CITY OF EL PASO, TEXAS
DEPARTMENT HEAD'S SUMMARY REQUEST FOR COUNCIL ACTION (RCA)

DEPARTMENT: **Engineering**

AGENDA DATE: **April 29, 2008**

CONTACT PERSON/PHONE: **R. Alan Shubert, P.E. (541-4423)**

DISTRICT(S) AFFECTED: **Districts 6 and 7**

SUBJECT:
Resolution that the City Manager be authorized to sign a non-construction Local Project Advance Funding Agreement (LPAFA) between the City of El Paso ("City") and the State of Texas, acting by and through the Texas Department of Transportation ("State"). The scope of work for this Agreement is described as the Mission Valley Traffic Analysis Study which will identify mobility problems within the study area bound by IH-10 to the north, Loop 375 (avenue of the Americas) the toe east, Loop 375 (Cesar Chavez Highway to the south and Yarbrough Street to the west.

BACKGROUND / DISCUSSION:
Council directed, as part of the discussion on Lee Trevino, that traffic in the valley be studied to incorporate improvements along other arterials and multi-modal improvements that could be completed in the Mission Valley. This study leverages 80% federal funds with 20% local funds to conduct a study that provides short-, medium- and long-term recommendations to manage project traffic growth in the study area. Schematic design to include identification of necessary right-of-way to achieve improvements is part of the required scope of work from the consultant who is ultimately contracted to complete this work. The City of El Paso will be the project manager for the study. Total project cost is $1,083,600 and the City's portion is $204,000.

PRIOR COUNCIL ACTION:

Council has approved funding through the 2006 C.O.s for Transportation Improvement Program matches.

AMOUNT AND SOURCE OF FUNDING:

$204,000 available in project PCP06ST022, Fund 27263 – 2006 C.O.s Account 508027.

BOARD / COMMISSION ACTION:
N/A

********** REQUIRED AUTHORIZATION **********

LEGAL: (if required) _____ **FINANCE:** (if required) _____

DEPARTMENT HEAD: _____
(Example: if RCA is initiated by Engineering, client department should sign also)
Information copy to appropriate Deputy City Manager

APPROVED FOR AGENDA:

CITY MANAGER: _____ **DATE:** _____

CITY CLERK DEPT.
08 APR 21 PM 1:13

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Manager be authorized to sign a non-construction Local Project Advance Funding Agreement (LPAFA) between the City of El Paso ("City") and the State of Texas, acting by and through the Texas Department of Transportation ("State"). The scope of work for this Agreement is described as the Mission Valley Traffic Analysis Study which will identify mobility problems within the study area bound by IH-10 to the north, Loop 375 (Avenue of the Americas) to the east, Loop 375 (Cesar Chavez Highway) to the south and Yarbrough Street to the west.

ADOPTED this the _____ day of _____, 2008.

THE CITY OF EL PASO

_____
John Cook
Mayor

ATTEST:

_____
Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

Lupe Cuellar
Assistant City Attorney

APPROVED AS TO CONTENT:

Patricia D. Adauto

Patricia D. Adauto, Deputy City Manager for Development and Infrastructure Services

08 APR 21 PM 1:15
CITY CLERK DEPT.

CSJ # 0924-06-299
District # 24
Code Chart 64 #13400
Project: Mission Valley Traffic Analysis Study

CITY CLERK DEPT.
08 APR 21 PM 1:17

STATE OF TEXAS §

COUNTY OF TRAVIS §

LOCAL TRANSPORTATION PROJECT NON-CONSTRUCTION ADVANCE FUNDING AGREEMENT for a STP – Metro Mobility Project (Off-State System)

THIS Local Project Advance Funding Agreement for Non-Construction (LPAFA-NonCST) is made by and between the State of Texas, acting by and through the Texas Department of Transportation (State), and City of El Paso (Local Government).

BACKGROUND

A Master Agreement between the Local Government and the State has been adopted and states the general terms and conditions for transportation projects developed through this LPAFA-NonCST.

Federal law establishes federally funded programs for transportation improvements to implement its public purposes, including the Mission Valley Traffic Analysis Study. Federal and state laws require local governments to meet certain contract standards relating to the management and administration of State and federal funds. The Texas Transportation Commission passed Minute Order 108410, which provides for development of and funding for the Project identified in this LPAFA-NonCST. The Governing Body of the Local Government has approved entering into this LPAFA-NonCST by resolution or ordinance dated _____, which is attached and is made part of the LPAFA-NonCST as Attachment A.

THEREFORE, in consideration of the mutual promises contained in this LPAFA-NonCST, the parties agree to the following.

LPAFA-NONCST

1. **Period of the LPAFA-NonCST**
   This period of this LPAFA-NonCST is as stated in the Master Agreement, without exception.

2. **Scope of Work**
   The scope of work is the Project as detailed in Attachment B, which is attached and made part of this LPAFA-NonCST.

3. **Local Project Sources and Uses of Funds**
   a. The total estimated cost of the Project is shown in Attachment C, which is attached and made part of this LPAFA-NonCST. The State will pay for only those Project costs that have been approved by the Texas Transportation Commission. Any work done prior to federal authorization will not be eligible for reimbursement. It is the Local

Government's responsibility to verify with the State that the Federal Letter of Authority has been issued for the work covered by this LPAFA-NonCST.

b. The State will be responsible for securing the Federal and State share of the funding required for the Project. If the Local Government is due funds for expenses incurred, these funds will be reimbursed to the Local Government on a cost basis. The Local Government will be responsible for all non-federal and non-State participation costs associated with the Project, including any overruns in excess of the approved local Project budget. If 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. The State will not pay interest on any funds provided by the Local Government.

c. The Local Government shall request payment by submitting the original of an itemized invoice in a form acceptable to the State. The Local Government may submit an invoice no more frequently than monthly and no later than ninety days after incurring a cost. Each invoice shall itemize charges and shall attach documentation showing the name, hourly rate, and number of hours worked for all labor charges, the basis for allocation of any indirect costs, and copies of invoices for any direct costs over $1,000.

d. Whenever funds are paid by the Local Government to the State under this LPAFA-NonCST, 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. These funds may only be applied to the Project. 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. After final Project accounting, if 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.

e. If the Project has been approved for a fixed price or incremental payments under 43 TAC §15.52, Attachment C will clearly state the amount of the fixed price or the incremental payment schedule. If the Local government is an Economically Disadvantaged County and if the State has approved adjustments to the standard financing arrangement, Attachment C will reflect those adjustments.

f. The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the LPAFA-NonCST or indirectly through a subcontract under the LPAFA-NonCST. Acceptance of funds directly under the LPAFA-NonCST or indirectly through a subcontract under this LPAFA-NonCST 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.

CITY CLERK DEPT.
08 APR 21 PM 1:17

4. Notices

All notices to either party by the other 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:	State:
Patricia Adauto	Charles H. Berry, Jr., P.E.
Deputy City Manager	District Engineer
Development and Infrastructure Services	Texas Department of Transportation – El Paso District
2 Civic Center Plaza, City Hall, 10th Floor	
El Paso, TX. 79901	13301 Gateway Blvd. West, El Paso, TX. 79928

All notices shall be deemed given on the date delivered or deposited in the mail. 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 notices shall be delivered personally or by certified U.S. mail, and the request shall be carried out by the other party.

5. Termination

Termination of this LPAFA-NonCST shall be under the conditions as stated in the Master Agreement, without exception.

6. Amendments

Amendments to this LPAFA-NonCST shall be made as described in the Master Agreement, without exception.

7. Document and Information Exchange

The Local Government agrees to electronically deliver to the State all general notes, specifications, contract provision requirements and related documentation in a Microsoft® Word or similar document. If requested by the State, the Local Government will use the State's document template. The Local Government shall also provide a detailed project time estimate including types of activities and month in the format required by the State. This requirement applies whether the Local Government creates the documents with its own forces or by hiring a consultant or professional provider.

8. Incorporation of Master Agreement Provisions

This LPAFA Non-CST incorporates all of the governing provisions of the Master Funding Agreement in effect on the date of final execution of this LPAFA Non-CST, unless an exception has been made in this agreement.

08 APR 21 PM 1:17
CITY CLERK DEPT.

9. Signatory Warranty

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

THEREFORE, the parties have executed this LPAFA-NonCST in duplicate originals.

THE LOCAL GOVERNMENT

By: _____
Joyce Wilson, City Manager

Date: _____

APPROVED AS TO CONTENT:

Patricia D. Adauto
Patricia D. Adauto
Deputy City Manager
for Development & Infrastructure Services

APPROVED AS TO FORM:

Guadalupe Cuellar
Assistant City Attorney

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

CITY CLERK DEPT.
08 APR 21 PM 1:17

ATTACHMENT A

Resolution or Ordinance

CITY CLERK DEPT.
08 APR 21 PM 1:17

ATTACHMENT B
SCOPE OF WORK

The scope of work for this LPAFA is described as a study to identify mobility problems within the study area bound by IH-10 to the north, Loop 375 (Avenue of the Americas) to the east, Loop 375 (Cesar Chavez Highway) to the south and Yarbrough Street to the west and provide alternative improvements including short-, medium- and long-term improvements. The study will provide schematic design to identify right-of-way required, if any, and conceptual estimates of recommended improvements. Analysis for alternate modes of transportation and corresponding facilities will be incorporated into the study. Study includes public meetings to involve public in formulation of transportation alternatives within the study corridor. The Local Government is responsible for the study and work whether in-house or by procurement of a professional service contract.

CITY CLERK DEPT.
08 APR 21 PM 1:17

CSJ # 0924-06-299
District # 24
Code Chart 64 # 13400
Project: Mission Valley Traffic Analysis Study

ATTACHMENT C
PROJECT BUDGET

The following are estimated Project costs and their allocation between the parties.

Description	Federal Participation		State Participation		Local Participation		Total Project Cost	
	%	Cost	%	Cost	%	Cost	%	
Project	80	$800,000			20	$200,000	100	$1,000,000
Direct State Costs	80	$16,000			20	$4,000	100	$20,000
Indirect State Costs	80	$50,880	20	$12,720			100	$63,600
TOTAL		**$866,880**		**$12,720**		**$204,000**		**$1,083,600**

Local Government's Participation = $204,000

This is an estimate only. Final participation amounts, including State direct costs, will be based on actual charges to the Project.

CITY CLERK DEPT.
09 APR 21 PM 1:17