

**7. AMENDMENTS TO THE 2021-2024 TIP AND 2045 RTP**

**Summary**

- Rescope the City of League City Bicycle Loop bike lane construction project (MPO 17118/CSJ 0912-73-215/SCSJ 5000-00-916) to reflect an off-road, side path location along the south side of SH 96, to provide safer, high comfort, off street bicycle and pedestrian facility which will require an additional \$489,800 of Transportation Alternative Set-Aside (TASA). Project will also be advanced from FY 2024 to FY 2023. (+\$0.5M, Total Cost: \$3.5M)
- Change the sponsor of the IH 45/SH 242 direct connector construction project (MPO ID 18028/CSJ 0110-04-205) from TxDOT Houston District to Montgomery County and program in FY 2023 of the 2021-2024 TIP with \$14.9M of local funding project per the agreement between TxDOT and the County. (Total Cost: \$14.9M)

**Action Requested**

Recommendation of Transportation Policy Council approval of Resolutions 2022-18 and 2022-19.



# Resolution

## NO. 2022-18

AUTHORIZING AMENDMENTS OF THE 2045 REGIONAL TRANSPORTATION PLAN (RTP) AND THE 2021-2024 TRANSPORTATION IMPROVEMENT PROGRAM (TIP) FOR THE HOUSTON-GALVESTON TRANSPORTATION MANAGEMENT AREA

**WHEREAS**, the 2045 Regional Transportation Plan was adopted by the Transportation Policy Council on April 5, 2019; and

**WHEREAS**, the 2021-2024 Transportation Improvement Program for the Houston-Galveston Transportation Management Area was adopted by the Transportation Policy Council on June 26, 2020; and

**WHEREAS**, the proposed revisions to the 2021-2024 Transportation Improvement Program are consistent with the 2045 Regional Transportation Plan and its finding of conformance with the State Implementation Plan for air quality; and

**WHEREAS**, the proposed revisions to the 2021-2024 Transportation Improvement Program are consistent with the federal fiscal constraint requirements established for the Transportation Improvement Program and are consistent with the financially constrained 2045 Regional Transportation Plan.

NOW, THEREFORE, BE IT RESOLVED BY THE TRANSPORTATION POLICY COUNCIL (TPC) FOR THE HOUSTON-GALVESTON TRANSPORTATION MANAGEMENT AREA THAT THE 2045 REGIONAL TRANSPORTATION PLAN AND THE 2021-2024 TRANSPORTATION IMPROVEMENT PROGRAM BE AMENDED TO REFLECT THE REVISIONS IDENTIFIED IN THE TABLE OF **MAY 2022 TPC AMENDMENTS**.

BE IT FURTHER RESOLVED THAT FEDERAL FUNDS AUTHORIZED BY THE TPC FROM THE CONGESTION MITIGATION AND AIR QUALITY (CMAQ) AND SURFACE TRANSPORTATION BLOCK GRANT (STBG) PROGRAMS REPRESENT A LIMITING AMOUNT. ANY COST OVERRUNS ON PHASES OF WORK AUTHORIZED BY THE TPC OR COSTS INCURRED ON PHASES OF WORK NOT AUTHORIZED BY THE TPC SHALL BE THE RESPONSIBILITY OF THE PROJECT SPONSOR. IN NO CASE, SHALL FEDERAL PARTICIPATION UNDER THE CMAQ AND STBG PROGRAMS BE INCREASED WITHOUT CONSULTATION AND THE EXPRESS APPROVAL OF THE TPC.

**PASSED AND APPROVED** this 20th day of May 2022, at a regularly called meeting of the Transportation Policy Council.

APPROVED:

ATTEST:

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Hon. David Robinson, Chairman  
Transportation Policy Council

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Hon. Nancy Arnold, Secretary  
Transportation Policy Council



# Resolution

**NO. 2022-19**

APPROVING THE AWARD OF TRANSPORTATION DEVELOPMENT CREDITS (TDCs) AND AUTHORIZING RELATED AMENDMENTS TO THE *2045 REGIONAL TRANSPORTATION PLAN* (RTP), AND TO THE *2021-2024 TRANSPORTATION IMPROVEMENT PROGRAM* (TIP) FOR THE HOUSTON-GALVESTON TRANSPORTATION MANAGEMENT AREA.

WHEREAS, Texas Administrative Code, Title 43 Subchapter H, identifies the purpose, goals, and administrative requirements for the Transportation Development Credit Program in the State of Texas, including the sub-allocation of credits to Metropolitan Planning Organizations (MPOs); and

WHEREAS, the Texas Department of Transportation has documented the current balance of credits allocated to H-GAC, the MPO for the Houston-Galveston Transportation Management Area; and

WHEREAS, Texas Administrative Code, Title 43 §5.106, establishes requirements for the award of transportation development credits by MPOs; and

WHEREAS, the Houston-Galveston Area Council has established a documented process for the evaluation of applications and the award of credits; and

WHEREAS, the Houston-Galveston Area Council is in receipt of requests for credits; and

WHEREAS, the award of credits for these purposes is consistent with the Policy governing the consideration of requests for credits adopted by the Policy Council on November 20, 2020.

NOW, THEREFORE, BE IT RESOLVED BY THE TRANSPORTATION POLICY COUNCIL (TPC) FOR THE HOUSTON-GALVESTON TRANSPORTATION MANAGEMENT AREA THAT TRANSPORTATION DEVELOPMENT CREDITS BE MADE AVAILABLE TO THE PROJECTS IN THE ATTACHED TABLE#1 AND THAT THE TRANSPORTATION DIRECTOR IS DIRECTED TO ENTER INTO ANY NECESSARY PROJECT AGREEMENTS.

PASSED AND APPROVED this 20th day of May 2022, at a regularly called meeting of the Transportation Policy Council.

APPROVED:

ATTEST:

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Hon. David Robinson, Chairman  
Transportation Policy Council

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Hon. Nancy Arnold, Secretary  
Transportation Policy Council

**H-GAC 2021-2024 TIP and Statewide Bicycle Pedestrian Program  
May 2022 TPC Amendments**

Count	MPOID/CSJ	Sponsor/County	Project	Proj Type	Proposed Modifications				
					STIP?	Funding (M)		Scope	Schedule
						Fed/State	Local		
1	17118 0912-73-215	CITY OF LEAGUE CITY (GAL)	SH 96 AND FM 270 (VA, VA) Construct bike lane along FM 270 from FM 2094 to SH 96 (shoulder widening, milling, overlay, pavement markings, striping) with signage, sidewalk and intersection improvements. On SH 96 from FM 270 to SH 146 construct off-street, concrete bike/ped facility	P/B	No	<input checked="" type="checkbox"/> + \$0.5		<input checked="" type="checkbox"/> Work and limits.	<input checked="" type="checkbox"/> FY 2024 to FY 2023.
2	18028 0110-04-205	MONTGOMERY COUNTY (MON)	IH 45 (AT SH 242, ) CONSTRUCT NEW DIRECT CONNECTOR (NB-EB)	R	Yes	<input checked="" type="checkbox"/> + \$14.9		<input checked="" type="checkbox"/> Add to TIP.	<input checked="" type="checkbox"/> Add to FY 2023.

MAY 2022 TPC AMENDMENTS

**PROPOSED VERSION**

**MPOID / CSJ**      **17118 / 0912-73-215 / 5000-00-916**      **FY 2023**

DISTRICT	COUNTY	CSJ	HWY	PHASE	CITY	PROJECT SPONSOR	YOE COST
Houston	Galveston	0912-73-215	TRAIL	C	LEAGUE CITY	CITY OF LEAGUE CITY	\$2,938,800

STREET: SH 96 AND FM 270      MPO PROJECT ID: 17118  
 LIMITS FROM: VA      VOC: kg/day  
 LIMITS TO: VA      NOx: kg/day  
 TIP DESCRIPTION : Construct bike lane along FM 270 from FM 2094 to SH 96 (shoulder widening, milling, overlay, pavement markings, striping) with signage, sidewalk and intersection improvements. On SH 96 from FM 270 to SH 146 construct off-street, concrete bike/ped facility

**Project History :** Amendment # MAY-2022- 2022-05-27Re-scope from bike lane construction to include an off-road, side path to provide safer, high-comfort, bicycle and pedestrian facility which will require additional \$489,800 of Cat-9 TASA funding. Advance from FY 2024 to FY 2023.

**Remarks:** The Bike Lane segment originally proposed along FM 2094 between FM 270 and SH 146 will be removed from the scope of the project.

Total Project Cost Information:		Cost of Approved Phases:	Authorized Funding by Category/Share:					
			Funding Category	Federal	State	Local	Local Contribution	Funding By Category
Preliminary Engineering:	\$144,001	\$2,938,800	TASA	\$2,351,040	\$587,760	\$0	\$0	\$2,938,800
Right Of Way:	\$0		<b>Funding by share:</b>	\$2,351,040	\$587,760	\$0	\$0	\$2,938,800
Construction:	\$2,938,800		TDC: 0					
Construction Engineering:	\$176,328							
Contingencies:	\$293,880							
Indirects:	\$149,291							
Bond Financing:	\$0							
<b>Total Project Cost</b>	<b>\$3,702,300</b>							

**OLD VERSION**

**MPOID / CSJ**      **17118 / 0912-73-215**      **FY 2024**

DISTRICT	COUNTY	CSJ	HWY	PHASE	CITY	PROJECT SPONSOR	YOE COST
Houston	Galveston	0912-73-215	VA	C	LEAGUE CITY	CITY OF LEAGUE CITY	\$2,449,000

STREET: VA      MPO PROJECT ID: 17118  
 LIMITS FROM: ON SH 96, FM 270 AND FM 2094      VOC: kg/day  
 LIMITS TO: SH 146      NOx: kg/day  
 TIP DESCRIPTION : CONSTRUCT BIKE LANE (MILLING AND ASPHALT OVERLAY OF SHOULDERS, SHOULDER WIDENING, PAVEMENT MARKINGS, STRIPING) WITH SIGNAGE, SIDEWALK AND ASSOCIATED INTERSECTION IMPROVEMENTS

**Project History :** Amendment # OCT-2019A- 2019-10-25 Add CSJ number 0912-73-215.\*\*\* Amendment # JAN-2021- 2021-01-22 Removed from TIP at TxDOT's request to group in Bicycle and Pedestrian Statewide Program (CSJ 5000-00-916) to fiscally constrain the 2021 STIP.\*\*\*

**Remarks:**

Total Project Cost Information:		Cost of Approved Phases:	Authorized Funding by Category/Share:					
			Funding Category	Federal	State	Local	Local Contribution	Funding By Category
Preliminary Engineering:	\$120,001	\$2,449,000	TASA	\$1,959,200	\$489,800	\$0	\$0	\$2,449,000
Right Of Way:	\$0		<b>Funding by share:</b>	\$1,959,200	\$489,800	\$0	\$0	\$2,449,000
Construction:	\$2,449,000		TDC:					
Construction Engineering:	\$146,940							
Contingencies:	\$244,900							
Indirects:	\$124,409							
Bond Financing:	\$0							
<b>Total Project Cost</b>	<b>\$3,085,250</b>							

HOUSTON-GALVESTON MPO  
**2021 - 2024 TRANSPORTATION IMPROVEMENT PROGRAM**  
**2045 REGIONAL TRANSPORTATION PLAN**  
**MAY 2022 TPC AMENDMENTS**

**PROPOSED VERSION**

**MPOID / CSJ**      **18028 / 0110-04-205** **FY 2023**

DISTRICT	COUNTY	CSJ	HWY	PHASE	CITY	PROJECT SPONSOR	YOE COST
Houston	Montgomery	0110-04-205	IH 45	C:E	NONE	MONTGOMERY COUNTY	<b>\$14,931,286</b>
STREET:		IH 45		MPO PROJECT ID:		18028	
LIMITS FROM:		AT SH 242		VOC:		kg/day	
LIMITS TO:				NOx:		kg/day	
TIP DESCRIPTION : CONSTRUCT NEW DIRECT CONNECTOR (NB-EB)							

**Project History :** Amendment # MAY-2022- 2022-05-27 Change sponsor from TXDOT Houston District to Montgomery County and fund with local funds in FY 2023 of the 2021-2024 TIP.  
**Remarks:**

Total Project Cost Information:		Cost of Approved Phases:	Authorized Funding by Category/Share:					Funding By Category	
			Funding Category	Federal	State	Local	Local Contribution		
Preliminary Engineering:	\$697,458	<b>\$14,931,286</b>	LOCAL CONT	\$0	\$0	\$14,931,286	\$14,931,286	\$14,931,286	
Right Of Way:	\$0		<b>Funding by share:</b>	\$0	\$0	\$0	\$14,931,286	\$14,931,286	
Construction:	\$14,233,828		<b>TDC: 0</b>						
Construction Engineering:	\$711,691								
Contingencies:	\$1,423,383								
Indirects:	\$723,078								
Bond Financing:	\$0								
<b>Total Project Cost</b>	<b>\$17,789,439</b>								

**OLD VERSION**

**MPOID / CSJ**      **18028 / 0110-04-205** **FY 2026**

DISTRICT	COUNTY	CSJ	HWY	PHASE	CITY	PROJECT SPONSOR	YOE COST
Houston	Montgomery	0110-04-205	IH 45	C:E	NONE	TXDOT HOUSTON DISTRICT	<b>\$14,931,286</b>
STREET:		IH 45		MPO PROJECT ID:		18028	
LIMITS FROM:		AT SH 242		VOC:		kg/day	
LIMITS TO:				NOx:		kg/day	
TIP DESCRIPTION : CONSTRUCT NEW DIRECT CONNECTOR (NB-EB)							

**Project History :** AMENDMENT #MAY-2021A 05/21/2021 Modify scope of work and assign CSJ# 0110-04-205.

**Remarks:**

Total Project Cost Information:		Cost of Approved Phases:	Authorized Funding by Category/Share:					Funding By Category	
			Funding Category	Federal	State	Local	Local Contribution		
Preliminary Engineering:	\$697,458	<b>\$14,931,286</b>	LOCAL CONT						
Right Of Way:	\$0		<b>Funding by share:</b>						
Construction:	\$14,233,828		<b>TDC: 0</b>						
Construction Engineering:	\$711,691								
Contingencies:	\$1,423,383								
Indirects:	\$723,078								
Bond Financing:	\$0								
<b>Total Project Cost</b>	<b>\$17,789,439</b>								



Administration  
300 W Walker  
League City, TX 77573

Main: 281.554.1000  
Direct: 281.554.1414  
[www.leaguecity.com](http://www.leaguecity.com)

May 10, 2022

Craig Raborn  
Director of Transportation Planning  
Houston-Galveston Area Council  
3555 Timmons, Suite 120  
Houston, TX 77027

**Ref: CSJ 0912-73-215**

Dear Mr. Raborn:

Project CSJ 0912-73-215 (Bike Lanes on SH 96, FM 270, and FM 2094 Sidewalk) represents a significant effort in the City of League City to provide alternate transportation modes and create connectivity in the bike network. The City of League City is requesting a scope change to reflect an off-road, concrete side path location along the south side of SH 96, to provide the community with a safer, high comfort, off-street bicycle and pedestrian facility.

Due to this change from a bike lane to a concrete side path along SH 96, the project is expected to have significantly higher costs. To mitigate this while still providing the community with the best possible bike and pedestrian facility along SH 96, we are requesting that the sidewalk work along FM 2094 be removed from the project scope. The City of League City will continue to provide a local contribution of \$489,800 and is requesting an equal contribution by the MPO to cover project overruns.

The revised scope of the project should reflect the following:

- Construct Bike Lanes (Milling and Asphalt Overlay of Shoulders, Shoulder Widening, Pavement Markings, Striping) with signage and associated intersection improvements along both sides of FM 270 from FM 2094 to SH 96 (approximately 2 miles).
- Along the southern boundary of SH 96 from FM 270 to SH 146 (approximately 3.8 miles) construct an off-street, concrete side path for bicycles and pedestrians, with signage and associated intersection improvements.





- The in-fill of sidewalk “gaps” originally proposed along FM 2094 from FM 270 to SH 146 will be removed from the scope of the project.

The City looks forward to the installation of this project but would like to request that the FM 2094 sidewalk in-fill work being removed from this project’s scope be considered for future funding and implementation.

We believe the reconsideration of a bike and pedestrian lane to a concrete side path along SH 96, will better support the City of League City’s current efforts for safe multimodal transportation. The project is slated to let in the Fall of 2023. We would appreciate this request be included in the May STIP revision.

Staff is available to meet with H-GAC and TxDOT to discuss this request and greatly appreciate your assistance. Please feel free to contact Christopher Sims at 281-554-1445 or [Christopher.Sims@leaguecitytx.gov](mailto:Christopher.Sims@leaguecitytx.gov) should you have any questions.

Sincerely,

John Baumgartner  
City Manager  
City of League City

Cc: Mark Patterson, TxDOT  
Ana Ramirez, TxDOT  
Kent McLemore, TxDOT  
Andrew Mao, TxDOT  
Cynthia Rodriguez, TxDOT  
Adam Beckom, H-GAC  
Chien Wei, CoLC  
John Orsag, CoLC  
Ron Bavarian, CoLC  
Cara Davis, CoLC  
Christopher Sims, CoLC



Jeff Johnson, P.E.  
County Engineer

March 31, 2022

Mr. Jim Dickinson  
Transportation Planning  
Houston-Galveston Area Council  
PO BOX 22777  
Houston, Texas 77227-2777

**Subject: I-45 Northbound to SH 242 Eastbound Direct Connector**

Dear Mr. Dickinson,

Montgomery County has agreed to fund the design and construction of the subject project. Please see attached AFA.

Sincerely,

A handwritten signature in black ink that reads "Jeff Johnson".

Jeff Johnson, P.E.

Montgomery County Engineer

<b>CSJ #</b>	<b>0110-04-205</b>
<b>District #</b>	<b>12 – Houston</b>
<b>Code Chart 64 #</b>	<b>50170</b>
<b>Project Name</b>	<b>IH 45 at SH 242 DC</b>

**STATE OF TEXAS       §**

**COUNTY OF TRAVIS   §**

**ADVANCE FUNDING AGREEMENT  
For  
A Locally Funded Project  
On-System**

**THIS AGREEMENT** (Agreement) is made by and between the State of Texas, acting by and through the **Texas Department of Transportation** called the “State”, and **Montgomery County**, acting by and through its duly authorized officials, called the “Local Government”. The State and Local Government shall be collectively referred to as “the parties” hereinafter.

**WITNESSETH**

**WHEREAS**, the Texas Transportation Code, Section 201.103 establishes that the State shall design, construct and operate a system of highways in cooperation with local governments, and Section 222.052 authorizes the Texas Transportation Commission to accept contributions from political subdivisions for development and construction of public roads and the state highway system within the political subdivision, 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 Texas Transportation Commission has codified 43 TAC, Rules 15.50-15.56 that describe federal, state, and local responsibilities for cost participation in highway improvement and other transportation projects, and

**WHEREAS**, the State and Local Government do not anticipate that federal funds will be used for the Project governed by this Agreement; and

**WHEREAS**, the Texas Transportation Commission passed Minute Order Number **115550** authorizing the State to undertake and complete a highway improvement or other transportation project generally described as **the construction of a new direct connector from IH 45 NB to SH 242 EB.** The portion of the project work covered by this Agreement is identified in the Agreement, Article 3, Scope of Work (Project), and

**WHEREAS**, the Governing Body of the Local Government has approved entering into this Agreement by resolution, ordinance, or commissioners court order dated 9/14/2021, which is attached to and made a part of this Agreement as Attachment A, Resolution, Ordinance, or Commissioners Court Order. A map showing the Project location appears in Attachment B, Location Map Showing Project, (Attachment B) which is attached to and made a part of this Agreement.

**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 in this Agreement, it is agreed as follows

<b>CSJ #</b>	<b>0110-04-205</b>
<b>District #</b>	<b>12 – Houston</b>
<b>Code Chart 64 #</b>	<b>50170</b>
<b>Project Name</b>	<b>IH 45 at SH 242 DC</b>

## AGREEMENT

### 1. Responsible Parties:

For the Project covered by this Agreement, the parties shall be responsible for the following work as stated in the article of the Agreement referenced in the table below:

1.	<b>Local Government</b>	Utilities	Article 8
2.	<b>State</b>	Environmental Assessment and Mitigation	Article 9
3.	<b>Local Government</b>	Architectural and Engineering Services	Article 12
4.	<b>State</b>	Construction Responsibilities	Article 13
5.	<b>Local Government</b>	Right of Way and Real Property	Article 15

### 2. 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 Project is completed or unless terminated as provided below.

### 3. Scope of Work

The scope of work for this Project consists of the construction of a new direct connector from IH 45 NB to SH 242 EB.

### 4. Project Sources and Uses of Funds

The total estimated cost of the Project is shown in Attachment C, Project Budget, (Attachment C) which is attached to and made a part of this Agreement.

- A. If the Local Government will perform any work under this Agreement for which reimbursement will be provided by or through the State, the Local Government must complete training. 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 and Qualification for the Texas Department of Transportation" and retains qualification in accordance with applicable TxDOT procedures. Upon request, 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 continuously designated in writing a qualified individual to work actively on or to directly oversee the Project.
- B. The expected cash contributions from the State, the Local Government, or other parties are shown in Attachment C. The State will pay for only those Project costs that have been approved by the Texas Transportation Commission.
- C. Attachment C shows, by major cost categories, the cost estimates and the party responsible for performing the work for each category. 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.
- D. The State will be responsible for securing the 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.

<b>CSJ #</b>	<b>0110-04-205</b>
<b>District #</b>	<b>12 – Houston</b>
<b>Code Chart 64 #</b>	<b>50170</b>
<b>Project Name</b>	<b>IH 45 at SH 242 DC</b>

- E. The Local Government will be responsible for all non-State participation costs associated with the Project, unless otherwise provided for in this Agreement or approved otherwise in an amendment to this Agreement. For items of work subject to specified percentage funding, the Local Government shall only in those instances be responsible for all Project costs that are greater than the maximum State participation specified in Attachment C and for overruns in excess of the amount specified in Attachment C to be paid by the Local Government.
- F. The budget in Attachment C will clearly state all items subject to fixed price funding, specified percentage funding or the periodic payment schedule, when periodic payments have been approved by the State.
- G. When the Local Government bears the responsibility for paying cost overruns, the Local Government shall make payment to the State within thirty (30) days from the receipt of the State's written notification of additional funds being due.
- H. When fixed price funding is used, the Local Government is responsible for the fixed price amount specified in Attachment C. Fixed prices are not subject to adjustment unless (1) differing site conditions are encountered; (2) further definition of the Local Government's requested scope of work identifies greatly differing costs from those estimated; (3) work requested by the Local Government is determined to be ineligible for federal participation; or (4) the adjustment is mutually agreed to by the State and the Local Government.
- I. 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 performed or reviewed by the State 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.
- J. 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.
- K. 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" or may use the State's Automated Clearing House (ACH) system for electronic transfer of funds in accordance with instructions provided by TxDOT's Finance Division. The funds shall be deposited and managed by the State and may only be applied by the State to the Project.
- L. The State will not pay interest on any funds provided by the Local Government.
- M. If a waiver for the collection of indirect costs for a service project has been granted under 43 TAC §15.56, 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.
- N. If the Local Government is an Economically Disadvantaged County (EDC) and if the State has approved adjustments to the standard financing arrangement, this Agreement reflects those adjustments.
- O. Where the Local Government is authorized to perform services under this Agreement and be reimbursed by the State, 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 the State may refuse to reimburse the Local Government for those costs.
- P. Upon completion of the Project, the State will perform a final accounting of the Project costs for all items of work with specified percentage funding. Any funds due by the Local Government or the State for these work items will be promptly paid by the owing party.

<b>CSJ #</b>	<b>0110-04-205</b>
<b>District #</b>	<b>12 – Houston</b>
<b>Code Chart 64 #</b>	<b>50170</b>
<b>Project Name</b>	<b>IH 45 at SH 242 DC</b>

- Q. The state auditor may conduct an audit or investigation of any entity receiving funds from the State directly under this Agreement or indirectly through a subcontract under this Agreement. Acceptance of funds directly under this Agreement or indirectly through a subcontract under this Agreement 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.
- R. Payment under this Agreement beyond the end of the current fiscal biennium is subject to availability of appropriated funds. If funds are not appropriated, this Agreement shall be terminated immediately with no liability to either party.

## 5. 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 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 Government agrees to reimburse the State for its reasonable actual costs incurred during the Project; or
- D. The Agreement is terminated by the State because the parties are not able to execute a mutually agreeable amendment when the costs for Local Government requested items increase significantly due to differing site conditions, determination that Local government requested work is ineligible for federal or state cost participation, or more thorough definition of the Local Government's proposed work scope identifies greatly differing costs from those estimated. The State will reimburse Local Government remaining funds to the Local Government within ninety (90) days of termination; or
- E. The Project is inactive for thirty-six (36) months or longer and no expenditures have been charged against state funds, in which case the State may in its discretion terminate this Agreement.

## 6. Amendments

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

## 7. 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.

## 8. Utilities

The party named in article 1, Responsible Parties, under AGREEMENT 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 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,

<b>CSJ #</b>	<b>0110-04-205</b>
<b>District #</b>	<b>12 – Houston</b>
<b>Code Chart 64 #</b>	<b>50170</b>
<b>Project Name</b>	<b>IH 45 at SH 242 DC</b>

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 commenced.

**9. Environmental Assessment and Mitigation**

Development of a transportation project must comply with applicable environmental laws. The party named in article 1, Responsible Parties, under AGREEMENT is responsible for the following:

- A. The identification and assessment of any environmental problems associated with the development of a local project governed by this Agreement.
- B. The cost of any environmental problem's mitigation and remediation.
- C. Providing any public meetings or public hearings required for the environmental assessment process. Public hearings will not be held prior to the approval of Project schematic.
- D. The preparation of the NEPA documents required for the environmental clearance of this Project.

If the Local Government is responsible for the environmental assessment and mitigation, before the advertisement for bids, the Local Government shall provide to the State written documentation from the appropriate regulatory agency or agencies that all environmental clearances have been obtained.

**10. Compliance with Accessibility Standards**

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 standards issued or approved by the Texas Department of Licensing and Regulation (TDLR) as meeting or consistent with minimum accessibility requirements of the Americans with Disabilities Act (P.L. 101-336) (ADA).

**11. Procurement Standards**

For projects being managed by the Local Government and on the State highway system or that include state funding, the Local Government must obtain approval from the State for its proposed procurement procedure for the selection of a professional services provider, a contractor for a construction or maintenance project, or a materials provider.

**12. Architectural and Engineering Services**

The party named in Article 1, Responsible Parties, under AGREEMENT has responsibility for the performance of architectural and engineering services. The engineering plans shall be developed in accordance with the applicable *State's Standard Specifications for Construction and Maintenance of Highways, Streets and Bridges* and the special specifications and special provisions related to it. For projects on the state highway system, the design shall, at a minimum conform to applicable State manuals. For projects not on the state highway system, the design shall, at a minimum, conform to applicable American Association of State Highway and Transportation Officials (AASHTO) design standards.

In procuring professional services, the parties to this Agreement must comply with Texas Government Code 2254, Subchapter A. If the Local Government is the responsible party, the Local Government shall submit its procurement selection process for prior approval by the State. All professional service contracts must be reviewed and approved by the State prior to execution by the Local Government.

**13. Construction Responsibilities**

The party named in Article 1, Responsible Parties, under AGREEMENT is responsible for the following:

- A. 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,

<b>CSJ #</b>	<b>0110-04-205</b>
<b>District #</b>	<b>12 – Houston</b>
<b>Code Chart 64 #</b>	<b>50170</b>
<b>Project Name</b>	<b>IH 45 at SH 242 DC</b>

supplemental agreements, amendments, or additional work orders that may become necessary subsequent to the award of the construction contract. Projects must be authorized by the State prior to advertising for construction.

- B. If the State is the responsible party, the State will use its approved contract letting and award procedures to let and award the construction contract.
- C. If the Local Government is the responsible party, the Local Government shall submit its contract letting and award procedures to the State for review and approval prior to letting.
- D. If the Local Government is the responsible party, the State must concur with the low bidder selection before the Local Government can enter into a contract with the vendor.
- E. If the Local Government is the responsible party, the State must review and approve change orders.
- F. Upon completion of the Project, the party responsible for constructing the Project will issue and sign a “Notification of Completion” acknowledging the Project’s construction completion and submit certification(s) sealed by a professional engineer(s) licensed in the State of Texas.
- G. Upon completion of the Project, the party constructing the Project will issue and sign a “Notification of Completion” acknowledging the Project’s construction completion.

#### **14. Project Maintenance**

The Local Government shall be responsible for maintenance of locally owned roads and locally owned facilities after completion of the work. The State shall be responsible for maintenance of the state highway system after completion of the work if the work was on the state highway system, unless otherwise provided for in existing maintenance agreements with the Local Government.

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

The party named in Article 1, Responsible Parties, under AGREEMENT is responsible for the provision and acquisition of any needed right of way or real property.

The Local Government shall be responsible for the following:

- A. Right of way and real property acquisition shall be the responsibility of the Local Government. 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.
- B. If the Local Government is the owner of any part of the Project site under this Agreement, 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.
- C. 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 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.
- D. The Local Government shall assume all costs and perform necessary requirements to provide any necessary evidence of title or right of use in the name of the Local Government to the real property required for development of the Project. The evidence of title or rights shall be acceptable to the State, and be free and clear of all encroachments. The Local Government shall secure and provide easements and any needed rights of entry over any other land needed to develop the Project according to the approved Project plans. The Local Government shall be responsible for securing any additional real property required for completion of the Project.



<b>CSJ #</b>	<b>0110-04-205</b>
<b>District #</b>	<b>12 – Houston</b>
<b>Code Chart 64 #</b>	<b>50170</b>
<b>Project Name</b>	<b>IH 45 at SH 242 DC</b>

- E. In the event real property is donated to the Local Government after the date of the State's authorization, the Local Government will provide all documentation to the State regarding fair market value of the acquired property. The State will review the Local Government's appraisal, determine the fair market value and credit that amount towards the Local Government's financial share. If donated property is to be used as a funding match, it may not be provided by the Local Government. The State will not reimburse the Local Government for any real property acquired before execution of this Agreement and the obligation of federal spending authority.
- F. The Local Government shall prepare real property maps, property descriptions, and other data as needed to properly describe the real property and submit them to the State for approval prior to the Local Government acquiring the real property. Tracings of the maps shall be retained by the Local Government for a permanent record.
- G. The Local Government agrees to make a determination of property values for each real property parcel by methods acceptable to the State and to submit to the State a tabulation of the values so determined, signed by the appropriate Local Government representative. The tabulations shall list the parcel numbers, ownership, acreage and recommended compensation. Compensation shall be shown in the component parts of land acquired, itemization of improvements acquired, damages (if any) and the amounts by which the total compensation will be reduced if the owner retains improvements. This tabulation shall be accompanied by an explanation to support the determined values, together with a copy of information or reports used in calculating all determined values. Expenses incurred by the Local Government in performing this work may be eligible for reimbursement after the Local Government has received written authorization by the State to proceed with determination of real property values. The State will review the data submitted and may base its reimbursement for parcel acquisitions on these values.
- H. Reimbursement for real property costs will be made to the Local Government for real property purchased in an amount not to exceed eighty percent (80%) of the cost of the real property purchased in accordance with the terms and provisions of this Agreement. Reimbursement will be in an amount not to exceed eighty percent (80%) of the State's predetermined value of each parcel, or the net cost of the parcel, whichever is less. In addition, reimbursement will be made to the Local Government for necessary payments to appraisers, expenses incurred in order to assure good title, and costs associated with the relocation of displaced persons and personal property as well as incidental expenses.
- I. If the Project requires the use of real property to which the Local Government will not hold title, a separate agreement between the owners of the real property and the Local Government must be executed prior to execution of this Agreement. The separate agreement must establish that the Project will be dedicated for public use for a period of not less than 10 (ten) years after completion. The separate agreement must define the responsibilities of the parties as to the use of the real property and operation and maintenance of the Project after completion. The separate agreement must be approved by the State prior to its execution. A copy of the executed agreement shall be provided to the State.

## **16. Insurance**

If this Agreement authorizes the Local Government or its contractor to perform any work on State right of way, before beginning work the entity performing the work shall provide the State with a fully executed 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 all persons and entities working on State right of way. This coverage shall be maintained until all work on the State right of way is complete. If coverage is not maintained, all work on State right of way shall cease immediately, and the State may recover damages and all costs of completing the work.

<b>CSJ #</b>	<b>0110-04-205</b>
<b>District #</b>	<b>12 – Houston</b>
<b>Code Chart 64 #</b>	<b>50170</b>
<b>Project Name</b>	<b>IH 45 at SH 242 DC</b>

**17. 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:

<b>Local Government:</b>	<b>State:</b>
Montgomery County ATTN: County Judge 501 North Thompson, Suite 401 Conroe, Texas 77301	Texas Department of Transportation ATTN: Director of Contract Services 125 E. 11 <sup>th</sup> Street Austin, TX 78701

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 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.

**18. 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.

**19. 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.

**20. 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 and information 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 format directed by the State, of photocopy reproduction on a monthly basis or as required by the State. The originals shall remain the property of the Local Government.

**21. 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.

**22. 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.

**23. Procurement and Property Management Standards**

The parties to this Agreement shall adhere to the procurement and property management standards established in the Texas Uniform Grant Management Standards.

<b>CSJ #</b>	<b>0110-04-205</b>
<b>District #</b>	<b>12 – Houston</b>
<b>Code Chart 64 #</b>	<b>50170</b>
<b>Project Name</b>	<b>IH 45 at SH 242 DC</b>

**24. Inspection of Books and Records**

The parties to this 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 and the Local Government, or their duly authorized representatives for review and inspection at its office during the Agreement period and for seven (7) years from the date of completion of work defined under this Agreement or until any impending litigation, or claims are resolved. Additionally, the State and the Local Government 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.

**25. Audit**

Pursuant to Texas Government Code § 2262.154, 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.

**26. Historically Underutilized Business (HUB) and Small Business Enterprise (SBE) Requirements**

For projects with State funds and no federal funds, the Local Government will be required to follow the provisions of Texas Transportation Code §201.702 and 43 TAC §§9.354-9.355 (HUB) and §§9.314-9.315 (SBE). The Local Government must incorporate project goals approved by TxDOT into project documents before advertising for receipt of bids. Contractors must select HUBs and SBEs from TxDOT-approved or maintained sources. The Local Government will provide monthly updates of HUB/SBE (as appropriate) participation and report final accomplishments to TxDOT for credit to overall program goals.

For projects with no state or federal funds that are not on the state or federal highway systems, the Local Government should follow its own local or specific ordinances and procedures. Local Governments are encouraged to use HUBs and SBEs from TxDOT-approved or maintained sources. The Local Government must also report final HUB accomplishments to TxDOT for credit to overall program goals.

**27. Debarment Certifications**

If state funds are used, the parties are prohibited from making any award to any party that is debarred under the Texas Administrative Code, Title 34, Part 1, Chapter 20, Subchapter G, Rule §20.585 and the Texas Administrative Code, Title 43, Part 1, Chapter 9, Subchapter G.

**28. Pertinent Non-Discrimination Authorities**

During the performance of this Agreement, the Local Government, for itself, its assignees, and successors in interest agree to comply with the following nondiscrimination statutes and authorities; including but not limited to:

- A. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- B. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects).

<b>CSJ #</b>	<b>0110-04-205</b>
<b>District #</b>	<b>12 – Houston</b>
<b>Code Chart 64 #</b>	<b>50170</b>
<b>Project Name</b>	<b>IH 45 at SH 242 DC</b>

- C. Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), as amended, (prohibits discrimination on the basis of sex).
- D. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.) as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27.
- E. The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age).
- F. Airport and Airway Improvement Act of 1982, (49 U.S.C. Chapter 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex).
- G. The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not).
- H. Titles II and III of the Americans with Disabilities Act, which prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38.
- I. The Federal Aviation Administration’s Nondiscrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex).
- J. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations.
- K. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, the parties must take reasonable steps to ensure that LEP persons have meaningful access to the programs (70 Fed. Reg. at 74087 to 74100).
- L. Title IX of the Education Amendments of 1972, as amended, which prohibits the parties from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq.).

<b>CSJ #</b>	<b>0110-04-205</b>
<b>District #</b>	<b>12 – Houston</b>
<b>Code Chart 64 #</b>	<b>50170</b>
<b>Project Name</b>	<b>IH 45 at SH 242 DC</b>

**29. Signatory Warranty**

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

Each party is signing this agreement on the date stated under that party's signature.

**THE STATE OF TEXAS**

**THE LOCAL GOVERNMENT**

DocuSigned by:

*Kenneth Stewart*

DocuSigned by:

*Mark J. Keough*

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Kenneth Stewart  
 Director of Contract Services  
 Texas Department of Transportation

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Mark J. Keough  
 County Judge  
 Montgomery County

9/23/2021

9/20/2021

Date

Date

CSJ #	0110-04-205
District #	12 – Houston
Code Chart 64 #	50170
Project Name	IH 45 at SH 242 DC

**ATTACHMENT A  
RESOLUTION, ORDINANCE, OR COMMISSIONERS COURT ORDER**

#16 21A1  
SEP 14 2021

**RESOLUTION AND ORDER APPROVING ADVANCE FUNDING AGREEMENT  
FOR A LOCALLY FUNDED PROJECT ON-SYSTEM**

On this the 14th day of September, 2021, at a Regular Session Meeting of the Commissioners Court of Montgomery County, Texas, there came on for consideration and approval a motion to approve the Advance Funding Agreement for A Locally Funded Project between the State of Texas, acting by and through the Texas Department of Transportation (hereinafter “TxDOT”) and Montgomery County (hereafter “County”) for the construction of a new direct connector from IH 45 NB to SH 242 EB. (hereinafter the “Agreement”).

Motion was made by Commissioner Riley and seconded by Commissioner Walker to hereby approve the Agreement, authorize County Judge Mark J. Keough to execute the same on behalf of Montgomery County, Texas and to authorize funding of the Agreement.

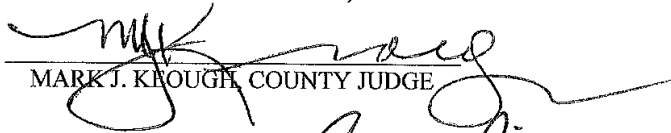
Said Motion being put to a vote, it carried by a vote of 4 aye votes to 0 nay votes as follows:

	<i>Yes</i>	<i>No</i>	<i>Abstain</i>	<i>Absent</i>
Judge Mark J. Keough	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Robert C. Walker	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Charlie Riley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. James Noack	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comm. James Metts	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**THEREFORE, IT IS HEREBY RESOLVED, APPROVED AND ORDERED** that this Commissioners Court approves the Agreement, authorizes County Judge Mark J. Keough to execute the Agreement, and authorizes the funding on behalf of Montgomery County, Texas.

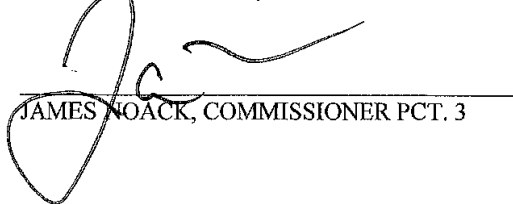
PASSED AND APPROVED this 14th day of September, 2021.

**MONTGOMERY COUNTY, TEXAS**

  
MARK J. KROUGH, COUNTY JUDGE

  
ROBERT C. WALKER, COMMISSIONER PCT. 1

  
CHARLIE RILEY, COMMISSIONER PCT. 2

  
JAMES NOACK, COMMISSIONER PCT. 3

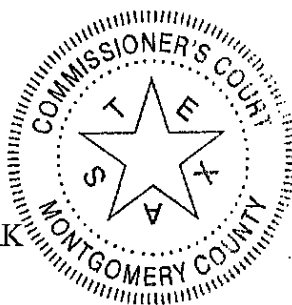
JAMES METTS, COMMISSIONER PCT. 4

CSJ #	0110-04-205
District #	12 – Houston
Code Chart 64 #	50170
Project Name	IH 45 at SH 242 DC

Attest:

*Mark Turnbull*

MARK TURNBULL, COUNTY CLERK



CSJ #	0110-04-205
District #	12 – Houston
Code Chart 64 #	50170
Project Name	IH 45 at SH 242 DC

## ATTACHMENT B LOCATION MAP SHOWING PROJECT





<b>CSJ #</b>	<b>0110-04-205</b>
<b>District #</b>	<b>12 – Houston</b>
<b>Code Chart 64 #</b>	<b>50170</b>
<b>Project Name</b>	<b>IH 45 at SH 242 DC</b>

## ATTACHMENT C PROJECT BUDGET

The Local Government will be responsible for 100% of the Engineering, Environmental and Construction costs. The State will be responsible for 100% of all Direct State Costs and Indirect State Costs. The Local Government is responsible for 100% of project overruns.

Description	Total Estimated Cost	Federal Participation Cost		State Participation Cost		Local Participation Cost	
Engineering (by Local Government)	\$ 2,547,655	0%	\$ -	0%	\$ -	100%	\$ 2,547,655
Environmental (by State)	\$ 80,000	0%	\$ -	0%		100%	\$ 80,000
Construction (by State)	\$ 12,000,000	0%	\$ -	0%		100%	\$ 12,000,000
<b>Subtotal</b>	<b>\$ 14,627,655</b>		<b>\$ -</b>		<b>\$ -</b>		<b>\$ 14,627,655</b>
Environmental Direct State Costs	\$ 500	0%	\$ -	100%	\$ 500	0%	
Right of Way Direct State Costs	\$ 10,000	0%	\$ -	100%	\$ 10,000	0%	
Engineering Direct State Costs	\$ 70,000	0%	\$ -	100%	\$ 70,000	0%	
Utility Direct State Costs	\$ 10,000	0%	\$ -	100%	\$ 10,000	0%	
Construction Direct State Costs	\$ 200,000	0%	\$ -	100%	\$ 200,000	0%	
Indirect State Costs	\$ 13,131	0%	\$ -	100%	\$ 13,131	0%	\$ -
<b>TOTAL</b>	<b>\$ 14,931,286</b>		<b>\$ -</b>		<b>\$ 303,631</b>		<b>\$ 14,627,655</b>

Initial payment by the Local Government to the State: \$80,000

Payment by the Local Government to the State before construction: \$12,000,000

Estimated total payment by the Local Government to the State: \$12,080,000

This is an estimate. The final amount of Local Government participation will be based on actual costs.