
TOTAL	\$343,989.94	\$260,880.40	\$15,750.53	\$67,359.01

Initial payment by the Local Government to the State: \$195.01
 Payment by the Local Government to the State before construction: \$1944.00
 Total payment by the Local Government to the State: \$2139.01