



**RCA
CITY OF AUSTIN
RECOMMENDATION FOR COUNCIL ACTION**

**AGENDA ITEM NO.: 21
AGENDA DATE: Thu 12/15/2005
PAGE: 1 of 1**

SUBJECT: Approve a resolution to amend an interlocal agreement between the City of Austin and the Texas Department of Transportation (TxDOT) for improvements to FM 1826 at Alta Mira Subdivision.

AMOUNT & SOURCE OF FUNDING: Funding in the amount of \$294,323 has been provided by D R Horton-Emerald Ltd. The escrow account for this project has a \$298,381.04 balance.

FISCAL NOTE: There is no unanticipated fiscal impact. A fiscal note is not required.

REQUESTING Public Works
DEPARTMENT:

**DIRECTOR'S
AUTHORIZATION:** Sondra Creighton

FOR MORE INFORMATION CONTACT: Richard Kroger, 974-7219; Laura Bohl, 974-7064

PRIOR COUNCIL ACTION: November 18, 2004.

BOARD AND COMMISSION ACTION: N/A

PURCHASING: N/A

MBE / WBE: N/A

The purpose of this agreement is to construct left turn lanes on FM 1826 at Alta Mira Subdivision. This is a project which the private developer of this subdivision, D R Horton-Emerald Ltd., seeks to have the State construct on this State-controlled roadway. Since a provision of State law prevents the State from directly entering into an agreement with the developer, the developer was required to enter into an agreement with the City to provide the necessary funding, and the City entered into an agreement with TxDOT to convey this funding.

Agreements with the developer and the State were previously approved by City Council on November 18, 2004. The agreement with the State was for the \$209,098.41 estimated cost of the project, including \$185,870.21 for construction and the remainder for State administrative and indirect costs. The agreement with the developer was for this \$209,098.41, plus \$81,166.03 for contingencies and \$8,166.60 for City administrative and indirect costs. The project has been bid by the State, and the low bid was \$322,372.80. The State is willing to fix the cost, waive its \$23,228.20 administrative and indirect costs, and fund an additional \$28,049.80 of the project costs plus any cost increases. The State has requested that the City provide from the funds already provided to the City by the developer, \$294,323.00, which includes the City contingency funds and \$4,058.86 of the allowance for City indirect and administrative costs. The agreement with the State must be amended to provide to the State these funds from those already provided to the City by the developer.

This agreement does not result in any cost to the City since City administrative and indirect costs will not exceed the \$4,107.74 that will remain for these costs. The developer supports this amendment.



Texas Department of Transportation

P.O. DRAWER 15426 • AUSTIN, TEXAS 78761-5426 • (512)832-7000

September 28, 2005

County: Travis
CSJ: 1754-01-015
Project: CC 1754-01-015
FM 1826 at Alta Mira Subdivision

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TRANS. DIV.

David Gerard
Transportation Engineering Division Manager
City of Austin
P.O. Box 1088
Austin, Texas 78767-1088

Dear Mr. Gerard:

Attached are two Amendments No. 1 to the Advance Funding Agreement executed December 22, 2004 for the above project. The Amendment revises the Payment Provisions allowing a fixed amount of \$294,323.00 for construction of the left turn lane on FM 1826 at the proposed Alta Mira Subdivision. The City has provided \$209,098.41 toward the cost of the Project. The balance of funds in the amount of \$85,224.59, is due by check or warrant made payable to the Texas Department of Transportation before any work can begin by the State.

Please return the sign and dated copies to my attention for further execution. An executed copy will be returned for your records.

Thank you for your assistance. If you have any questions, please contact me at 832-7050.

Sincerely,

Patricia L. Crews-Weight, P.E.
Director of Design

Attachments

cc: Don Nyland, PE, Area Engineer
Danny Stabeno

County: Travis
CSJ: 1754-01-015
Project No: CC 1754-01-015
Location: FM 1826 at Alta Mira Subdivision

STATE OF TEXAS §
COUNTY OF TRAVIS §

 ORIGINAL

**ADVANCE FUNDING AGREEMENT
AMENDMENT # 1**

THIS AMENDMENT IS MADE BY AND BETWEEN the State of Texas, acting through the Texas Department of Transportation, hereinafter called the State, and the City of Austin, acting by and through its duly authorized officials, hereinafter called the Local Government.

WITNESSETH

WHEREAS, the State and the Local Government executed a contract on December 22, 2004, to effectuate their agreement to construct a left turn lane on FM 1826 at the proposed Alta Mira Subdivision; and,

WHEREAS, it has become necessary to amend that contract;

NOW THEREFORE, in consideration of the premises and of the mutual covenants and agreements of the parties hereto, the State and the Local Government do agree as follows:

AGREEMENT

Article 1. Description of Amended Items

Attachment A, Payment Provisions, is voided and replaced by the following:

The Local Government shall contribute a fixed amount of \$294,323.00 towards the total project cost to include construction bid items, construction engineering and inspection, administration and indirect costs. Any additional costs required to complete the project shall become the responsibility of the State. It is understood that the proposed improvements will be done by the State and the State will include only those items for the improvements as agreed upon with the Local Government. The total fixed amount shall be received by the State prior to any work done by the State.

All other provisions of the original contract are unchanged and remain in full force and effect.

Article 2. Signatory Warranty

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

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

THE LOCAL GOVERNMENT

Name of Local Government

By: _____
Signature

Printed Name

Title

Date

THE STATE OF TEXAS

Executed for the Executive Director and approved for the Texas Transportation Commission for the purpose and effect of activating and/or carrying out the orders, established policies or work programs heretofore approved and authorized by the Texas Transportation Commission.

By: _____
Name

Title

Date

RESOLUTION NO. _____

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

The City Manager is directed to approve Advance Funding Agreement Amendment #1 between the Texas Department of Transportation (TxDOT) and the City of Austin, attached as Exhibit A. This amendment revises the Payment Provisions in the Advance Funding Agreement between TxDOT and the City of Austin executed December 22, 2004, related to construction of a left turn lane on FM 1826 at the proposed Alta Mira Subdivision, to provide for a fixed amount of \$294,323.00.

ADOPTED: _____, 2005

ATTEST: _____

**Shirley A. Brown
City Clerk**