

# HARRIS COUNTY

Public Infrastructure Department  
Architecture & Engineering Division

1001 Preston, 7<sup>th</sup> Floor  
Houston, Texas 77002  
(713) 755-5370

February 1, 2010

Honorable County Judge  
& Commissioners' Court  
Building

Attention: Honorable Judge Ed Emmett  
Commissioner Steve Radack

Vote of the Court:	Yes	No	Abstain
Judge Emmett	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Lee	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Garcia	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Radack	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Eversole	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**SUBJECT: Recommendation by the Director of Architecture & Engineering that the County Judge be Authorized to Execute an Advanced Funding Agreement between Harris County and the Texas Department of Transportation for an Off-System Local Rehabilitation Project (American Recovery and Reinvestment Act) on Grant Road from Lakewood Forest Drive to Old Kluge Road, Funds are Available in the Amount of \$85,303.12**

Ladies and Gentlemen:

It is recommended that an Advanced Funding Agreement, in the amount of \$85,303.12 be entered into by Harris County and the Texas Department of Transportation for an Off-System Local Rehabilitation Project (American Recovery and Reinvestment Act) on Grant Road from Lakewood Forest Drive to Old Kluge Road.

This Agreement has been reviewed and approved as to form by the County Attorney's Office.

Therefore, it is recommended that the County Judge be authorized to execute this Agreement on behalf of Harris County.

Sincerely,

*Patrick D. Garrett for JRB*

John R. Blount, P.E.  
Director, Architecture & Engineering  
JRB/ACM/mmm  
Attachment

cc: Commissioner Steve Radack  
Arthur L. Storey, Jr.  
Jackie L. Freeman  
Robert J. Bosworth  
Patrick D. Garrett  
Bill Nobles  
Andrew C. Mao  
Central File  
Agenda File

*US- org letter + order + copy backup*

*RM- copy*

*Ad- copy*

*WJH (Harris)- copy*

*Eng- copy letter + CC order + org backup*

Presented to Commissioner's Court

FEB 09 2010

APPROVE GIL  
Recorded Vol \_\_\_\_\_ Page \_\_\_\_\_

HARRIS COUNTY  
MANAGEMENT SERVICES

10 FEB -4 AM 9:00

*Grant*



# HARRIS COUNTY, TEXAS

Office of Budget Management 1310 Prairie, Suite 530 Houston, Texas 77002 (713) 755-3301

## Grants Coordination Section - Conveyance Form

Application

Award

<b>Department Name / Number</b>	<b>DUNs</b>	<b>Grant Title</b>
PUBLIC INFRASTRUCTURE - 030	072206378	HGAC 2009 City/County Rehabilitation Projects: Grant Road
<b>Funding Source:</b> U.S. Department of Transportation: CFDA# 20.205		<b>Grant Agency:</b> Texas Dept. of Transportation
<b>Program Year:</b> 1 st		<b>Program Ending:</b>
<b>Grant Begin Date:</b> 03/01/2010		<b>Grant End Date:</b> 08/31/2010
<b>Grant Org. Key:</b>		<b>If applicable, Prior Year Org. Key:</b> N/A

**Grant Description:**

Funded by the U.S. Department of Transportation under the 2009 American Reinvestment and Recovery Act, the Highway Infrastructure Investment Program provides funds for project activities that meet the broad objectives of investing in transportation, environmental protection and other infrastructure that will provide longer term economic benefits. Funds are disbursed through the Texas Department of Transportation (TxDOT). States have the discretion of allowing federal funds under this program to equal 100% of a project's costs. Project funds are allocated to states through a weighted-average formula.

	Total Budget	Grant Funded	County Funded
Salary & Benefits	\$ 0.00	\$ 0.00	\$ 0.00
Non - Labor	\$ 528,262.62	\$ 442,959.50	\$ 85,303.12
Sub Tot. Incremental Cost	\$ 528,262.62	\$ 442,959.50	\$ 85,303.12
Indirect Cost	\$ 0.00	\$ 0.00	\$ 0.00 *
<b>TOTALS</b>	<b>\$ 528,262.62</b>	<b>\$ 442,959.50</b>	<b>\$ 85,303.12</b>

\* under development

Full Time Equivalent Positions

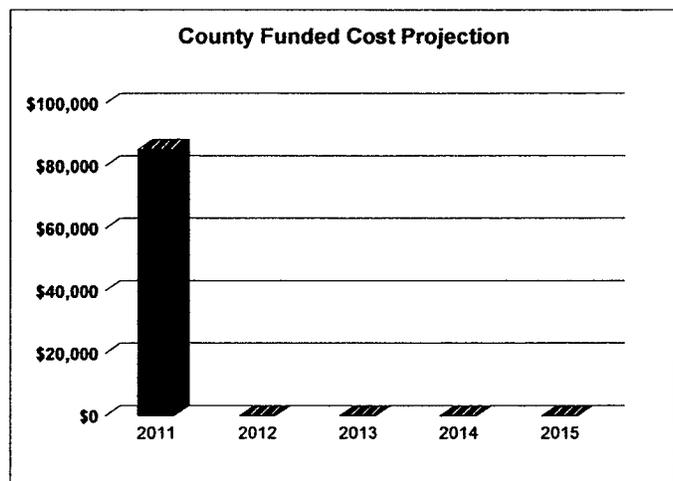
Date Grant Guidelines are Available

% of Positions Paid by Grant

Grant Submittal Deadline Date

**GCS Discussion:**

This award relates to an application that was approved by Commissioners Court on 8/11/09 in the amount of \$3,714,800 for four different road resurfacing projects. The award of \$442,959.50 provides funding for one of the four projects, an asphalt overlay of Grant Road from Lakewood Forest Drive to Old Kluge Road, in Precinct 3. The other three projects are still pending. Under the terms of the grant agreement, the County's share of the project's cost will be \$85,303.12. Note: TxDOT will administer the budget for this project, and Harris County will receive the value of the asset and be responsible for its maintenance.



■ Required Match per Grant    ▨ Discretionary Cash Match

Completed by :

Brian Schmitz Schmitz, Brian

Date :

2/3/10

Reviewed by :

[Signature]

Date :

2/3/10

**CLERK OF COMMISSIONERS COURT**

CSJ #: 0912-70-029  
District #: 12 - Houston  
Code Chart 64 #: 50102  
Project: CS: Grant Road,  
Lakewood Forest Drive to  
Old Kluge Road

Off -System Local  
Rehabilitation Contingency  
Project  
CFDA #: 20.205

**STATE OF TEXAS           §**

**COUNTY OF TRAVIS       §**

**LOCAL TRANSPORTATION PROJECT  
ADVANCE FUNDING AGREEMENT  
For A  
LOCAL REHABILITATION PROJECT**

**THIS AGREEMENT (the Agreement)** is made by and between the State of Texas, acting by and through the Texas Department of Transportation hereinafter called the "State", and Harris County, acting by and through its duly authorized officials, hereinafter called the "Local Government."

**WITNESSETH**

**WHEREAS**, federal law establishes federally funded programs for transportation improvements to implement its public purposes; and

**WHEREAS**, the Texas Transportation Code, Sections 201.103 and 222.052 establish that the State shall design, construct and operate a system of highways in cooperation with local governments; and

**WHEREAS**, federal and state laws require local governments to meet certain contract standards relating to the management and administration of State and federal funds; and

**WHEREAS**, The State and Local Government desire to rehabilitate the roads described in Attachment "D" with the addition of an asphalt overlay or concrete rehabilitation, as shown on the Map in Attachment "B", to be hereinafter identified as the "Project" or collectively "Projects"; and,

CSJ #: 0912-70-029  
District #: 12 - Houston  
Code Chart 64 #: 50102  
Project: CS: Grant Road,  
Lakewood Forest Drive to  
Old Kluge Road

Off –System Local  
Rehabilitation Contingency  
Project  
CFDA #: 20.205

**WHEREAS**, the funds for the Project may be allocated to the Project through the American Recovery and Reinvestment Act of 2009 (“ARRA”) and approved in the Statewide Transportation Program, as shown in the Off-System Local Rehabilitation Candidate Contingency Projects, which is attached hereto and identified as Attachment “C”; and,

**WHEREAS**, the Texas Transportation Commission passed Minute Order 111734, awarding funding for projects funded through the American Recovery Act, including this Project; and,

**WHEREAS**, the Local Government shall provide for the development and construction of the Project by allocating funding; by preparing or having prepared by a consultant the preliminary engineering, which includes, but is not limited to, environmental documentation and clearances, public involvement, all necessary and required environmental mitigation, design plans, specifications and estimates (PS&E); acquisition of additional right of way; accomplishing the adjustment of utilities; and providing other necessary items as required by the State and agreed to by both parties; and

**WHEREAS**, the Governing Body of the Local Government has approved entering into this Agreement by resolution or ordinance dated \_\_\_\_\_ which is attached hereto and made a part hereof as “Attachment A”; and

**WHEREAS**, the State will secure the Federal cost share, review the design, let the construction contract, provide the construction inspection, and provide other items as required; and

**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, it is agreed as follows:

## **AGREEMENT**

### **1. Period of the Agreement**

This Agreement becomes effective when signed by the last party whose signing makes the Agreement fully executed. This Agreement shall remain in effect until the Projects are completed or unless terminated as provided below.

CSJ #: 0912-70-029  
District #: 12 - Houston  
Code Chart 64 #: 50102  
Project: CS: Grant Road,  
Lakewood Forest Drive to  
Old Kluge Road

Off –System Local  
Rehabilitation Contingency  
Project  
CFDA #: 20.205

## 2. Scope of Work

The scope of the Project is to complete the asphalt overlay or concrete rehabilitation for the roads identified in Attachment “D” as shown on the Map in Attachment “B”. The project shall include preparation of the environmental assessment, schematic layout; performing field surveys; performing all necessary and required environmental remediation and mitigation; conducting public meetings/hearings; preparing plans, specifications and estimates (PS&E); accomplishing the adjustment of utilities; constructing the Project (including grading, paving, structures, etc. as applicable); and any other work necessary to complete the Project.

## 3. Local Project Sources and Uses of Funds

- a. The total estimated cost of the Project is shown in the Project Budget - Attachment “E” which is attached hereto and made a part hereof. The expected cash contributions from the federal or State government, the Local Governments, or other parties is shown in Attachment “E”. The State will pay for only those project costs that have been approved by the Texas Transportation Commission. The State and the Federal Government will not reimburse the Local Government for any work performed before the issuance of a formal Letter of Authority by the Federal Highway Administration. The Local Government is responsible for 100% of the cost of any work performed under its direction or control before the federal Letter of Authority is formally issued.

If the Local Government will perform any work under this contract for which reimbursement will be provided by or through the State, the Local Government must complete training before a letter of authority is issued. Training is complete when at least one individual who is working actively and directly on the Project successfully completes and receives a certificate for the course entitled *Local Government Project Procedures Qualification for the Texas Department of Transportation*. The Local Government shall provide the certificate of qualification to the State. The individual who receives the training certificate may be an employee of the Local Government or an employee of a firm that has been contracted by the Local Government to perform oversight of the Project. The State in its discretion may deny reimbursement if the Local Government has not designated a qualified individual to oversee the Project.

CSJ #: 0912-70-029  
District #: 12 - Houston  
Code Chart 64 #: 50102  
Project: CS: Grant Road,  
Lakewood Forest Drive to  
Old Kluge Road

Off –System Local  
Rehabilitation Contingency  
Project  
CFDA #: 20.205

- b. This project cost estimate shows how necessary resources for completing the project will be provided by major cost categories. These categories may include but are not limited to: (1) costs of real property; (2) costs of utility work; (3) costs of environmental assessment and remediation; (4) cost of preliminary engineering and design; (5) cost of construction and construction management; and (6) any other local project costs.
- c. The State will be responsible for securing the Federal and State share of the funding required for the development and construction of the local project. If the Local Government is due funds for expenses incurred, these funds will be reimbursed to the Local Government on a cost basis.
- d. The Local Government will be responsible for all non-federal or non-State participation costs associated with the Project, including any overruns in excess of the approved local project budget unless otherwise provided for in this Agreement or approved otherwise in an amendment to this Agreement.
- e. 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.
- f. 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.
- g. 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 to the State Project.
- h. Upon completion of the Project, the State will perform an audit of the Project costs. Any funds due by the Local Government, the State, or the Federal government will be promptly paid by the owing party. 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.
- i. The State will not pay interest on any funds provided by the Local Government.

CSJ #: 0912-70-029  
District #: 12 - Houston  
Code Chart 64 #: 50102  
Project: CS: Grant Road,  
Lakewood Forest Drive to  
Old Kluge Road

Off –System Local  
Rehabilitation Contingency  
Project  
CFDA #: 20.205

- j. If a waiver has been granted, the State will not charge the Local Government for the indirect costs the State incurs on the local project, unless this Agreement is terminated at the request of the Local Government prior to completion of the project.
- k. If the project has been approved for a “fixed price” or an “incremental payment” non-standard funding or payment arrangement under 43 TAC §15.52, the budget in Attachment “E” will clearly state the amount of the fixed price or the incremental payment schedule.
- l. If the Local Government is an Economically Disadvantaged County and if the State has approved adjustments to the standard financing arrangement, this Agreement reflects those adjustments.
- m. 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.
- n. Payment under this contract beyond the end of the current fiscal biennium is subject to availability of appropriated funds. If funds are not appropriated, this contract shall be terminated immediately with no liability to either party.

The State will not execute the contract for the construction of the project until the required funding has been made available by the Local Government in accordance with this Agreement.

#### **4. Termination of this Agreement**

This Agreement shall remain in effect until the project is completed and accepted by all parties, unless:

- a. the Agreement is terminated in writing with the mutual consent of the parties;
- b. the Agreement is terminated by one party because of a breach, in which case any cost incurred because of the breach shall be paid by the breaching party; or
- c. the Local Government elects not to provide funding after the completion of preliminary engineering, specifications and estimates (PS&E) and the Project does not proceed because of insufficient funds, in which case the Local

CSJ #: 0912-70-029  
District #: 12 - Houston  
Code Chart 64 #: 50102  
Project: CS: Grant Road,  
Lakewood Forest Drive to  
Old Kluge Road

Off –System Local  
Rehabilitation Contingency  
Project  
CFDA #: 20.205

Government agrees to reimburse the State for its reasonable actual costs incurred during the Project.

#### **5. Amendments**

Amendments to this Agreement due to changes in the character of the work or terms of the Agreement, or responsibilities of the parties relating to the Project may be enacted through a mutually agreed upon, written amendment.

#### **6. Remedies**

This Agreement shall not be considered as specifying the exclusive remedy for any agreement default, but all remedies existing at law and in equity may be availed of by either party to this Agreement and shall be cumulative.

#### **7. Utilities**

The Local Government shall be responsible for the adjustment, removal, or relocation of utility facilities in accordance with applicable State laws, regulations, rules, policies, and procedures, including any cost to the State of a delay resulting from the Local Government's failure to ensure that utility facilities are adjusted, removed, or relocated before the scheduled beginning of construction. The Local Government will not be reimbursed with federal or state funds for the cost of required utility work. The Local Government must obtain advance approval for any variance from established procedures. Before a construction contract is let, the Local Government shall provide, at the State's request, a certification stating that the Local Government has completed the adjustment of all utilities that must be adjusted before construction is completed.

#### **8. Environmental Assessment and Mitigation**

Development of a transportation project must comply with the National Environmental Policy Act and the National Historic Preservation Act of 1966, which require environmental clearance of federal-aid projects.

- a. The Local Government is responsible for the identification and assessment of any environmental problems associated with the development of a local project governed by this Agreement.
- b. The Local Government is responsible for the cost of any environmental problem's mitigation and remediation.
- c. The Local Government is responsible for providing any public meetings or public hearings required for development of the environmental assessment, if

CSJ #: 0912-70-029  
District #: 12 - Houston  
Code Chart 64 #: 50102  
Project: CS: Grant Road,  
Lakewood Forest Drive to  
Old Kluge Road

Off –System Local  
Rehabilitation Contingency  
Project  
CFDA #: 20.205

applicable. Public hearings will not be held prior to the approval of project schematic.

- d. The Local Government is responsible for the preparation of the NEPA documents required for the environmental clearance of this project. However, the environmental documents will be reviewed and processed by the State.
- e. The Local Government shall provide the State with written certification from appropriate regulatory agency(ies) that identified environmental problems have been remediated.

#### **9. Compliance with Texas Accessibility Standards and ADA**

All parties to this Agreement shall ensure that the plans for and the construction of all projects subject to this Agreement are in compliance with the Texas Accessibility Standards (TAS) issued by the Texas Department of Licensing and Regulation, under the Architectural Barriers Act, Article 9102, Texas Civil Statutes. The TAS establishes minimum accessibility requirements to be consistent with minimum accessibility requirements of the Americans with Disabilities Act (P.L. 101-336) (ADA).

#### **10. Architectural and Engineering Services**

The Local Government has responsibility for the performance of architectural and engineering services. The Local Government will prepare or cause to be prepared the Project's preliminary engineering, including environmental documents and design plans necessary for the development of the Project. Development of the preliminary engineering shall include, but not be limited to, preparing the environmental assessment, right of way mapping, property descriptions, and schematic layout; performing field surveys; preparing a drainage study; and conducting public meetings/hearings.

The Local Government shall forward to the State a copy of the completed engineering and design plans for review. The Local Government shall be responsible for all PS&E costs and the consideration paid for these services shall not be eligible for reimbursement or to be considered part of the Local Government's matching share. In procuring professional services, the parties to this Agreement must comply with all applicable laws.

The engineering plans shall be developed in accordance with the applicable State's *Standard Specifications for Construction and Maintenance of Highways, Streets and*

CSJ #: 0912-70-029  
District #: 12 - Houston  
Code Chart 64 #: 50102  
Project: CS: Grant Road,  
Lakewood Forest Drive to  
Old Kluge Road

Off –System Local  
Rehabilitation Contingency  
Project  
CFDA #: 20.205

*Bridges*, and the special specifications and special provisions related thereto, the latest edition and revisions of the State's *Highway Design Division Operations and Procedures Manual* or the American Association of State Highway and Transportation Officials *A Policy on Geometric Design of Highways and Streets*, Federal regulations for conformity with the Clean Air Act air quality requirements, the EPA-National Pollutant Discharge Elimination System requirements, the *Texas Manual on Uniform Traffic Control Devices*, and the *American Association of State Highway and Transportation Officials Guide For The Development of Bicycle Facilities*. In addition, all engineering work shall be prepared using the English system of measurements. Documents prepared for the purpose of public involvement shall be in the English unit system.

The Local Government shall prepare or cause to be prepared all railroad exhibits required for the Project. The railroad exhibits shall be prepared per Texas Department of Transportation format. All costs associated with such services shall be the responsibility of the Local Government and shall not be eligible for federal-aid reimbursement.

The State will perform a 30 percent, 60 percent, 90 percent review of the engineering plans, specifications and estimate work being developed by the Local Government's consultant in conjunction with the Local Government's review. The State will also review all geotechnical, surveying, schematic, bridge layout, design, environmental, hydraulic reports and data submitted by the Local Government, process environmental documents, process any necessary railroad agreements and oversee any necessary public involvement.

If the Local Government has submitted work in accordance with the terms of this contract but the State requests changes to the completed work or parts thereof which involve changes to the original scope of services or character of work under the contract, the Local Government shall make such revisions as requested and as directed by the State and the work will not be approved by the State unless such changes are made.

The Local Government shall be responsible for the accuracy of work and shall promptly make necessary revisions or corrections resulting from its errors, omissions, or negligent acts. Approval by the State is subject to the prompt

CSJ #: 0912-70-029  
District #: 12 - Houston  
Code Chart 64 #: 50102  
Project: CS: Grant Road,  
Lakewood Forest Drive to  
Old Kluge Road

Off –System Local  
Rehabilitation Contingency  
Project  
CFDA #: 20.205

accomplishment by the Local Government of necessary revisions or corrections resulting from its errors, omissions, or negligent acts.

The Local Government's responsibility for all questions arising from design errors and/or omissions will be determined by the State. The Local Government will not be relieved of the responsibility for subsequent correction of any such errors or omissions.

The responsible Engineer shall sign, seal and date all appropriate engineering submissions to the State in accordance with the Texas Engineering Practice Act and the rules of the Texas Board of Professional Engineers.

In procuring professional services, the parties to this Agreement must comply with federal requirements cited in 23 CFR Part 172 if the contract for professional services is federally funded and with Texas Government Code 2254, Subchapter A, in all cases."

Professional services contracts, if federally funded, must conform to all applicable federal and state laws and regulations requirements, specifically including the provision for participation by Disadvantaged Business Enterprises (DBE's), ADA, and environmental matters.

#### **11. Construction Responsibilities**

- a. The State shall advertise for construction bids, issue bid proposals, receive and tabulate the bids and award and administer the contract for construction of the Project. Administration of the contract includes the responsibility for construction engineering and for issuance of any change orders, supplemental agreements, amendments, or additional work orders, which may become necessary subsequent to the award of the construction contract. In order to ensure federal funding eligibility, projects must be authorized by the State prior to advertising for construction.
- b. The State will use its approved contract letting and award procedures to let and award the construction contract.
- c. Prior to their execution, the Local Government will be given the opportunity to review contract change orders that will result in an increase in cost to the Local Government.

CSJ #: 0912-70-029  
District #: 12 - Houston  
Code Chart 64 #: 50102  
Project: CS: Grant Road,  
Lakewood Forest Drive to  
Old Kluge Road

Off –System Local  
Rehabilitation Contingency  
Project  
CFDA #: 20.205

- d. Upon completion of the Project, the party constructing the project will issue and sign a "Notification of Completion" acknowledging the Project's construction completion.
- e. For federally funded contracts, the parties to this Agreement will comply with federal construction requirements cited in 23 CFR Part 635 and with requirements cited in 23 CFR Part 633, and shall include the latest version of Form "FHWA-1273" in the contract bidding documents. If force account work will be performed, a finding of cost effectiveness shall be made in compliance with 23 CFR 635, Subpart B.

## **12. Project Maintenance**

Upon completion of the Project, the Local Government will assume responsibility for the maintenance of the completed Project.

## **13. Right of Way and Real Property**

The Local Government is responsible for the provision and acquisition of any needed right of way or real property.

The Local Government shall assume all costs in preparing right-of-way maps, property descriptions and other data as needed to properly describe the right-of-way which the Local Government is to acquire and provide the State. The Local Government shall be responsible for all right of way acquisition costs and these costs shall not be eligible for Federal reimbursement under this Agreement.

The right-of-way maps and property descriptions shall be submitted to the State for review and approval. Tracings of the right-of-way maps shall be furnished to the State for its permanent records.

Title to right of way and other related real property must be acceptable to the State before funds may be expended for the improvement of the right of way or real property. If the Local Government is the owner of any part of a Project site, the Local Government shall permit the State or its authorized representative access to occupy the site to perform all activities required to execute the work.

All parties to this agreement will comply with and assume the costs for compliance with all the requirements of Title II and Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Title 42 U.S.C.A. Section 4601

CSJ #: 0912-70-029  
District #: 12 - Houston  
Code Chart 64 #: 50102  
Project: CS: Grant Road,  
Lakewood Forest Drive to  
Old Kluge Road

Off –System Local  
Rehabilitation Contingency  
Project  
CFDA #: 20.205

et seq., including those provisions relating to incidental expenses incurred by the property owners in conveying the real property to the Local Government, and benefits applicable to the relocation of any displaced person as defined in 49 CFR Section 24.2(g). Documentation to support such compliance must be maintained and made available to the State and its representatives for review and inspection.

If the Local Government purchases right of way for a Local Government street, title will be acquired in the name of the Local Government in accordance with applicable laws unless specifically stated otherwise and approved by the State.

**14. 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, addressed to such party at the following addresses:

**Local Government:**

Executive Director  
Harris County Public Infrastructure Dept.  
1001 Preston, 5<sup>th</sup> Floor  
Houston, Texas 77002

**State:**

District Engineer  
Texas Department of Transportation  
P. O. Box 1386  
Houston, Texas 77251

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.

**15. Legal Construction**

If one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions and this Agreement shall be construed as if it did not contain the invalid, illegal or unenforceable provision.

CSJ #: 0912-70-029  
District #: 12 - Houston  
Code Chart 64 #: 50102  
Project: CS: Grant Road,  
Lakewood Forest Drive to  
Old Kluge Road

Off –System Local  
Rehabilitation Contingency  
Project  
CFDA #: 20.205

**16. 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.

**17. Ownership of Documents**

Upon completion or termination of this Agreement, all documents prepared by the State shall remain the property of the State. All data prepared under this Agreement shall be made available to the State without restriction or limitation on their further use. All documents produced or approved or otherwise created by the Local Government shall be transmitted to the State in the form of photocopy reproduction on a monthly basis as required by the State. The originals shall remain the property of the Local Government. At the request of the State, the Local Government shall submit any information required by the State in the format directed by the State.

**18. Compliance with Laws**

The parties shall comply with all Federal, State, and Local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any manner affecting the performance of this Agreement. When required, the Local Government shall furnish the State with satisfactory proof of this compliance.

**19. Sole Agreement**

This Agreement constitutes the sole and only agreement between the parties and supersedes any prior understandings or written or oral agreements respecting the Agreement's subject matter.

**20. Cost Principles**

In order to be reimbursed with federal funds, the parties shall comply with the Cost Principles established in OMB Circular A-87 that specify that all reimbursed costs are allowable, reasonable and allocable to the Project.

**21. Procurement and Property Management Standards**

The parties shall adhere to the procurement standards established in Title 49 CFR §18.36 and with the property management standard established in Title 49 CFR §18.32.

CSJ #: 0912-70-029  
District #: 12 - Houston  
Code Chart 64 #: 50102  
Project: CS: Grant Road,  
Lakewood Forest Drive to  
Old Kluge Road

Off –System Local  
Rehabilitation Contingency  
Project  
CFDA #: 20.205

## **22. Inspection of Books and Records**

Whenever American Recovery and Reinvestment Act of 2009 (ARRA) funds are used and the Local Government is performing any work, either directly or through a contractor, it must comply with the following provisions. If a Local Government is receiving ARRA funds, but is not performing any work, the following provisions apply, if appropriate, and to the extent necessary to comply with ARRA regulations.

In accordance with Section 902 ARRA, should this agreement involve the expenditure of ARRA funds, then the U.S. Comptroller General and its representatives shall have the authority to:

- a. examine any records of the contractor or any of its subcontractors, or any State or local agency administering such contract, that directly pertain to, and involve transactions relating to the contract or subcontract; and
- b. interview any officer or employee of the contractor or any of its subcontractors, or any State or local agency administering the contract regarding such contracts.

Nothing in the section previously mentioned shall be interpreted to limit or restrict in any way the existing authority of the Comptroller General.

In accordance with Section 1515(a) of the ARRA, with respect to each contract or grant awarded using covered funds, any representative of an appropriate inspector general appointed under Section 3 or 8G of the Inspector General Act of 1978 (5 U.S.C. App.), is authorized:

- a. to examine any records of the contractor or grantee, any of its subcontractors or subgrantees, or any State or local agency administering such contract that pertain to and involve transactions relating to the contract, subcontract, grant, or subgrant; and
- b. to interview any officer or employee of the contractor, grantee or subgrantee, or agency regarding such transactions.

Section 1515(b) further provides that nothing in the section previously mentioned shall be interpreted to limit or restrict in any way the existing authority of an inspector general.

CSJ #: 0912-70-029  
District #: 12 - Houston  
Code Chart 64 #: 50102  
Project: CS: Grant Road,  
Lakewood Forest Drive to  
Old Kluge Road

Off –System Local  
Rehabilitation Contingency  
Project  
CFDA #: 20.205

The ARRA requires that the Contractor report monthly employment information for its firm as well as that of all of its subcontractors. The Contractor, similarly, shall include this reporting requirement in all of its subcontracts. Failing to include the requirement in agreements with subcontractors can serve as grounds for contract termination.

Form FHWA-1589, Monthly Employment Report, promulgated by the Federal Highway Administration (FHWA), captures the necessary monthly employment information and shall be submitted by the Contractor on a regular basis to the Local Government. It is the responsibility of the Local Government to obtain this form from the prime Contractor and any subcontractors and, the Local Government shall verify the accuracy, completeness, and reasonableness of the data contained in the form. The Local Government shall ensure that this form is submitted by the Local Government to the State according to the policies and at the direction of the State. .

In order to meet any other FHWA and ARRA reporting requirements, the Local Government shall provide to the State all information requested by the State, including data or information in possession of contractors and subcontractors for completing other necessary reporting forms, and the information shall be submitted in the manner required and according to all due dates as set by the State.

Furthermore, the ARRA mandates that the U.S. Comptroller General's Office shall have authority to examine the records of the contractor, subcontractor, or local agency relating to the project at any time.

### **23. Office of Management and Budget (OMB) Audit Requirements**

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.

Whenever funds from the American ARRA are distributed to a Local Government, the Local Government must complete its Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC), as required by OMB Circular A-133, and separately identify any ARRA expenditures for Federal Awards.

CSJ #: 0912-70-029  
District #: 12 - Houston  
Code Chart 64 #: 50102  
Project: CS: Grant Road,  
Lakewood Forest Drive to  
Old Kluge Road

Off –System Local  
Rehabilitation Contingency  
Project  
CFDA #: 20.205

**24. Civil Rights Compliance**

The Local Government shall comply with the regulations of the Department of Transportation as they relate to nondiscrimination (49 CFR Chapter 21 and 23 CFR §710.405(B)), and Executive Order 11246 titled "Equal Employment Opportunity," as amended by Executive Order 11375 and supplemented in the Department of Labor Regulations (41 CFR Part 60).

**25. Disadvantaged Business Enterprise Program Requirements**

The parties shall comply with the Disadvantaged/Minority Business Enterprise Program requirements established in 49 CFR Part 26.

**26. 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 [Contractor, Local Government, Engineer, or whatever] certifies that it is not 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.

**27. Lobbying Certification**

In executing this Agreement, the signatories certify to the best of his or her knowledge and belief, that:

- a. No federal appropriated funds have been paid or will be paid by or on behalf of the parties to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an

CSJ #: 0912-70-029  
District #: 12 - Houston  
Code Chart 64 #: 50102  
Project: CS: Grant Road,  
Lakewood Forest Drive to  
Old Kluge Road

Off –System Local  
Rehabilitation Contingency  
Project  
CFDA #: 20.205

employee of a Member of Congress in connection with federal contracts, grants, loans, or cooperative agreements, the signatory for the Local Government shall complete and submit the federal Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

- c. The parties shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

By executing this Agreement, the parties affirm this lobbying certification with respect to the individual projects and affirm this certification of the material representation of facts upon which reliance will be made. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Title 31 U.S.C. §1352.

Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

## **28. Insurance**

The Local Government is self-insured under statutory requirements for workers compensation. The Local Government is exempt from statutory automobile liability insurance for its automobiles. The Local Government shall not be required to provide the State with a fully executed copy of the Department's Form 1560 Certificate of Insurance in regard to the Local Government's insurance coverage. Before allowing any contractor of the Local Government to perform any work on the State right of way under this Agreement, the Local Government shall submit to the State a completed 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 the contractor working on the State right of way. This coverage shall be maintained until all work by the contractor on the State right of way is complete. If coverage is not maintained, all work on the State right of way shall cease immediately until the lack of coverage is remedied.

## **29. Signatory Warranty**

The signatories to this Agreement warrant that each has the authority to enter into this Agreement on behalf of the party represented.

CSJ #: 0912-70-029  
District #: 12 - Houston  
Code Chart 64 #: 50102  
Project: CS: Grant Road,  
Lakewood Forest Drive to  
Old Kluge Road

Off -System Local  
Rehabilitation Contingency  
Project  
CFDA #: 20.205

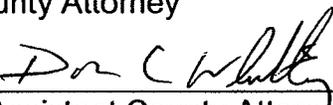
**IN TESTIMONY HEREOF**, the parties hereto have caused these presents to be executed in duplicate counterparts.

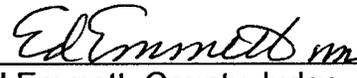
EXECUTED this \_\_\_\_\_ day of FEB 09 2010, 2010.

**APPROVED AS TO FORM:**

**HARRIS COUNTY**

County Attorney

By   
Assistant County Attorney

By   
Ed Emmett, County Judge

**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.

\_\_\_\_\_  
Janice Mullenix  
Director of Contract Services  
Texas Department of Transportation

\_\_\_\_\_  
Date

CSJ #: 0912-70-029  
District #: 12 - Houston  
Code Chart 64 #: 50102  
Project: CS: Grant Road,  
Lakewood Forest Drive to  
Old Kluge Road

Off -System Local  
Rehabilitation Contingency  
Project  
CFDA #: 20.205

**ATTACHMENT A**

**Resolution or Ordinance**

**Page 1 of 2**

THE STATE OF TEXAS §  
  §  
COUNTY OF HARRIS §

The Commissioners Court of Harris County, Texas, convened at a meeting of said Court at the Harris County Administration Building in the City of Houston, Texas, on the \_\_\_\_\_ day of FEB 09 2010, 2010, with the following members present, to-wit:

- |                  |                              |
|------------------|------------------------------|
| Ed Emmett        | County Judge                 |
| El Franco Lee    | Commissioner, Precinct No. 1 |
| Sylvia R. Garcia | Commissioner, Precinct No. 2 |
| Steve Radack     | Commissioner, Precinct No. 3 |
| Jerry Eversole   | Commissioner, Precinct No. 4 |

and the following members absent, to-wit: NONE,  
constituting a quorum, when among other business, the following was transacted:

**ORDER APPROVING AND AUTHORIZING COUNTY JUDGE TO EXECUTE AN  
ADVANCE FUNDING AGREEMENT FOR A LOCAL REHABILITATION PROJECT  
REGARDING GRANT ROAD FROM LAKEWOOD FOREST DRIVE TO OLD KLUGE  
ROAD BETWEEN THE COUNTY AND THE STATE OF TEXAS**

Commissioner GARCIA introduced an order and made  
a motion that the same be adopted. Commissioner lee  
seconded the motion for adoption of the order. The motion, carrying with it the adoption  
of the order, prevailed by the following vote:

*Presented to Commissioner's Court*

**FEB 09 2010**

APPROVE \_\_\_\_\_  
Recorded Vol \_\_\_\_\_ Page \_\_\_\_\_

CSJ #: 0912-70-029  
District #: 12 - Houston  
Code Chart 64 #: 50102  
Project: CS: Grant Road,  
Lakewood Forest Drive to  
Old Kluge Road

Off –System Local  
Rehabilitation Contingency  
Project  
CFDA #: 20.205

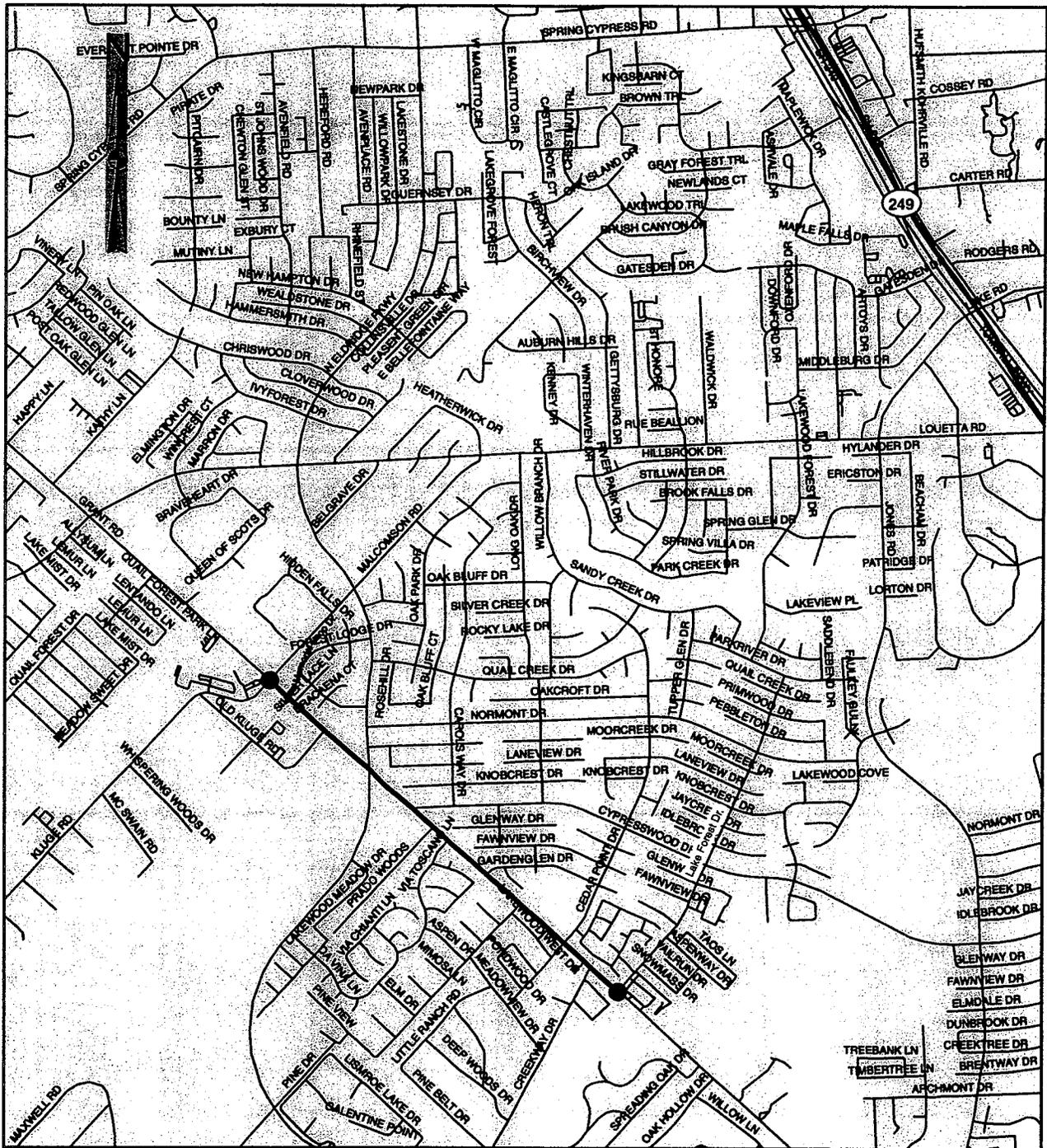
**Page 2 of 2**

	Yes	No	Abstain
Judge Emmett	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Lee	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Garcia	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Radack	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Eversole	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

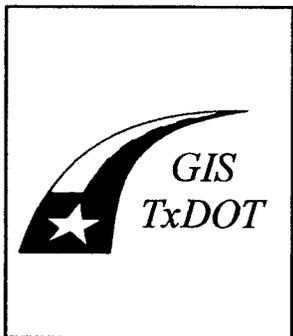
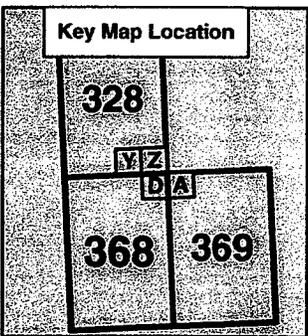
The County Judge thereupon announced that the motion had duly and lawfully carried and that the order had been duly and law-fully adopted. The order thus adopted follows:

IT IS ORDERED that Harris County hereby approves and authorizes the County Judge to sign a Local Transportation Project Advance Funding Agreement for A Local Rehabilitation Project regarding Grant Road from Lakewood Forest Drive to Old Kluge Road between the County and the State of Texas acting by and through the Texas Department of Transportation, a copy of the Agreement being attached hereto and incorporated herein.

IT IS FURTHER ORDERED that during any year while there is any obligation of the County under the Advance Funding Agreement, the Harris County Commissioners Court shall compute and ascertain the amount of ad valorem tax, based on the latest approved tax rolls of the County, with full allowances being made for delinquencies and costs of tax collection, which will be sufficient to raise and produce the money required to fulfill the obligations and liabilities of the County under said Agreement during any such year, in no instance to be less than two (2%) per cent of such obligations, together with all interest thereon. Said rate and amount of ad valorem tax is levied against all taxable property in Harris County for each year while any obligation or liability of the County exists under said Agreement, and said ad valorem tax shall be assessed and collected each such year until all of the obligations under said agreement have been discharged and all liability thereunder discharged. In determining the amount of taxes to be levied and amount of other funds to be allocated to the payment of Harris County's obligations under the Agreement, the Commissioners Court of Harris County may take into account any other sources of funding that are lawfully available or are to be lawfully available for payment of its obligations under the Agreement.



**Attachment "B"**  
**CSJ: 0912-70-029**  
**Grant Rd.**  
**Asphalt Overlay**  
**from Lake Forest Dr.**  
**to Old Kluge**  
  
**Harris County**



American Recovery and Reinvestment Act (ARRA)  
H-GAC Selected Highway Program Projects

Revised: 10/28/2009

Off-System Local Rehabilitation Candidate Contingency Projects (in priority order)						
Rank	County	Local	State	Federal	Scope	Estimated Cost
1	Houston/ Harris Co.	Clinton Dr	IH 610	Fidelity Rd	Repair, resurface, drainage and other improvements	\$5,000,000
2	Houston	Harwin	BW 8	US 59	26 point repairs	\$245,000
3	Houston	Antoine	US 290	IH 10	16 pt rep, 5 pan replace	\$250,000
4	Houston	Shepherd	Memorial Dr	IH 10	Mill and overlay	\$425,000
5	Cleveland	San Jacinto	Washington	Boothe	Replace	\$156,000
6	Cleveland	Travis	Hanson	Boothe	Replace	\$50,270
7	Houston	Liberty	Lockwood	Waco St/Altoona	Mill and overlay	\$280,000
8	Houston	Weslayan	San Felipe	US 59	2 int recon, 8 pt rep, AC OL	\$630,000
9	Houston	W. Dallas	Shepherd	Montrose Blvd	Mill and overlay	\$390,000
10	Houston	Aldine Westfield	BW 8	Little York Rd	Mill and overlay	\$940,000
11	Harris Co.	Grant Rd.	Lakewood Forest Dr.	Old Kluge Rd	Asphalt overlay	\$397,200
12	Houston	Beechnut	BW 8	US 59	2 panel replace, 8 pt rep, int recon	\$150,000
13	City Galveston	23rd Street	Harborside Drive	Broadway	Resurface	\$271,120
14	City Galveston	21st Street	Harborside Drive	Broadway	Resurface	\$271,120
15	Houston	Yale	IH 610	IH 10	Mill and overlay	\$1,000,000
16	Houston	Broadway	Power St	IH 610	Mill and overlay (Powers to IH-610)	\$287,900
17	Houston	Broadway	IH 610	IH 45	5 pt rep, 2 pan replace (IH-610 to I-45)	\$602,100
18	Houston	Navigation	Lockwood Dr	77th	Base repair, mill and overlay	\$995,000
19	Mont. Co.	Sorters Rd	FM1314	River Ridge Drive	Full depth rehab	\$3,150,000
20	Pasadena	Southmore Ave.	Strawberry Rd	Red Bluff	Mill and overlay	\$3,600,000
21	Mont. Co.	Ford Road	SL494	Mills Branch Dr	Full depth rehab	\$2,539,000
22	Houston	Jensen	IH 610	UP Railroad	Mill and overlay	\$685,000
23	Houston	Gessner	Bellaire	US 59	16 panel replace, 3 pt rep	\$165,000
24	Ft. Bend Co.	Old Richmond Road	FM 1464	West Airport Boulevard	3" H-MAC Recon	\$1,700,000
25	Mont. Co.	Nichols Sawmill Rd	FM1774	Roberts Cemetary Road	Full depth rehab	\$2,500,000
26	Houston	Washington	Westcott St	IH 45	Mill and overlay	\$1,350,000
27	Houston	Lockwood	IH 610	Clinton Dr	Mill and overlay	\$1,280,000
28	Brazoria	Downing Street/CR542	SH35	FM 523	Total Reconstruction	\$9,177,141

**American Recovery and Reinvestment Act (ARRA)  
H-GAC Selected Highway Program Projects**

Revised: 10/28/2009

<b>Off System Local Rehabilitation Candidate Contingency Projects (in priority order)</b>						
Rank	Sponsor	Rd/Ally	Limit From	Limit To	Work	Estimated Cost
29	Cleveland	Wells Road	Travis	FM 1010	Replace	\$134,600
30	Harris	Katy Hockley Rd.	100' NW of Becker Rd.	100' S of Jack Rd	Asphalt overlay	\$632,600
31	Cleveland	Peach	FM787	Houston/105-321	Replace	\$85,000
32	Stafford	S. Kirkwood Ave	US 90A	Meadows Place City Limits	Rehab	\$975,000
33	Harris	Clay Rd.	just east of Fry Rd.	Barker Cypress	Asphalt overlay	\$1,868,800
34	Mont. Co.	Hardin Store	SH249	FM2978	Full depth rehab	\$1,500,000
35	Mont. Co.	Grogans Mill Rd	Research Forest Dr	Woodlands Parkway	Replace pave, Shldr	\$5,130,000
36	Mont. Co.	Grogans Mill Rd	Woodlands Parkway	Sawdust Road	Replace pave, Shldr	\$7,760,000
37	Pasadena	Pasadena Blvd.	Harris Ave	SH225	Mill & Overlay	\$2,400,000
38	Mont. Co.	Walden Road	Del Lago Blvd	SH105	Replace pave, Shldr	\$9,200,000
39	Harris	War Memorial Dr.	Clay Rd	Eldridge Pkwy.	Asphalt overlay	\$816,200

**Total \$68,989,051**

CSJ #: 0912-70-029  
District #: 12 - Houston  
Code Chart 64 #: 50102  
Project: CS: Grant Road,  
Lakewood Forest Drive to  
Old Kluge Road

Off -System Local  
Rehabilitation Contingency  
Project  
CFDA #: 20.205

**ATTACHMENT D**  
**HARRIS COUNTY PROJECT**

<b>Facility</b>	<b>Limits: From</b>	<b>Limits: To</b>	<b>Scope</b>	<b>Original Estimated Cost</b>	<b>Current Estimated Cost</b>
<b>Grant Road</b>	<b>Lakewood Forest Drive</b>	<b>Old Kluge Road</b>	<b>Asphalt overlay</b>	<b>\$397,200.00</b>	<b>\$442,959.50</b>

CSJ #: 0912-70-029  
 District #: 12 - Houston  
 Code Chart 64 #: 50102  
 Project: CS: Grant Road,  
 Lakewood Forest Drive to  
 Old Kluge Road

Off -System Local  
 Rehabilitation Contingency  
 Project  
 CFDA #: 20.205

**ATTACHMENT E**

**Project Budget And Description**

The federal participation share for the listed Projects is based upon the availability of ARRA funds for the Project. The federal funding share is one hundred percent (100%) of the actual cost of the construction bid items for the selected Project up to the amount of funds approved for the Project by the Metropolitan Planning Organization. The Local Government will be responsible for all non-federal and non-state participation costs associated with the selected Project. The State has estimated the project to be as follows:

Description	Total Estimate Cost	Federal Participation		State Participation		Local Participation	
		%	Cost	%	Cost	%	Cost
<b>CONSTRUCTION COSTS</b>							
Asphalt Overlay/Concrete Rehabilitation	\$442,959.50	100%	\$442,959.50	0%	\$0.00	0%	\$0.00
<b>Subtotal</b>	<b>\$442,959.50</b>		<b>\$442,959.50</b>		<b>\$0.00</b>		<b>\$0.00</b>
Direct State Costs (Plan Review)	\$10,000.00	0%	\$0.00	0%	\$0.00	100%	\$10,000.00
Direct State Costs (Inspection and Oversight)	\$75,303.12	0%	\$0.00	0%	\$0.00	100%	\$75,303.12
<b>TOTAL</b>	<b>\$528,262.62</b>		<b>\$442,959.50</b>		<b>\$0.00</b>		<b>\$85,303.12</b>

**Direct State Cost will be based on actual charges.**

**Local Government's Participation = \$85,303.12**

CSJ #: 0912-70-029  
District #: 12 - Houston  
Code Chart 64 #: 50102  
Project: CS: Grant Road,  
Lakewood Forest Drive to  
Old Kluge Road

Off -System Local  
Rehabilitation Contingency  
Project  
CFDA #: 20.205

The Local Government will transmit to the State within 30 days of execution of this Agreement, a check or warrant in the amount of \$85,303.12 made payable to the "Texas Department of Transportation Trust Fund". These funds will be utilized by the State to review the engineering documentation, for construction management costs, and to cover other incidental costs. This is an estimate only, final participation amounts will be based on actual charges to the Project.