

CSJ # 0902-20-111
District # 02
Code Chart 64 # 50249
Project: CR 2327 at Tributary to
Black Creek
NBI Structure # 02-249-AA02-41-001
Federal Highway Administration
CFDA # 20.205
Not Research and Development

STATE OF TEXAS §

COUNTY OF TRAVIS §

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

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

WITNESSETH

WHEREAS, Title 23 United States Code Section 144 authorizes federal funds to assist the states in the replacement or rehabilitation of deficient bridges located on public highways, roads, and streets, including those under the jurisdiction of local governments; and

WHEREAS, the Texas Transportation Code Sections 201.103 and 222.052 establish that the State shall plan and make policies for the construction of a comprehensive system of state highways and public roads in cooperation with local governments; and

WHEREAS, the Local Government owns one or more bridges on a public road or street located at CR 2327 at Tributary to Black Creek, and these bridges are included in the currently approved off-state system federal-aid Highway Bridge Replacement and Rehabilitation Program (HBRRP) as authorized by Texas Transportation Commission Minute Order Number 114027, dated August 28, 2014; and

WHEREAS, the Governing Body of the Local Government has approved entering into this Agreement by resolution or ordinance, which is attached to and made a part of this agreement as Attachment A for the development of the specific programmed replacement or rehabilitation project, called the "Project". The Project is identified in the location map shown as Attachment B, which is attached to and made a part of this agreement.

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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

1. Period of this 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 terminated as provided in Article 2.

2. 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;
- C. The Local Government elects not to develop the project and the project does not proceed, in which case the Local Government agrees to reimburse the State for one-hundred percent (100%) of its reasonable actual direct and indirect costs incurred for the project; or
- D. The project is inactive for thirty-six (36) months or longer and no expenditures have been charged against federal funds, in which case the State may at its discretion terminate the agreement.

3. Amendments

Amendments to this Agreement may be made due to changes in the character of the work, the terms of the Agreement, or the responsibilities of the parties. Amendments shall be enacted through a mutually agreed upon written amendment executed by all parties to this Agreement.

4. 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.

5. Scope of Work

The scope of work for this Agreement is the replacement or rehabilitation of the bridges identified in the recitals of this Agreement. This replacement or rehabilitation

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shall be accomplished in the manner described in the plans, specifications, and estimates developed in accordance with this Agreement and which are incorporated in this agreement by reference.

6. Right of Way and Real Property

- A. The Local Government is responsible for the provision and acquisition of all necessary right of way and will not be reimbursed with federal or state funds for the required right of way.
- B. The Local Government authorizes the State, its consultant, contractor, or other designated representative to enter the sites of these bridges and adjacent right of way or relocation right of way to perform surveys, inspections, construction, and other activities necessary to replace or rehabilitate these bridges and approaches.

7. Adjustment of 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 the 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 State is responsible for the identification and assessment of any environmental problems associated with the development of the Project governed by this Agreement.
- B. Cost participation in environmental assessment and remediation work shall be paid by the parties in the same ratio as construction costs and will be included in the construction costs identified in Attachment D, Estimate of Direct Costs.
- C. The State is responsible for providing any public meetings or public hearings required for development of the environmental assessment.

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D. The State will not begin construction of the Project until identified environmental problems have been remediated, unless provided for otherwise.

9. Compliance with Texas Accessibility Standards and ADA

All parties to this Agreement shall ensure that the plans for and the construction of the Project 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 State is responsible for performance of any required architectural or preliminary engineering work. The Local Government may review and comment on the work as required to accomplish the public purposes of the Local Government. The State will cooperate fully with the Local Government in accomplishing these local public purposes to the degree permitted by state and federal law. The Local Government review shall not unduly delay the development of the Project.

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 that 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. Upon completion of the Project, the State will issue a "Notification of Completion" acknowledging the Project's construction completion.

12. Project Maintenance

After the Project has been completed, the Local Government shall accept full ownership, and operate and maintain the facilities authorized by this Agreement for the benefit of and at no charge of toll to the public. This covenant shall survive the completion of construction under this Agreement.

13. Local Project Sources and Uses of Funds

- A. A Project Cost Estimate is provided in Attachment D, Estimate of Direct Costs.

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- B. Attachment D provides a source of funds estimate as well as the estimated direct preliminary engineering, construction engineering, and construction costs for the Project in total and by the Local Government.**
- C. The required Local Government participation is based solely upon the State's estimate of the eligible work at the time this Agreement is executed and will not be adjusted during construction except as needed to include any Project cost item or portion of a cost item ineligible for state or federal participation. In addition to its share of estimated direct engineering and construction costs, the Local Government is responsible for the direct cost of any project cost item or portion of a cost item that is not eligible for federal participation under the federal HBRRP. The Local Government is also responsible for any cost resulting from changes made at the request of the Local Government. The State and the Federal Government will not reimburse the Local Government for any work performed before federal spending authority is formally obligated to the Project by the Federal Highway Administration. After federal funds have been obligated, the State will send to the Local Government a copy of the formal documentation showing the obligation of funds including federal award information.**
- D. 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 federal spending authority is obligated. 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.**
- E. After execution of this Agreement, but thirty (30) days prior to the performance of any work by the State, the Local Government shall remit to the State the amount specified in Attachment D for the Local Government's contribution for preliminary engineering. The Local Government will pay, at a minimum, its funding share for this estimated cost of preliminary engineering.**
- F. Forty-five (45) 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 costs and any other costs owed.**
- G. If, at the completion or termination of the Project, the State determines that additional funding is required by the Local Government, the State shall notify the**

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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.

- H. 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.
- I. 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.
- J. The State will not pay interest on any funds provided by the Local Government.
- K. The Local Government funding participation responsibilities include Project direct costs only, except when the Project is terminated before completion at the request of the Local Government as addressed in the Termination provision of this Agreement.
- L. The amounts shown on Attachment D are estimates only. If actual costs exceed the estimates, this shall be considered a fixed price agreement, and no additional funding shall be required of the Local Government except to the extent that the additional costs result from changes made at the request of the Local Government or to the extent that the additional costs are not eligible for federal participation under the federal HBRRP. If actual costs are less than the estimates, Local Government participation shall be recalculated based on actual costs. If the recalculation results in a reduction in participation by the Local Government, the State shall pay the difference to the Local Government upon completion of the Project.
- M. Under the provisions of Texas Transportation Code Section 222.053 certain counties qualify as Economically Disadvantaged Counties (EDC) in comparison to other counties in the state as below average per capita property value, below average per capita income, and above average unemployment, for certain years. If applicable, in consideration of such EDC status that may be applicable for the Project, the required local match fund participation has been adjusted to ten percent (10%).
- N. The State will not execute the contract for the construction of a Project until the required funding has been made available by the Local Government in accordance with this Agreement.
- O. 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

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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.

- P. The Local Government is authorized to submit requests for reimbursement by submitting the original of an itemized invoice in a form and containing all items required by the State no more frequently than monthly, and no later than ninety (90) days after costs are incurred. If the Local Government submits invoices more than ninety (90) days after the costs are incurred, and if federal funding is reduced as a result, the State shall have no responsibility to reimburse the Local Government for those costs.

14. Performance by Local Government of Equivalent-Match Projects (EMP) in Return for Waiver of Local Match Participation Funding on Participation-Waived Projects (PWP)

- A. **Applicability.** If a request for waiver has been received and approved by the State's District Engineer, then the required ten percent matching fund participation or percent as adjusted for EDC consideration, as shown in Attachment D, Estimate of Direct Costs, but excluding ineligible costs under the bridge program, is waived. This waiver is based on the commitment of the Local Government to spend an equivalent amount of funds for structural or safety improvement on "other" bridge structures and other conditions as specified in 43 TAC Section 15.55(d). If a waiver has been granted, the Project shall be defined to be a PWP and the work on the "other" bridge structures that will be improved by the Local Government shall be defined to be the EMPs. Attachment C to this Agreement shows a list of EMPs under this Agreement.
- B. **Project Cost Estimate for PWP.** Attachment D to this Agreement shows the estimated direct preliminary engineering, construction engineering, and construction costs for the PWP in total and local match fund participation being waived or partially waived.
- C. **Credit Against EMP Work.** Any local match fund participation that has already been paid, or which the Local Government is agreeable to paying to the State, will be credited against EMP work to be performed by the Local Government. If applicable, this credit will be reflected in Attachment D to this Agreement.
- D. **Responsibilities of the Local Government on EMPs.**
 - 1. The Local Government shall be responsible for all engineering and construction, related costs, and compliance with all applicable state and federal environmental regulations and permitting requirements.

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2. The structural or safety improvement work on the EMPs shall be performed subsequent to the final execution of this Agreement but within three (3) calendar years after the earliest contract award of the related PWP.
 3. Written documentation, suitable for audit, of the structural or safety improvement work completed on the EMPs shall be kept on file by the Local Government for four (4) years after completion of work or claims, lawsuits, or audits related to those items, whichever is longer. A notice of completion of work on the EMPs shall be delivered to the State's District Engineer no later than thirty (30) calendar days after work is completed on the EMPs.
 4. Failure by the Local Government to adequately complete the EMPs within the stated three-year period shall result in the Local Government being excluded from receiving such waivers for a minimum of five (5) years.
- E. Funding of Ineligible or Additional Work Not Waived. Regardless of any waiver of eligible program costs, the Local Government shall pay the State one-hundred percent (100%) of the cost of any PWP item or portion of a cost item that is not eligible for federal or state participation, and one-hundred percent (100%) of the costs resulting from additional work on the PWP performed solely at the request of the Local Government. If the ineligible or additional work is preliminary engineering, the payment shall be made at least thirty (30) days prior to the beginning of preliminary engineering work on the PWP. If the ineligible or additional work is for construction or construction engineering, the payment shall be made at least forty-five (45) days prior to the date set for receipt of bids for construction of the PWP.

15. Notices

All notices to either party shall be delivered personally or sent by certified or U.S. mail, postage prepaid, addressed to that party at the following address:

State: Director, Bridge Division
Texas Department of Transportation
125 E. 11th Street
Austin, Texas 78701

Local Government: County Judge
Wise County
101 N. Trinity
Decatur, Texas 76234

All notices shall be deemed given on the date delivered in person or deposited in the mail, unless otherwise provided by this agreement. Either party may change the

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above address by sending written notice of the change to the other party. Either party may request in writing that notices shall be delivered personally or by certified U.S. mail, and that request shall be carried out by the other party.

16. Legal Construction

In case 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.

17. Responsibilities of the Parties

The parties to this Agreement agree that no 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.

18. 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.

19. 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.

20. 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 subject matter of this Agreement.

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- 21. Office of Management and Budget (OMB) 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.
- 22. 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.
- 23. Inspection of Books and Records**
The parties to the Agreement shall maintain all books, documents, papers, accounting records, and other documentation relating to costs incurred under this Agreement and shall make such materials available to the State, the Local Government, and, if federally funded, the Federal Highway Administration (FHWA) and the U.S. Office of the Inspector General, or their duly authorized representatives, for review and inspection at its office during the contract period and for four (4) years from the date of completion of work defined under this contract or until any impending litigation or claims are resolved. Additionally, the State, the Local Government, the FHWA, and their duly authorized representatives shall have access to all the governmental records that are directly applicable to this Agreement for the purpose of making audits, examinations, excerpts, and transcriptions.
- 24. Civil Rights Compliance**
The parties to this Agreement shall comply with the regulations of the U.S. Department of Transportation as they relate to nondiscrimination (49 CFR Part 21 and 23 CFR Part 200), 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 (DBE) Program Requirements**

 - A. The parties shall comply with the Disadvantaged Business Enterprise Program requirements established in 49 CFR Part 26.
 - B. The Local Government shall adopt, in its totality, the State's federally approved DBE program.
 - C. The Local Government shall set an appropriate DBE goal consistent with the State's DBE guidelines and in consideration of the local market, project size, and nature of the goods or services to be acquired. The Local Government shall have final decision-making authority regarding the DBE goal and shall be responsible for documenting its actions.

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- D. The Local Government shall follow all other parts of the State's DBE program referenced in TxDOT Form 2395, Memorandum of Understanding Regarding the Adoption of the Texas Department of Transportation's Federally-Approved Disadvantaged Business Enterprise by Entity and attachments found at web address http://ftp.dot.state.tx.us/pub/txdot-info/bop/dbe/mou/mou_attachments.pdf.
- E. The Local Government shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any U.S. Department of Transportation (DOT)-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Local Government shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non-discrimination in award and administration of DOT-assisted contracts. The State's DBE program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Local Government of its failure to carry out its approved program, the State may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).
- F. Each contract the Local Government signs with a contractor (and each subcontract the prime contractor signs with a sub-contractor) must include the following assurance: *The contractor, sub-recipient, or sub-contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this agreement, which may result in the termination of this agreement or such other remedy as the recipient deems appropriate.*

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 Local Government certifies that it is not currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549 and further certifies that it will not do business with any party that is currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549. The parties to this contract shall

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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, each signatory certifies to the best of that signatory's 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 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 sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and all sub-recipients shall certify and disclose accordingly. 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. Federal Funding Accountability and Transparency Act Requirements

- A. Any recipient of funds under this agreement agrees to comply with the Federal Funding Accountability and Transparency Act (FFATA) and implementing regulations at 2 CFR Part 170, including Appendix A. This agreement is subject to the following award terms: <http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22705.pdf> and <http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22706.pdf>.
- B. The Local Government agrees that it shall:
 - 1. Obtain and provide to the State, a Central Contracting Registry (CCR) number (Federal Acquisition Regulation, Part 4, Sub-part 4.1100) if this award

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provides for more than \$25,000 in Federal funding. The CCR number may be obtained by visiting the CCR web-site whose address is:

<https://www.sam.gov/portal/public/SAM/>;

2. Obtain and provide to the State a Data Universal Numbering System (DUNS) number, a unique nine-character number that allows the federal government to track the distribution of federal money. The DUNS number may be requested free of charge for all businesses and entities required to do so by visiting the Dun & Bradstreet (D&B) on-line registration website <http://fedgov.dnb.com/webform/>; and
3. Report the total compensation and names of its top five (5) executives to the State if:
 - i. More than 80% of annual gross revenues are from the Federal government, and those revenues are greater than \$25,000,000; and
 - ii. The compensation information is not already available through reporting to the U.S. Securities and Exchange Commission.

29. 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.

30. Local Government Restrictions

In the case that the Local Government has an existing, future, or proposed local ordinance, commissioners court order, rule, policy, or other directive that is more restrictive than the state or federal regulations that results in an increase cost to the State for the project, the local government is responsible for all increased costs associated with the ordinance, order, policy, directive, or change.

31. Single Audit Report

- A. The parties shall comply with the requirements of the Single Audit Act of 1984, P.L. 98-502, ensuring that the single audit report includes the coverage stipulated in OMB Circular A-133.
- B. If threshold expenditures 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 East 11th Street, Austin, TX 78701 or contact TxDOT's Audit Office at <http://www.txdot.gov/inside-txdot/office/audit/contact.html>. The expenditure threshold for fiscal years beginning prior to December 31, 2014 is \$500,000; the expenditure threshold for fiscal years beginning on or after December 31, 2014 is \$750,000.

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- C. If expenditures are less than the threshold during the Local Government's fiscal year, the Local Government must submit a statement to TxDOT's Audit Office as follows: "We did not meet the \$_____ expenditure threshold and therefore, are not required to have a single audit performed for FY_____."
- D. For each year the project remains open for federal funding expenditures, the Local Government will be responsible for filing a report or statement as described above. The required annual filing shall extend throughout the life of the agreement, unless otherwise amended or the project has been formally closed out and no charges have been incurred within the current fiscal year.

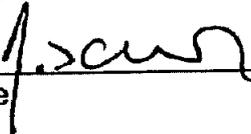
32. Signatory Warranty

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

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

THE LOCAL GOVERNMENT

Signature 

J.D. Clark
Typed or Printed Name

County Judge
Title

11/24/2014
Date

THE STATE OF TEXAS


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

12/8/14
Date

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ATTACHMENT A RESOLUTION OR ORDINANCE OF LOCAL GOVERNMENT

RESOLUTION

FE 15-04

The State of Texas
County of Wise

WHEREAS, the federal off-system bridge program is administered by the Texas Department of Transportation (the State) to replace or rehabilitate structurally deficient and functionally obsolete (collectively referred to as deficient) bridges located on public roads and streets off the designated state highway system; and

WHEREAS, Wise County, hereinafter referred to as the Local Government owns a bridge located at CR 2327 at Tributary to Black Creek, National Bridge Inventory (NBI) Structure Number 02-249-AA02-41-001, Local Designation Number _____; and

WHEREAS, a project to remedy the bridge is included in the currently approved program of projects as authorized by Texas Transportation Commission Minute Order Number 113943 dated 6/30/2014, Control-Section-Job (CSJ) Number 0902-20-111; and

WHEREAS, the usual fund participation ratio for projects on such program is 80 percent federal, 10 percent state and 10 percent Local Government; and

WHEREAS, Texas Administrative Code, Title 43, Section 15.55(d) (43 TAC Section 15.55(d)) provides that under specified conditions the 10 percent Local Government match fund participation requirement may be waived with agreement by the Local Government to perform, or cause to be performed, an equivalent dollar amount of structural improvement work on other deficient bridges or deficient mainline cross-drainage structures within its jurisdiction, such a project of structural improvement work being referred to as an "equivalent-match project"; and

WHEREAS, the estimated local match fund participation requirement on the approved federal off-system bridge project is \$67,966.86 (dollars), hereinafter referred to as the "participation-waived" project, such participation requirement the Local Government proposes be waived and in return perform or cause to be performed equivalent-match project structural improvement work.

CSJ # 0902-20-111
 District # 02
 Code Chart 64 # 50249
 Project: CR 2327 at Tributary to
 Black Creek
 NBI Structure # 02-249-AA02-41-001
 Federal Highway Administration
 CFDA # 20.205
 Not Research and Development

ATTACHMENT A

THEREFORE, BE IT RESOLVED that the Local Government perform, or cause to be performed, the following equivalent-match project(s) in return for waiver of the local match fund participation requirement on the approved federal off-system bridge program (participation-waived) project not yet awarded:

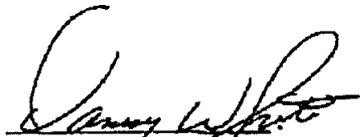
| Location (and structure identification number, if applicable) | On School Bus Route? (Yes/No) | Historic Bridge? (Yes/No) | Description of Structural or Safety Improvement Work | Estimated Cost |
|---|-------------------------------|---------------------------|--|--------------------|
| CR 1875 @ Trib. of Spring Creek, Approx. 0.2 miles North of FM 2127 NBI: 02-249-AA01-64-001 | Yes | No | Replace Structure | \$75,250.00 |
| Total | | | | \$75,250.00 |
| EMP work credited to this PWP* | | | | \$67,968.88 |
| Balance of EMP work available to associated PWPs | | | | N/A |
| Associated PWPs CSJs | | | Amount to be Credited to Associated PWPs | |
| N/A | | | N/A | |

BE IT FURTHER RESOLVED that in receiving this waiver the Local Government acknowledges its obligation to conform with all conditions of 43 TAC Section 15.55(d); such conditions that include but are not restricted to the following:

1. The Local Government must be currently in compliance with load posting and closure regulations as defined in National Bridge Inspection Standards under US Code of Federal Regulations, Title 23, Section 650.303.
2. The equivalent-match project work increases the load capacity of the existing bridge or other mainline cross-drainage structure, or upgrades the structure to its original load capacity with a minimum upgrade to safely carry school bus loading if located on a school bus route.
3. In performing, or causing to be performed, the equivalent-match project(s), the Local Government assumes all responsibilities for engineering and construction, and complying with all applicable state and federal environmental regulations and permitting requirements for the structures being improved.
4. The work on the proposed equivalent-match project(s) has not begun and will not begin until the local match fund participation waiver approval process has been completed.
5. The Local Government will be allowed three years after the contract award of the participation-waived project to complete the structural improvement work on the equivalent-match project(s).
6. Should this waiver request be approved, an appropriate written agreement or amendment to a previously executed agreement will be executed between the State and Local Government

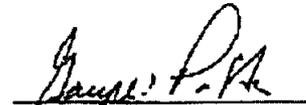
CSJ # 0902-20-111
District # 02
Code Chart 64 # 50249
Project: CR 2327 at Tributary to
Black Creek
NBI Structure # 02-249-AA02-41-001
Federal Highway Administration
CFDA # 20.205
Not Research and Development

ATTACHMENT A

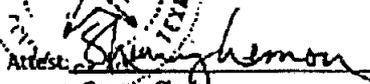

Commissioner Precinct 1


Commissioner Precinct 2


Commissioner Precinct 3


Commissioner Precinct 4

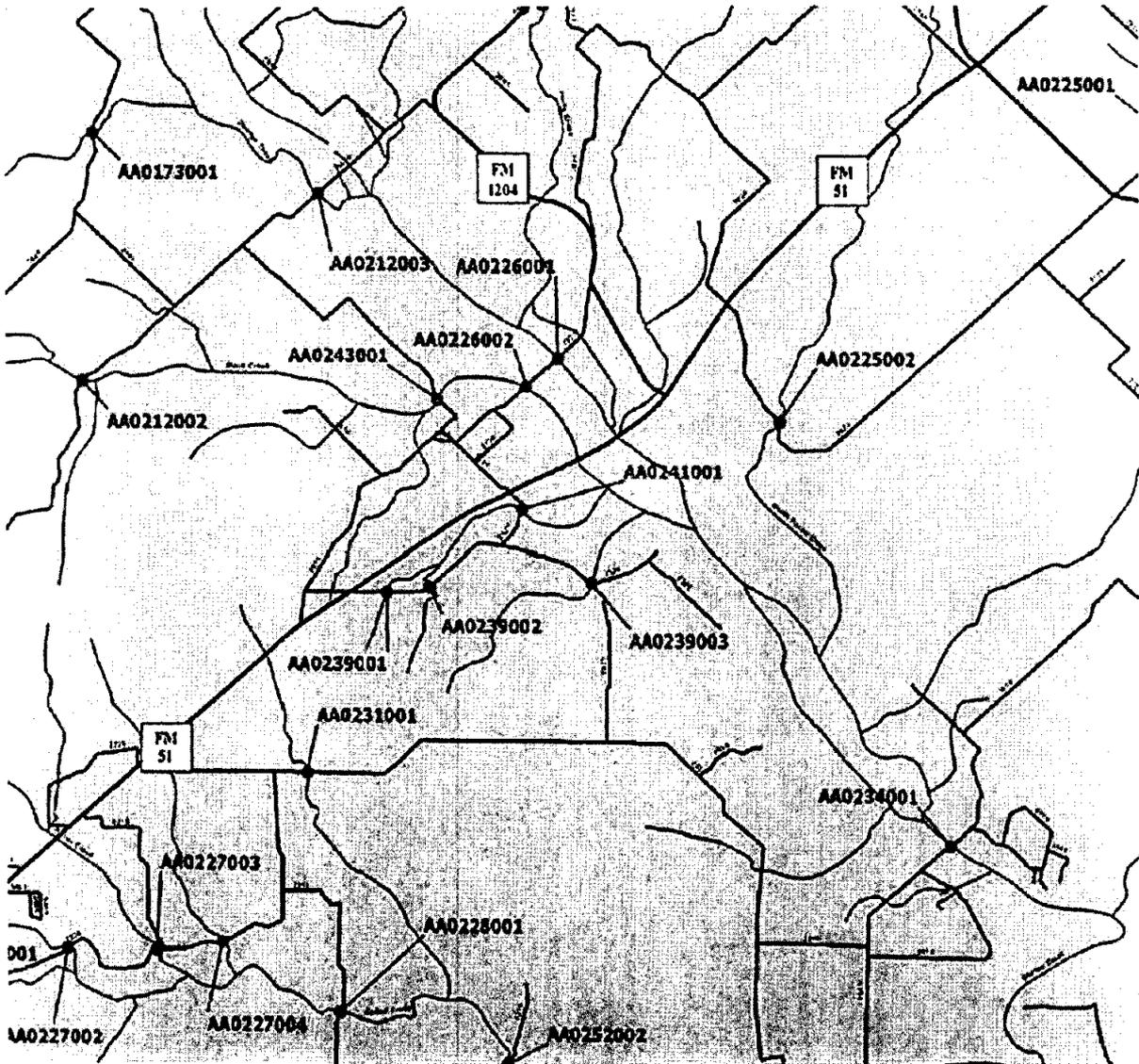


County Judge
Attest: 
County Clerk

Sherry Lemen
Ex-Officio Clerk of Commissioners Court
County Clerk, Wise County

CSJ # 0902-20-111
District # 02
Code Chart 64 # 50249
Project: CR 2327 at Tributary to
Black Creek
NBI Structure # 02-249-AA02-41-001
Federal Highway Administration
CFDA # 20.205
Not Research and Development

ATTACHMENT B PROJECT LOCATION MAP

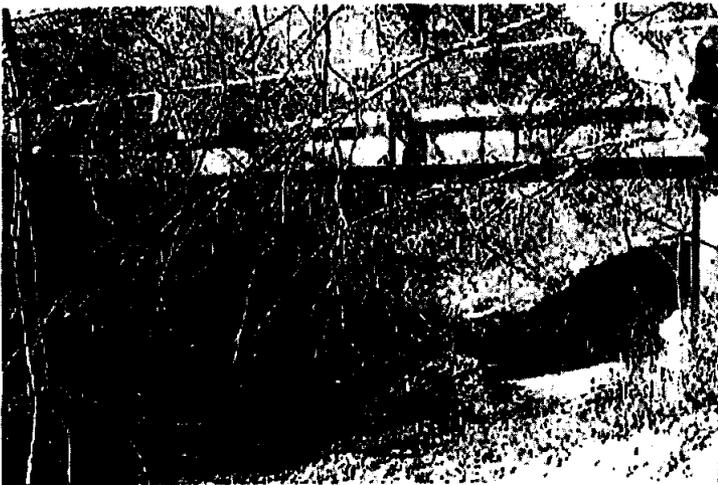


CSJ # 0902-20-111
District # 02
Code Chart 64 # 50249
Project: CR 2327 at Tributary to
Black Creek
NBI Structure # 02-249-AA02-41-001
Federal Highway Administration
CFDA # 20.205
Not Research and Development

ATTACHMENT B (CON'T)



Date: 1/21/2014
District: 02
County: 249
Control-Sec: AA02-41
Str. No: 001
Route: CR 2327 - PCT 1
Feature Crossed:
TR TO BLACK CREEK
View 1
ROADWAY OVER BRIDGE
(LOOKING NORTH)



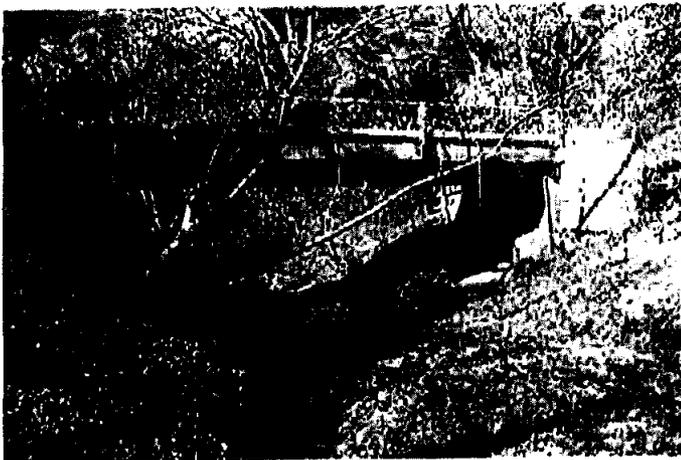
View 2
ELEVATION (LOOKING
SOUTHWEST)

CSJ # 0902-20-111
District # 02
Code Chart 64 # 50249
Project: CR 2327 at Tributary to
Black Creek
NBI Structure # 02-249-AA02-41-001
Federal Highway Administration
CFDA # 20.205
Not Research and Development

ATTACHMENT B (CON'T)



Date: 1/21/2014
District: 02
County: 249
Control-Sec: AA02-41
Str. No: 001
Route: CR 2327 - PCT 1
Feature Crossed:
TR TO BLACK CREEK
View 3
SUPERSTRUCTURE
(LOOKING SOUTH)



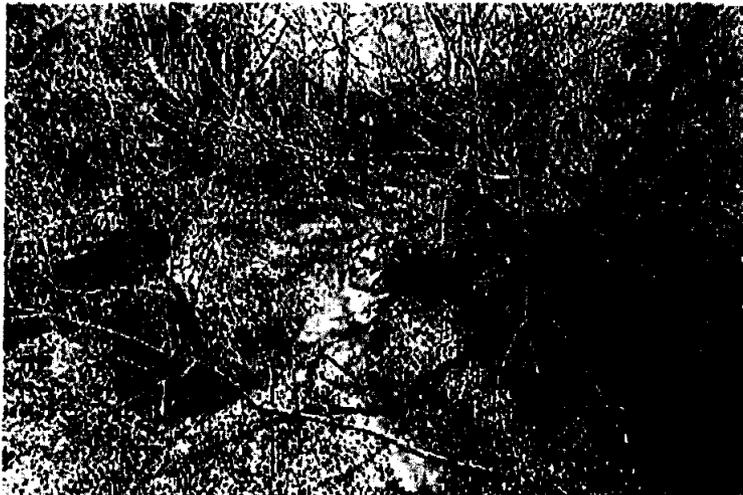
View 4
STREAM (LOOKING WEST)

CSJ # 0902-20-111
District # 02
Code Chart 64 # 50249
Project: CR 2327 at Tributary to
Black Creek
NBI Structure # 02-249-AA02-41-001
Federal Highway Administration
CFDA # 20.205
Not Research and Development

ATTACHMENT B (CON'T)



Date: 1/21/2014
District: 02
County: 249
Control-Sec: AA02-41
Str. No: 001
Route: CR 2327 - PCT 1
Feature Crossed:
TR TO BLACK CREEK
View 5
UPSTREAM VIEW FROM
BRIDGE (LOOKING WEST)



View 6
DOWNSTREAM VIEW
FROM BRIDGE (LOOKING
SOUTHEAST)

CSJ # 0902-20-111
District # 02
Code Chart 64 # 50249
Project: CR 2327 at Tributary to
Black Creek
NBI Structure # 02-249-AA02-41-001
Federal Highway Administration
CFDA # 20.205
Not Research and Development

ATTACHMENT B (CON'T)



Date: 1/21/2014
District: 02
County: 249
Control-Sec: AA02-41
Str. No: 001
Route: CR 2327 - PCT 1
Feature Crossed: TR TO BLACK CREEK
View 7
NORTH APPROACH LOAD
POSTING SIGN (LOOKING
SOUTHWEST)



View 8
SOUTH APPROACH LOAD
POSTING SIGN IS MISSING
(LOOKING NORTH)

CSJ # 0902-20-111
District # 02
Code Chart 64 # 50249
Project: CR 2327 at Tributary to
Black Creek
NBI Structure # 02-249-AA02-41-001
Federal Highway Administration
CFDA # 20.205
Not Research and Development

ATTACHMENT B (CON'T)



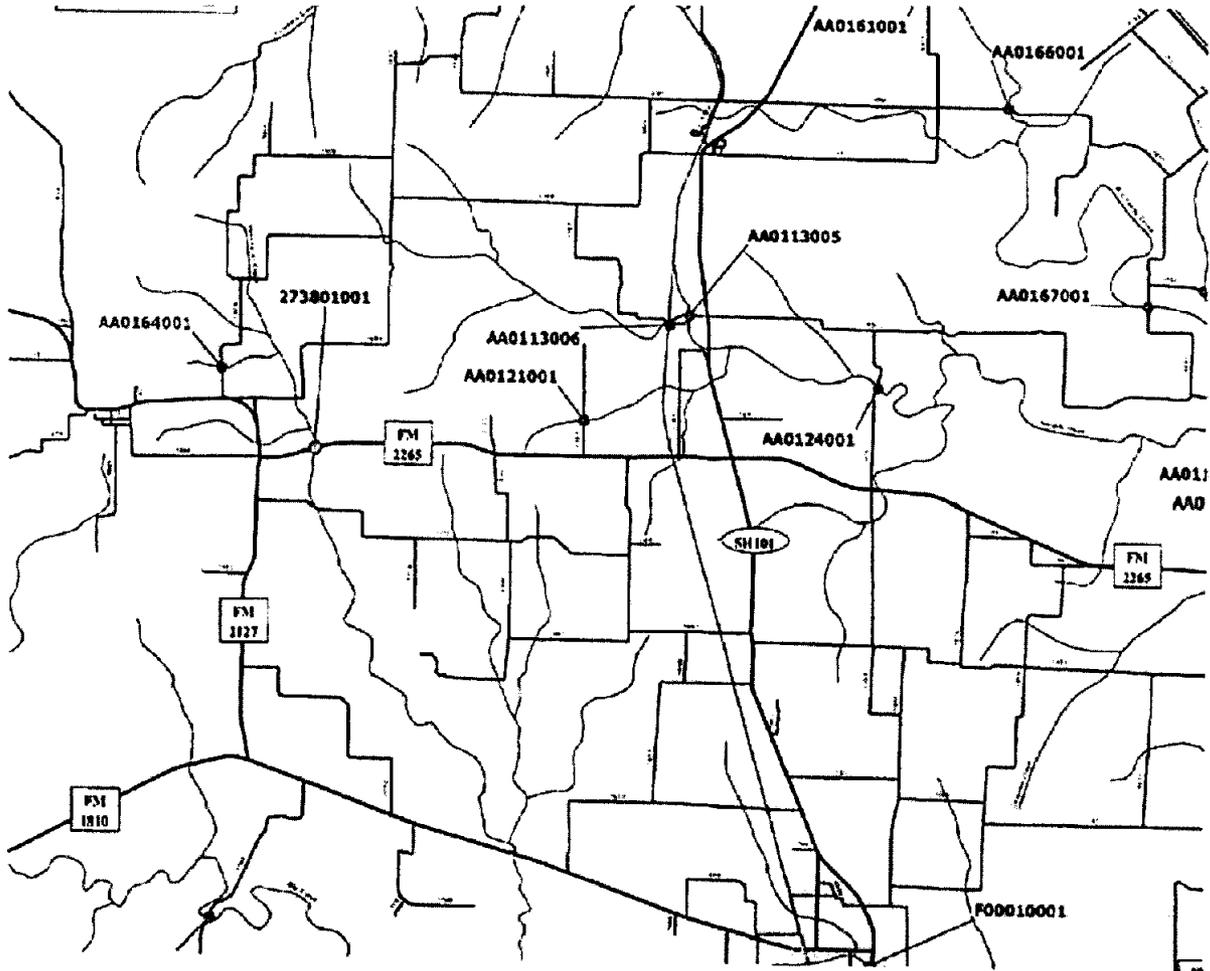
Dtmo: 1/21/2014
District: 02
County: 24B
Control-Soc: AA02-41
Str. No: 001
Route: CR 2327 - PCT 1
Feature Crossed:
TR TO BLACK CREEK
View 8
EROSION AND
UNDERMINING OF
BACKWALL AND
WINGWALL AT
SOUTHEAST CORNER
(LOOKING SOUTHWEST)



View 10
DRIFT AND DEBRIS
COLLECTING UNDER
BRIDGE (LOOKING NORTH)

CSJ # 0902-20-111
District # 02
Code Chart 64 # 50249
Project: CR 2327 at Tributary to
Black Creek
NBI Structure # 02-249-AA02-41-001
Federal Highway Administration
CFDA # 20.205
Not Research and Development

ATTACHMENT B (CON'T)



CSJ # 0902-20-111
District # 02
Code Chart 64 # 50249
Project: CR 2327 at Tributary to
Black Creek
NBI Structure # 02-249-AA02-41-001
Federal Highway Administration
CFDA # 20.205
Not Research and Development

ATTACHMENT B (CON'T)

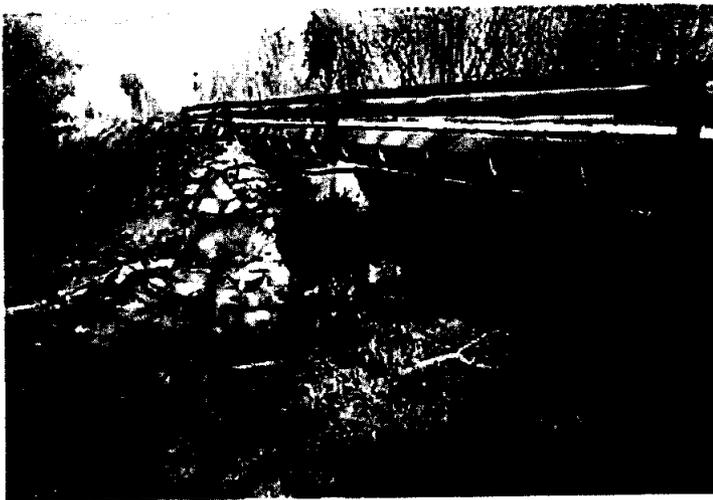


DATE: 21-Jan-2014
COUNTY: 249
CONT-SEC: AA01-64
STR: 001

ROADWAY OVER BRIDGE

LOOKING NORTH

PHOTO 1



ELEVATION

LOOKING NORTH

PHOTO 2

CSJ # 0902-20-111
District # 02
Code Chart 64 # 50249
Project: CR 2327 at Tributary to
Black Creek
NBI Structure # 02-249-AA02-41-001
Federal Highway Administration
CFDA # 20.205
Not Research and Development

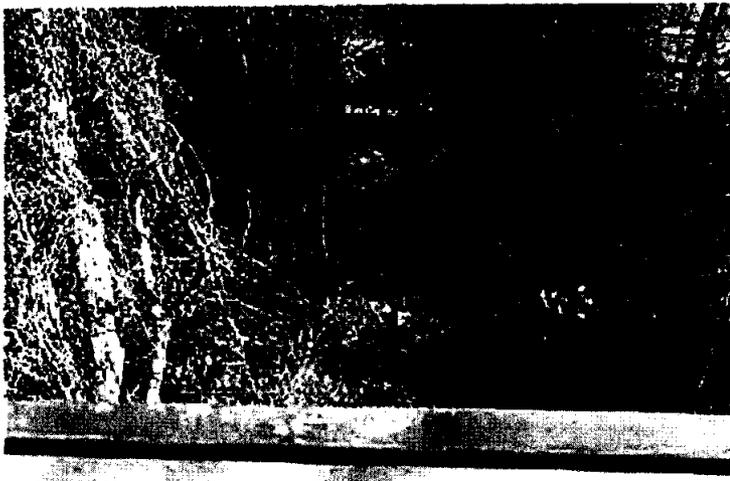
ATTACHMENT B (CON'T)



DATE: 21-Jan-2014
COUNTY: 249
CONT-SEC: AA01-64
STR. 001

UPSTREAM VIEW
FROM BRIDGE
LOOKING WEST

PHOTO 3

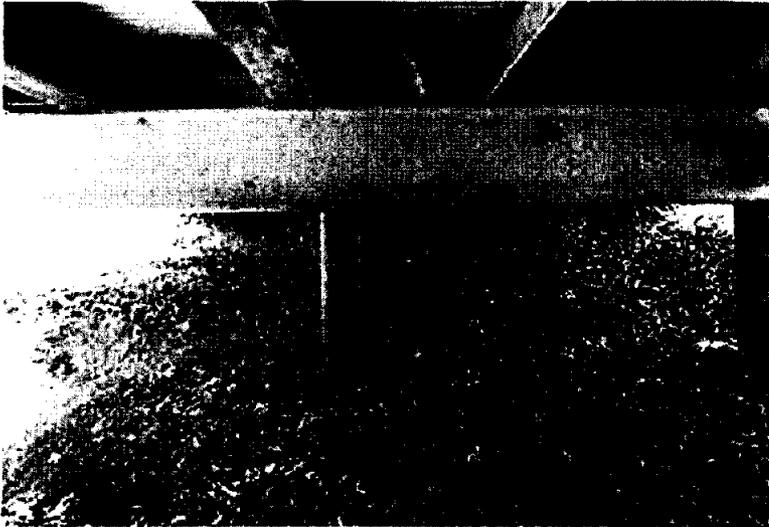


DOWNSTREAM VIEW
FROM BRIDGE
LOOKING EAST

PHOTO 4

CSJ # 0902-20-111
District # 02
Code Chart 64 # 50249
Project: CR 2327 at Tributary to
Black Creek
NBI Structure # 02-249-AA02-41-001
Federal Highway Administration
CFDA # 20.205
Not Research and Development

ATTACHMENT B (CON'T)



DATE: 21-Jan-2014
COUNTY: 249
CONT-SEC: AA01-64
STR: 001

SUPERSTRUCTURE

LOOKING NORTH

PHOTO 5



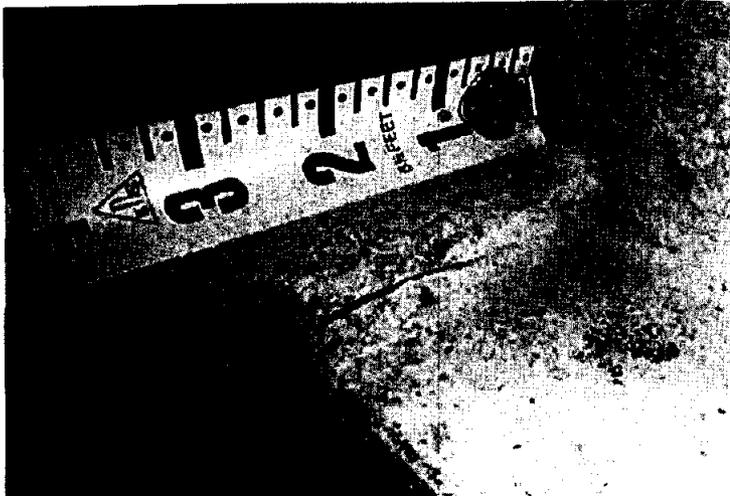
STREAM UNDER BRIDGE

LOOKING EAST

PHOTO 8

CSJ # 0902-20-111
District # 02
Code Chart 64 # 50249
Project: CR 2327 at Tributary to
Black Creek
NBI Structure # 02-249-AA02-41-001
Federal Highway Administration
CFDA # 20.205
Not Research and Development

ATTACHMENT B (CON'T)

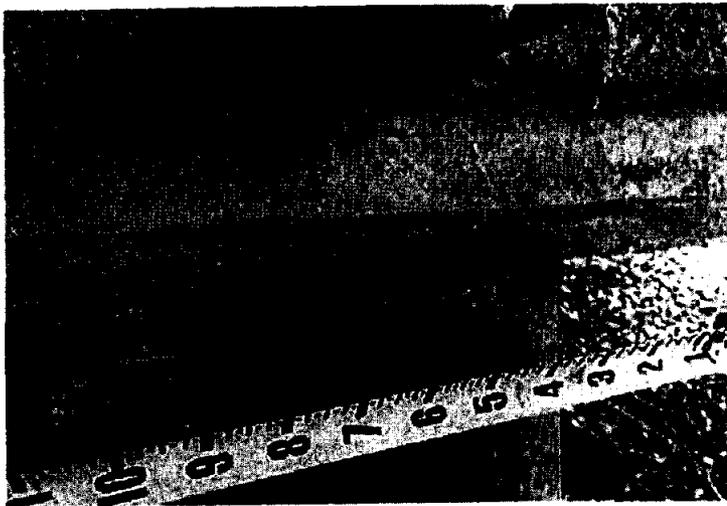


DATE: 21-Jan-2014
COUNTY: 249
CONT-SEC: AA01-E4
STR: 001

PILE 3 (FROM W) SOUTH
ABUT CAP CONNECTION

PHOTO 7

BROKEN WELD AT TOP OF PILE 3 AT SOUTH ABUTMENT CAP



BENT 2 CAP & EAST
PILE GAP

PHOTO 8

GAP BETWEEN TOP OF EAST PILE AND BOTTOM OF BENT 2 CAP

CSJ # 0902-20-111
District # 02
Code Chart 64 # 50249
Project: CR 2327 at Tributary to
Black Creek
NBI Structure # 02-249-AA02-41-001
Federal Highway Administration
CFDA # 20.205
Not Research and Development

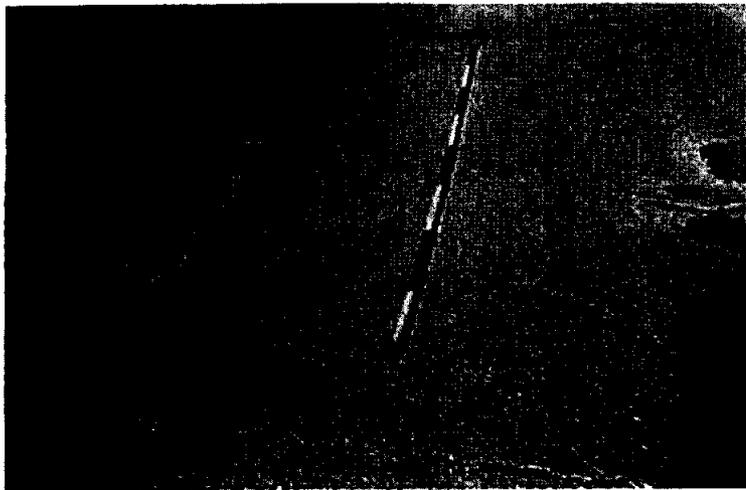
ATTACHMENT B (CON'T)



DATE: 21-Jan-2014
COUNTY: 249
CONT-SEC: AA01-64
STR: 001

UPSTREAM DEBRIS

PHOTO 9



TRANSVERSE DECK
CRACKING

PHOTO 10

CSJ # 0902-20-111
 District # 02
 Code Chart 64 # 50249
 Project: CR 2327 at Tributary to
 Black Creek
 NBI Structure # 02-249-AA02-41-001
 Federal Highway Administration
 CFDA # 20.205
 Not Research and Development

**ATTACHMENT D
 ESTIMATE OF DIRECT COSTS**

| | <u>Estimated Cost</u> | <u>Local Government Participation</u> |
|---|---------------------------|---|
| Preliminary Engineering (PE) | <u>(1) \$ 84,319.79</u> | |
| Ten Percent (10%) or EDC Adjusted Percent of PE for Local Government Participation | | <u>(3) \$8,431.98</u> |
| Construction | <u>\$511,029.00</u> | |
| Engineering and Contingency (E&C) | <u>\$ 84,319.79</u> | |
| The Sum of Construction and E&C | <u>(2) \$595,348.79</u> | |
| Ten Percent (10%) or EDC Adjusted Percent of the Sum of Construction and E&C for Local Government Participation | | <u>(4) \$59,534.88</u> |
| Amount of Advance Funds Paid by Local Government * | | <u>(5)</u> |
| Amount of Advance Funds to be Paid by Local Government * | | <u>(6)</u> |
| Balance of Local Government Participation which is to be Waived where the Project is a PWP | | <u>(3+4-5-6) \$67,966.86</u> |
| Total Project Direct Cost | <u>(1+2) \$679,668.58</u> | |

*Credited Against Local Government Participation Amount

If this Project is to be a PWP, Amount of EMP Work Being Credited to this PWP as Shown
 on Attachment C. \$67,966.86



125 EAST 11TH STREET | AUSTIN, TEXAS 78701-2483 | (512) 463-8700 | WWW.TXDOT.GOV

July 1, 2014

RECEIVED
SEP 23 2014

SUBJECT: Local Fund Participation-Waived Federal Off-System Bridge
Program Projects and Equivalent-Match Projects

BY: CCD

Bridge Limits
CSJ: 0902-20-111
NBI: 02-249-AA02-41-001

The Honorable Glenn Hughes
County Judge
Wise County
101 N. Trinity
Decatur, TX 76234

Dear Judge Hughes:

Texas Administrative Code, Title 43, Section 15.55(d) (43 TAC Section 15.55(d)) is now in effect providing that the usual 10 percent local match fund participation requirement may be waived on an authorized federal off-system bridge program project, providing the Local Government agrees to perform structural improvement work in a dollar-amount equivalent to the local participation, on other deficient bridge(s) or cross-drainage structure(s) within its jurisdiction. The project on which the local fund participation requirement is to be waived is referred to as the "participation-waived project", while the project or projects on which the Local Government agrees to perform structural improvement work in return for the participation waiver, is referred to as the "equivalent-match project(s)."

With written request by the Local Government, consideration may be given to such waiver on any federal off-system bridge project within the Local Government's jurisdiction or an adjacent or overlapping jurisdiction that is currently authorized for construction, but the contract for construction has not yet been awarded. However, the department is unable to reimburse escrow funds that have already been paid by the Local Government.

The waiver request must include the location(s), description of structural improvement work proposed, and estimated cost for the proposed equivalent-match project(s), together with a copy of the Local Governing body's resolution.

Such requests will be reviewed and considered according to the requirements of 43 TAC Section 15.55(d), and the Local Government will be notified accordingly. If waiver approval is granted, such approval must then be manifested through written agreement executed between the State and the Local Government.

OUR GOALS
MAINTAIN A SAFE SYSTEM • ADDRESS CONGESTION • CONNECT TEXAS COMMUNITIES • BEST IN CLASS STATE AGENCY
An Equal Opportunity Employer

For your use, attached are examples of a form letter requesting the waiver and a resolution form adopting the waiver request. Please contact Rose Rodriguez at (817) 370-6997 if further information is needed in preparing or considering the preparation of a waiver request.

Sincerely,



Loyl C. Bussell, P.E.
Transportation Planning & Development Director
Fort Worth District

Attachments: Example Form Letter Requesting Waiver
Example Local Governing Body Resolution Form Adopting Waiver Request

July 1, 2014

County: Wise
Project: Bridge Replacement
Road/Street: CR 2327 over Tributary to Black Creek
NBI Str. No.: 02-249-AA02-41-001
Local Desig. No.

SUBJECT: Request for Waiver of Local Match Fund
Participation Requirement on Federal
Off-System Bridge Program Project

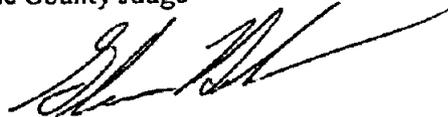
Brian R. Barth, P.E.
District Engineer
TxDOT Fort Worth
2501 SW Loop 820
Fort Worth, TX 76133

Dear Mr. Barth:

Under the provisions of Texas Administrative Code, Title 43, Section 15.55(d), this Local Government requests waiver of the local match fund participation requirement on the above referenced federal off-system bridge program project referred to as the "participation-waived" project. In return for waiver of this participation, it is proposed that our governing body perform, or cause to be performed, an equivalent dollar amount of structural improvement work on other deficient bridge(s) or deficient mainlane cross-drainage structure(s), referred to as "equivalent-match project(s)", within the jurisdiction of our governing body.

A copy of the appropriate required resolution adopted by our governing body is attached.

The Honorable Glenn Hughes
Wise County Judge



Attachment: Resolution

For TxDOT Use Only

_____ Waiver Approved
_____ Waiver Disapproved _____

RESOLUTION

FY 15-0 4

The State of Texas
County of Wise

WHEREAS, the federal off-system bridge program is administered by the Texas Department of Transportation (the State) to replace or rehabilitate structurally deficient and functionally obsolete (collectively referred to as deficient) bridges located on public roads and streets off the designated state highway system; and

WHEREAS, Wise County, hereinafter referred to as the Local Government owns a bridge located at CR 2327 at Tributary to Black Creek, National Bridge Inventory (NBI) Structure Number 02-249-AA02-41-001, Local Designation Number _____; and

WHEREAS, a project to remedy the bridge is included in the currently approved program of projects as authorized by Texas Transportation Commission Minute Order Number 113948 dated 6/30/2014, Control-Section-Job (CSJ) Number 0902-20-111; and

WHEREAS, the usual fund participation ratio for projects on such program is 80 percent federal, 10 percent state and 10 percent Local Government; and

WHEREAS, Texas Administrative Code, Title 43, Section 15.55(d) (43 TAC Section 15.55(d)) provides that under specified conditions the 10 percent Local Government match fund participation requirement may be waived with agreement by the Local Government to perform, or cause to be performed, an equivalent dollar amount of structural improvement work on other deficient bridges or deficient mainlane cross-drainage structures within its jurisdiction, such a project of structural improvement work being referred to as an "equivalent-match project"; and

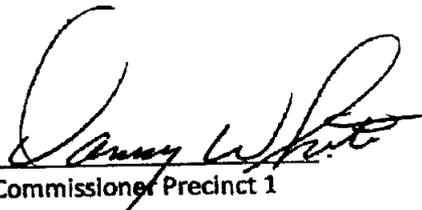
WHEREAS, the estimated local match fund participation requirement on the approved federal off-system bridge project is \$67,966.86 (dollars), hereinafter referred to as the "participation-waived" project, such participation requirement the Local Government proposes be waived and in return perform or cause to be performed equivalent-match project structural improvement work.

THEREFORE, BE IT RESOLVED that the Local Government perform, or cause to be performed, the following equivalent-match project(s) in return for waiver of the local match fund participation requirement on the approved federal off-system bridge program (participation-waived) project not yet awarded:

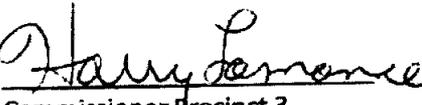
| Location (and structure identification number, if applicable) | On School Bus Route? (Yes/No) | Historic Bridge? (Yes/No) | Description of Structural or Safety Improvement Work | Estimated Cost |
|---|-------------------------------|---------------------------|--|--------------------|
| CR 1875 @ Trib. of Spring Creek, Approx. 0.2 miles North of FM 2127 NBI: 02-249-AA01-64-001 | Yes | No | Replace Structure | \$75,250.00 |
| | | | | |
| Total | | | | \$75,250.00 |
| EMP work credited to this PWP* | | | | \$67,966.86 |
| Balance of EMP work available to associated PWPs | | | | N/A |
| Associated PWPs CSJs | | | Amount to be Credited to Associated PWPs | |
| N/A | | | N/A | |

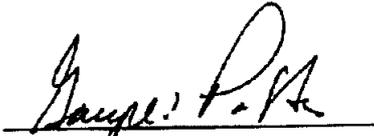
BE IT FURTHER RESOLVED that in receiving this waiver the Local Government acknowledges its obligation to conform with all conditions of 43 TAC Section 15.55(d); such conditions that include but are not restricted to the following:

1. The Local Government must be currently in compliance with load posting and closure regulations as defined in National Bridge Inspection Standards under US Code of Federal Regulations, Title 23, Section 650.303.
2. The equivalent-match project work increases the load capacity of the existing bridge or other mainlane cross-drainage structure, or upgrades the structure to its original load capacity with a minimum upgrade to safely carry school bus loading if located on a school bus route.
3. In performing, or causing to be performed, the equivalent-match project(s), the Local Government assumes all responsibilities for engineering and construction, and complying with all applicable state and federal environmental regulations and permitting requirements for the structures being improved.
4. The work on the proposed equivalent-match project(s) has not begun and will not begin until the local match fund participation waiver approval process has been completed.
5. The Local Government will be allowed three years after the contract award of the participation-waived project to complete the structural improvement work on the equivalent-match project(s).
6. Should this waiver request be approved, an appropriate written agreement or amendment to a previously executed agreement will be executed between the State and Local Government.


Commissioner Precinct 1

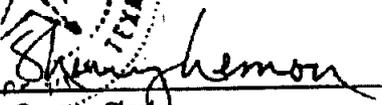

Commissioner Precinct 2


Commissioner Precinct 3


Commissioner Precinct 4




County Judge

Attest: 
County Clerk

Sherry Lemon
Ex-Officio Clerk of Commissioners Court
County Clerk, Wise County