



January 23, 2013

Mr. Gary Kubic
Beaufort County Administrator
Post Office Box 1228
Beaufort, South Carolina 29901

RE: Sixth Amendment to Intergovernmental Agreement between Beaufort County and
South Carolina Department of Transportation

Dear Mr. Kubic:

Enclosed you will find one (1) fully executed original of the Sixth Amendment to the Intergovernmental Agreement between Beaufort County and South Carolina Department of Transportation (SCDOT). This original is for your records.

SCDOT looks forward to continuing a mutually beneficial working relationship and the furthering of project in Beaufort County. Please do not hesitate to call me at 803-737-7903, if you have any questions

Sincerely,

Brent Rewis, P.E.
Program Manager

BLR:gg
Enclosures
File: PC/BLR



If Applicable
CFDA No. 20.205
Highway Planning & Construction

Sixth Amendment to the Cooperative Intergovernmental Agreement between The Beaufort County and The South Carolina Department of Transportation For The Beaufort Transportation Sales and Use Tax Projects

This Agreement, made this 14th day of January, 2013, by and between the South Carolina Department of Transportation, hereinafter referred to as Department; and The Beaufort County, hereinafter referred to as the County; and

Witnessed that:

WHEREAS, the Department and County entered into, on March 18, 2008, a Cooperative Intergovernmental Agreement (hereinafter "IGA") included herein by reference and made a part hereof for the Beaufort Transportation Sales and Use Tax Projects; and

WHEREAS, the Department and County on June 17, 2008 entered into a modification to the IGA identified as "PRE-16-08" for the purpose of providing SAFETEA-LU Earmark funding and to outline responsibilities for the parties herein for the widening of US 278 from S-474 to SC 170 near Bluffton; and

WHEREAS, the US 278 Improvements Project is listed on the IGA's "Attachment 'A' Project List"; and

WHEREAS, the Department and County on August 13, 2008 entered into modification to the IGA identified as "amendment No. 1" for design, right of way acquisition, and construction of the William Hilton Parkway Resurfacing Priority #1 (from Whooping Crane Way to Shelter Cove Lane, approximately 3.56 miles) of the US 278 Improvements Project in Beaufort County, South Carolina; and

WHEREAS, the Department and County on October 17, 2008 entered into a modification to the IGA identified as “Amendment No. 2” to satisfy the funding for the award of the William Hilton Parkway resurfacing Priority #1; and

WHEREAS, the Department and County on November 9, 2009 entered into a modification to the IGA identified as “Amendment No. 3” for the Department to assist County in the design, right of way acquisition, and construction of the William Hilton Parkway Resurfacing Priority #2 (from Shelter Cove Lane through Sea Pines Circle), Priority #3 (from Gumtree Road to Whooping Crane Way), and a section between Karl Bowers Bridge and J. Wilton Graves Bridge, totaling approximately 5.09 miles of the US 278 Improvements Project in Beaufort County, South Carolina; and

WHEREAS, the Department and County on June 30, 2011 entered into a modification to the IGA identified as “Amendment No. 4” for the County desires the Department to assist the County in the funding of the US 278 Improvements Project in Beaufort County, South Carolina, using Federal Match Program funds authorized by the Department’s Commission on October 22, 2010 and SAFETEA-LU funding; and

WHEREAS, the Department and the County on November 20, 2012, entered into a modification to the IGA identified as “Amendment No. 5” for the Department to assist the County in the funding of the construction of the Bluffton Parkway Phase 5, Segment 2, from Buckingham Plantation Drive to US 278, to include new construction of a 4-lane road with raised planted medians and a flyover bridge in Beaufort County; and

WHEREAS, the County desires the Department to assist the County in the right of way construction of the US 21 Business / Boundary Street Redevelopment Project, from S-7-234 (Neil Road, Milepoint 4.58) to SC 281 (Ribaut Road, Milepoint 3.26), realignment of the existing SC 170 intersection with Boundary Street and the construction of a multi-use path along the marshes of Battery Creek in Beaufort County, South Carolina, using FY 2011 Federal TIGER Grant Funds authorized by the Department’s Commission on June 21, 2012. Improvements to US 21 / Boundary Street include converting the existing 5 lane typical section of Boundary Street from

Neil Road to Ribaut Road, to a 4 lane boulevard with a raised median, sidewalks, landscaping, underground utilities, and street lighting; and

WHEREAS, the Department and the County are agreeable to an Sixth amendment to the IGA to accomplish the funding of the right of way and construction of the US 21 Boundary Street Redevelopment Project, from Ribaut Road to Neil Road, to include the realignment of the existing SC 170 with Boundary Street and the construction of a multi-use path in Beaufort County; and

WHEREAS, the County is a body politic with all the rights and privileges of such including the power to contract as a necessary and incidental power to carry out the County's functions covered under this Sixth amendment; and

WHEREAS, the Department is an agency of the State of South Carolina with the authority to enter into contracts necessary for the proper discharge of its functions and duties; and

NOW THEREFORE, in consideration of the several promises to be faithfully performed by the parties hereto as set forth, the Department and the County do hereby agree as follows:

1. Purpose: This Sixth amendment to the IGA is intended to amend the funding responsibilities of the parties hereto for US 21 Business / Boundary Street from S-7-234 (Neil Road, Milepoint 4.58) to SC 281 (Ribaut Road, Milepoint 3.26), realignment of the existing SC 170 intersection with Boundary Street and the construction of a multi-use path along the marshes of Battery Creek in Beaufort County, South Carolina (hereinafter "Project"). Improvements to US 21 / Boundary Street include converting the existing 5 lane typical section of Boundary Street from Neil Road to Ribaut Road, to provide a 4 lane boulevard with a raised median, sidewalks, landscaping, utilities, and street lighting.
2. Local Public Agency Administration: The County, by Department letter dated March 29, 2012, was notified that the County had been found to be qualified to administer and manage the Project subject to certain conditions. The qualification letter is attached as EXHIBIT "A" and specifically made a part hereof. The County further agrees to comply with the Local Public Agency Administration Procedures located on the Department's website at www.scdot.org/doing/lpa.shtml.

3. Funding:

- (a) The County estimates the total project cost to be \$15,200,000.00. The Department's maximum funding for this Project will only be that of the amount provided by the FY 2011 Federal TIGER Grant Program funds. The Department's maximum Federal participation, as approved in the TIGER Grant Agreement and as approved by the SCDOT Commission on June 21, 2012, shall not exceed \$12,635,000.
- (b) The Department will reimburse the County in the following order:
 - I. Actual construction costs (payments to contractors only)
 - II. Right of way acquisition cost (payments to landowners only) – Invoices for right of way acquisition cost will not be accepted until the contractor has been paid in full, including any approved federally-eligible change orders, as agreed to under the construction contract.
 - III. Construction, engineering, and inspection (CEI) services. – Invoice for CEI services will only be accepted once all right of way costs are paid in full to the property owners. The County must follow all LPA requirements for CEI consultant services. Failure by the County to follow the LPA requirements will be sufficient cause to nullify the reimbursement of CEI services.
- (c) The County will submit to the Department a "Request for Payment" no often than every six months from the date of the award to the contractor. The Department will reimburse the County 100% of each approved request for right of way acquisition and contractor payments up to the maximum Federal participation shown in "a" above.
- (d) The County is responsible for all Project costs excluding the funding being provided by the Department under Number "3".

(e) All terms of the FY 2011 TIGER Grant agreement between FHWA, Beaufort County, and SCDOT are binding.

4. Construction Related Contracts: Contract Provisions; Contractor / CEI Payments.

(a) All contracts with third persons including contracts with CEI consultants, construction contractors, or material suppliers shall be entered into the name of the County. All contracts with third persons shall include written provisions that SCDOT will act as the County's agent in administering the contracts, and that the contractor shall conduct business with SCDOT as if it were the contracting entity in lieu of the County.

(b) All contracts with third persons shall also include written provisions specifying that the County will have no authority or responsibility for any aspect of the contract administration and further specifying that the contracting party shall acknowledge that all matters relating to the payment of any costs, invoices, charges, monetary claims or judgments shall be the sole responsibility of the County and that all other matters relating to the contract shall be the sole responsibility of SCDOT.

(c) In accordance with Section V-F-6 of the Beaufort County IGA, the County agrees to reimburse SCDOT for all management cost related to the construction, engineering and inspection of the project.

(d) All invoices from consultants, contractors or material men received by SCDOT shall be promptly submitted to the County for payment. Each such invoice submitted shall contain a certification by SCDOT's District Construction Engineer or his designee that the material or services for which payment is requested have in fact been performed or delivered and incorporated in the project that such material or services meet SCDOT standards, and that payment is due under the terms of the contract.

5. Right of Way Acquisition
 - a. The County shall design, acquire, and coordinate all right-of-way necessary for highway in accordance with the IGA.
6. Miscellaneous/General:
 - (a) EXHIBIT “B”, attached hereto and specifically made a part hereof, represents a map of the Project area and an excerpt from the STIP.
 - (b) All provisions of the original IGA dated March 18, 2008 and any modifications or amendments thereto, except herein modified or changed shall remain in full force and effect.

PROJECT SUMMARY

This PROJECT SUMMARY section is for informational purposes only and does not reflect a continuation of services or an accumulation of costs.

<u>AGREEMENT</u>	<u>DATE</u>	<u>PROJECT</u>
Basic	March 18, 2008	Sales Tax
PRE -16-08	June 17, 2008	US 278 design/construction/funding from Road S-474 to SC 170
Amendment No. 1	August 13, 2008	William Hilton Parkway Priority #1 of the US 278 Improvements Design/construction/funding
Amendment No. 2	October 17, 2008	Award Funding of William Hilton Parkway Priority #1
Amendment No. 3	November 9, 2009	William Hilton Parkway Priority #2 and Priority #3 of the US 278 Improvements design/construction/funding
Amendment No. 4	June 30, 2011	US 278 Improvements Funding
Amendment No. 5	November 20, 20	Bluffton Parkway Phase 5, Segment 2 Project
Amendment No. 6	_____	US 21 Business/Boundary Street from S-7-234 to SC 281

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the date first written above.

Signed, sealed and executed for Authority.

BEAUFORT COUNTY

WITNESS:

Cheryl H. Harris

By: 
(Signature)

Title: County Administrator

Federal ID # 57 6000 311

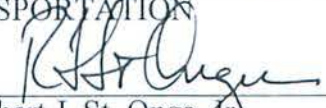
Signed, sealed and executed for the Department.

SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION




WITNESS:

Maria M. Bracanovic

BY: 
Robert J. St. Onge, Jr.
Secretary of Transportation

RECOMMENDED:




John V. Walsh, P.E.
Deputy Secretary for Engineering
RXP


Christy Hall, P.E.
Deputy Secretary for Finance & Administration

EXHIBIT "A"

Qualification Letter Dated March 29, 2012



South Carolina
Department of Transportation

March 29, 2012

Mr. Robert McFee, P.E.
Director of Engineering and Infrastructure
Beaufort County
100 Ribaut Road
Post Office Drawer 1228
Beaufort, South Carolina 29902

Re: Beaufort County LPA Qualification Determination
Boundary Street (US Route 21) Redevelopment Project

Dear Mr. McFee:

The South Carolina Department of Transportation (SCDOT) has completed the review of Beaufort County's LPA Qualifications Evaluation Form and supporting documentation for the project. The information submitted was found to be satisfactory and accepted, therefore, SCDOT is pleased to inform you that Beaufort County has been found to be qualified to administer and manage the construction phase of the project. In addition, the County has requested that SCDOT administer the Construction Administration and Inspection phase as well as the Testing and Material Certification phase of the project. Notification of the response to that request will be sent to the County under separate cover in the near future.

Receipt of the aforementioned determination provides for the County to proceed with the project as an LPA project. The LPA procedures, as well as additional project forms and information are available for your use on the SCDOT website at <http://www.scdot.org/doing/lpa.shtml>. Please be reminded that this letter serves only as notification to the County of its approval to administer this federally funded project. No work shall begin (work includes any activities concerning the Local Public Agency (LPA) project including, but not limited to, advertisement and hiring consultants and/or advertising and hiring for construction services) until an executed participation agreement is issued by SCDOT *and* you receive a formal notice to proceed on the project. A participation agreement will be prepared by SCDOT and sent to the County for signatures in the near future.

Preconstruction Project Manager, Brent Rewis, (803) 737-7903, has been assigned to assist the County with the development phase of the project. In addition, Resident Construction Engineer Chris Smith, (843) 524-7616, has been assigned to assist the County with the construction phase of the project. Please contact them to schedule the field review and scoping meeting for the project.

Again, we greatly appreciate your cooperation and look forward to working with you to complete this project. If you have any questions or require additional information, please contact



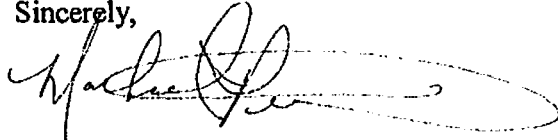
Mr. Robert McFee, P.E.

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March 29, 2012

our office at 803-737-1953, and we will assist you in understanding your responsibilities in the administration of this project.

Sincerely,



Michael M. Peterson
Local Public Agency Administrator

MMP:seaj

cc: Billie Lindsay, Special Projects Planner Beaufort County
ec: Ron Patton, Chief Engineer for Planning, Location, and Design
Mark Lester, Director of Planning
Leland Colvin, Director of Construction
Mitchell Metts, Director of Preconstruction
Robert Clark, District Six Engineering Administrator
Kenny Eargle, Assistant Chief Engineer for Operations
David Glenn, District Six Construction Engineer
Arlene Prince, Director of Business Development and Special Programs
Ken Feaster, Director of Right of Way
ebc: Brian Keys, Assistant Chief Engineer for Planning, Location, and Design
Herb Cooper, Local Program Administrator
Matt Lifsey, Lowcountry Regional Production Engineer
Mark Pleasant, Statewide Planning Chief
Randy Williamson, Environmental Engineer
Brent Rewis, Lowcountry Program Manager
Chris Smith, Resident Construction Engineer
Barbara Beagles, EOP/OJT Training Coordinator
Carolyn Burton, DBE Development Manager
Gary Linn, DBE Program and Compliance Supervisor
Yates Jackson, Local Public Agency Engineer
Liz Capps, Right of Way office
File: LPAA/SEAJ/2012Finals/LPAQuals

EXHIBIT "B"

**Map of Project Area
and STIP**

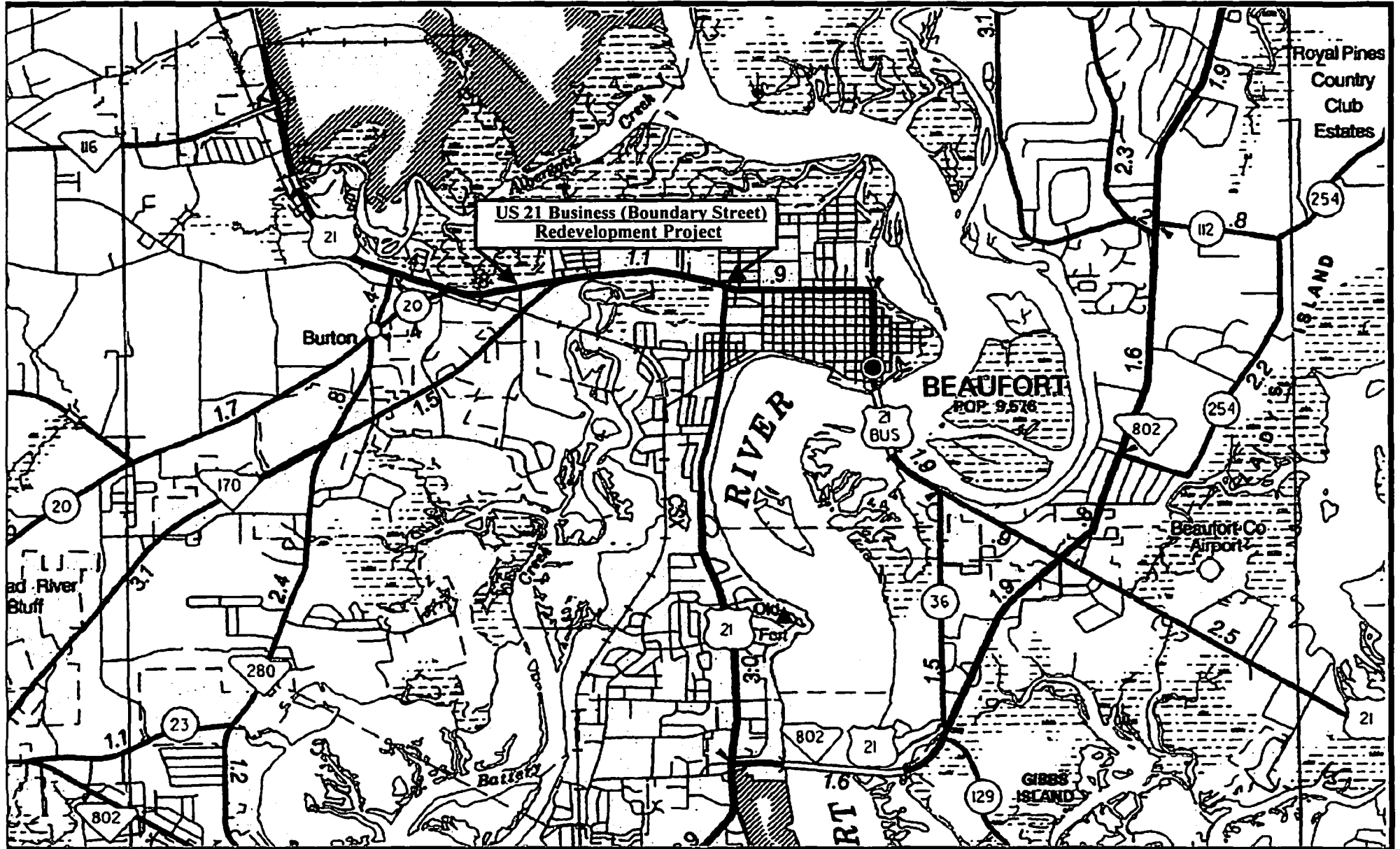
US Route 21 Business (Boundary Street) Redevelopment Project

US-21 Business (between Neil Road / S-234 and Ribaut Road / US-21)

Transportation Investment Generating Economic Recovery (TIGER) III Grant

City of Beaufort, Beaufort County

July, 2012



District 6 Beaufort

Revision 33 - June 21, 2012

Project			MPO / COG	STIP Category	Federal Program	Previous STIP(s)	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	2010-2015 Project Cost	Remaining Cost
Description	Length	Rank												
US 21 Albergotti Creek		BR-32	Lowcountry	Bridge (Federal-Aid)	Bridge		355 R			4,700 C			\$5,055	
S-79 Jarvis Creek		BR-72	Lowcountry	Bridge (Federal-Aid)	Bridge GTP		300 P		300 R			3,450 C	\$4,050	
US 278 Corridor (Simmonsville Road to SC 170) Widening/Safety Improvements			Lowcountry	Earmark (SAFETEA-LU) (Matching Agency - SCDOT)	Earmark			5,046 C					\$30,163	
				Earmark (SAFETEA-LU) (Matching Agency - Beaufort County)	Earmark			500 P 13,873 C						
				Earmark (SAFETEA-LU) (Matching Agency - SCDOT)	Earmark			254 C						
				Earmark (Appropriation) FY 2008 Appropriation	Earmark			490 C						
				Federal Match STP	Earmark			5,000 C						
				Local Match	Local			5,000 C						
The amount to each project will be based on half of the construction shortfall at the time the contract is awarded. Any further adjustments to the project's Federal Match Program construction allocation can be made up to the matched share approved by the Commission.														
Boundary Street Redevelopment			Lowcountry	Earmark (FY 2011 Tiger Grant)	Earmark					3,000 R 9,600 C 77 C			\$12,600	
Ace Basin (Rehabilitate Bonny Hall entrance road) (Applicant - U.S. Fish and Wildlife Service, Ace Basin National Wildlife Refuge)			Lowcountry	Federal Lands	Federal Lands								\$77	
Bluffton Parkway - Phase 5A (Segment 1) (S-163 (Burnt Church Road) to Buckingham Plantation Drive)			Lowcountry	Local	Local	4,835 R 5,929 C	22,800 C	20,300 C	6,900 C				\$50,000	
Bluffton Parkway - Phase 5A (Segment 2) (Buckingham Plantation Drive to US 278 (Fording Island Road) (Matching Agency - Beaufort County)			Lowcountry	Federal Match Local Local	Federal Match				15,000 C 15,000 C 4,285 C				\$34,285	
Hunting Island Trail System (This project was awarded with the 2008 Recreational Trails program Agency - SCPRT State Park Service - Hunting Island State Park)			Lowcountry	Federal Lands	Recreational Trails		125						\$125	
New River Trail - Trailhead Development (This project was awarded with the 2009 Recreational Trails program Agency - Town of Bluffton)			Lowcountry	Federal Lands	Recreational Trails		107						\$107	
Pigeon Point Park Walking Trail (This project was awarded with the 2009 Recreational Trails program Agency - Town of Bluffton)			Lowcountry	Federal Lands	Recreational Trails		63						\$63	
Buckwalter Place Greenway Trail (This project was awarded with the 2008 Recreational Trails program Agency - Town of Bluffton)			Lowcountry	Federal Lands	Recreational Trails		125						\$125	
Beaufort County Resurfacing SC 46 (S-66 / S-120 to Near S-713) S-29 (SC 46 to L-0) S-159 (S-233 to S-151) S-158 (Near S-172 to S-172) US 21 (Near S-145 to Near S-77) US 21 (S-549 to 0.21 mi N of Seabrook Rd)			Lowcountry	Resurfacing	ARRA Pave/Reconst	2,252 C 78 C								
Congressional District 2 Resurfacing US 278 Bus - William Hilton Parkway (Shelter Cove Lane through Sea Pines Circle (including the traffic circle)) (Match provided by Beaufort County)			Lowcountry	Resurfacing	ARRA Local		2,211 C 2,027 C						\$4,238	
Intersection Improvement US 21 @ SC 116 US 21 @ S-38 (Meridian Road) US 21 @ S-6 (Bay St)			Lowcountry	Safety	Safety				3 PC 1 PC 5 PC				\$9	
Beaufort Rail Trail (Green Corridor Project) (Matching Agency - Beaufort County)			Lowcountry	Scenic Byways	Earmark (Discretionary)					1,304			\$1,304	