

Consider approving agreement with TxDot for right-of-way procurement on Farm-to-Market 619.

Commissioner Mehevec advised the county still has right-of-way to purchase for which the State of Texas will make 90% reimbursement. The three remaining tracts to be purchased are located between Taylor and Beyersville.

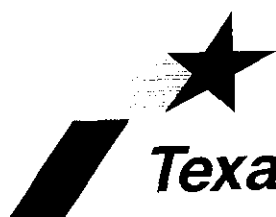
Moved: Commissioner Boatright

Seconded: Judge Doerfler

Motion: To approve agreement with TxDot for right-of-way procurement on Farm-to-Market 619.

Vote: Motion carried 5 - 0

< Clerk copy here >



Texas Department of Transportation

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

May 7, 1997

Contractual Agreement for Right
of Way Procurement (County Form)

Account No. 8014-1-96

CSJ 089601033

Williamson County

F.M. 619: From 1.5 Km (0.93 Mi) South of F.M. 112

To 3.4 Km (2.11 Mi) South of F.M. 112

Mr. Jerry Mehevec
County Commissioner Precinct 4
Williamson County
P.O. Box 1104
Taylor, Texas 76574

Dear Commissioner Mehevec:

Attached are the original and three copies of the Contractual Agreement for Right of Way Procurement (County Form) for the above referenced project. This project is now eligible for 90%/10% funding under the Urban Road Program.

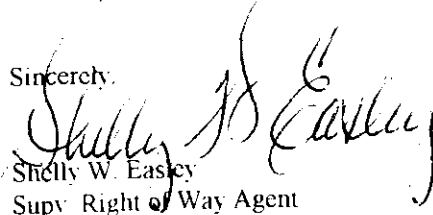
Acquisition for this right of way project will be on a 90%/10% basis with the County being reimbursed 90% of all eligible right of way and utility relocation costs. After a determination has been made that all acquisition activities are in compliance with applicable Federal and State laws and regulations in order to keep the project eligible for Federal funding in construction, and we have proper title, we will proceed with the reimbursement of all eligible expenses incurred by the County.

In accordance with the provisions of the Contractual Agreement for Right of Way Procurement, if Williamson County wishes, the County may waive its right and requirement to furnish property valuations to the State and request, in writing, that the State furnish such values for acquisition and reimbursement purposes at the State's expense.

Please have the County Commissioners Court approve and execute the Contractual Agreement for Right of Way Procurement (County Form) at one of their next meetings and return them, along with a certified copy of the Court Order accepting the contract, to us for further processing.

If additional information is needed concerning the above, please contact Steve Bohuslav at 832-7242 or the undersigned at 832-7237.

Sincerely,


Shelly W. Easley
Supv. Right of Way Agent

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Attachments
cc Steve Bohuslav

VOL 0088 PAGE 510

**Contractual Agreement
for
Right of Way Procurement
(County Form)**

THE STATE OF TEXAS

I
I
I

COUNTY OF TRAVIS

Contract No. NA
County Williamson
Project No. NA
CSJ No. 089601033
Account No. 8014-1-96

This Agreement by and between the State of Texas, acting by and through the State Department of Highways and Public Transportation, hereinafter called the **State**, and Williamson County, Texas, acting by and through its duly authorized official under Commissioners Court Order dated 13th day of May, 19 97, hereinafter called the **County**, shall be effective on the date of approval and execution by and on behalf of the **State**.

WHEREAS, the **State** has deemed it necessary to make certain highway improvements on Highway No. FM 619 From 1.5 Km (0.93 Mi) South of FM 112 To 3.4 Km (2.11 Mi) South of FM 112, and which section of highway improvements will necessitate the acquisition of certain right of way; and

WHEREAS, it is agreed that such right of way purchase shall be by joint effort of the **State** and the **County**;

NOW, THEREFORE be it agreed that acquisition of such right of way shall be in accordance with the terms of this contract and in accordance with applicable Federal and State laws governing the acquisition policies for acquiring real property. The **State** hereby authorizes and requests the **County** to proceed with acquisition and the **State** agrees to reimburse the **County** for its share of the cost of such right of way providing such acquisition and reimbursement are accomplished according to the provisions outlined herein and agreed to by both parties hereto.

Location Surveys and Preparation of Right of Way Data: The **State**, without cost to the **County**, will do the necessary preliminary engineering and title investigation in order to supply to the **County** the data and instruments necessary to obtain acceptable title to the desired right of way.

Determination of Right of Way Values: The **County** agrees to make a determination of property values for each right of way parcel by methods acceptable to the **County** and to submit to the **State's** District Office a tabulation of the values so determined, signed by the appropriate County Representative. Such tabulations shall list the parcel numbers, ownership, acreage, and recommended compensation. Compensation shall be shown in the component parts of land taken, itemization of improvements taken, damages, if any, (offset by enhancements, if any,) to the remainder, if any, and the amounts 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 arriving at all determined values. Such work will be performed by the **County** at its expense without cost participation by the **State**. The **State** will review the data submitted and may base its reimbursement on the values which are determined by this review. The **State**, however, reserves the right to perform at its own expense any additional investigation deemed necessary, including supplemental appraisal work by State employees or by employment of fee appraisers, all as may be necessary for determination of values to constitute the basis for **State** reimbursement.

If at any stage of the project development it is determined by mutual agreement between the **State** and **County** that there should be waived the requirement that the **County** submit to the **State** property value determinations for any part or all of the required right of way, the **County** will make appropriate written notice to the **State** of such waiver, such notice to be acknowledged in writing by the **State**. In instances of such waiver, the **State** by its due processes and at its own expense will make a determination of values to constitute the basis for **State** reimbursement.

Negotiations: The **State** will notify the **County** as soon as possible as to the **State's** determination of value. Negotiation and settlement with the property owner will be the responsibility of the **County** without participation by the **State**; however, the **County** will notify the **State** immediately prior to closing the transaction so that a current title investigation may be made to determine if there has been any change in the title. The **County** will deliver properly executed deeds which together with any curative instruments found to be necessary as a result of the **State's** title investigation will properly vest title in the **State** for each right of way parcel involved. The costs incidental to negotiation and the costs of recording the right of way instruments will be the responsibility of the **County**. The cost of title investigation will be the responsibility of the **State**.

Condemnation: Condemnation proceedings will be initiated at a time selected by the **County** and will be the **County's** responsibility at its own expense except as hereinafter indicated. The **County** will obtain from the **State**, without cost, current title information and engineering data at the time condemnation proceedings are to be initiated. Except as hereinafter set forth, the **County** will concurrently file condemnation proceedings and a notice of lis pendens for each case in the name of the **State**, and in each case so filed the judgment of the court will decree title to the property condemned in the name of the **State**. The **County** will accomplish the legal procedures and curative matters found to be necessary as a result of the **State's** title investigation, fulfilling the obligation to properly vest title in the **State**. The **County** may, as set forth herein under "Excess Takings," enter condemnation proceedings in its own name.

Court Costs, Costs of Special Commissioners' Hearings and Appraisal Expense: Court costs and costs of Special Commissioners' hearings assessed against the **State** or **County** in condemnation proceedings conducted on behalf of the **State**, and fees incident thereto, will be paid by the **County**. Such costs and fees, with the exception of recording fees, will be eligible for 90 percent **State** reimbursement under the established reimbursement procedure provided such costs and fees are eligible for payment by the **State** under existing **State** law. Where the **County** uses the **State's** appraisers employed on a fee basis in Special Commissioner's hearings or subsequent appeals, the cost of the appraiser of updating the report, of preparing new reports, preparing for court testimony and appearing in court to testify in support of the appraisal will be paid direct by the **County**, but will be eligible for 90 percent **State** reimbursement under established reimbursement procedure provided prior approval for such appraiser has been obtained from the **State**. The fee paid the appraiser by the **County** shall be in accordance with the fee schedule set forth in the appraiser's contract for appraisal services with the **State**.

Excess Takings: In the event the **County** desires to acquire land in excess of that requested by the **State** for right of way purposes, the **State's** cost participation will be limited to the property needed for right of way purposes. If the **County** elects to acquire the entire property, including the excess taking, by a single instrument of conveyance or in one eminent domain proceeding, the property involved will be acquired in the name of the **County** and that portion requested by the **State** for right of way will be conveyed to the **State**. When acquired by negotiation, the **State's** participation will be based on the **State's** approved value of that part requested for right of way purposes, providing such approved value does not exceed actual payment made by the **County**. When acquired by condemnation, the **State's** participation will be in the proportionate part of the final judgment amount computed on the basis of the relationship of the **State's** approved value to the **State's** predetermined value for the whole property.

Improvements: Property owners will be afforded an opportunity in the negotiations to retain any or all of their improvements in the right of way taking. In anticipation of the owner desiring to retain improvements, the **State's** approved value will include the amounts by which the upper limit of **State** participation will be reduced for the retention. It is further agreed that the upper limit for the **State's** participation in the **County's** cost for an improved parcel will be reduced as shown in the **State's** approved value where the owner retains an improvement which is to be moved by either the **County** or the owner. In the event the improvements which are, in whole or part, a part of the right of way taking are not retained by the owner, title is to be secured in the name of the **State**. The **State** will participate in the acquisition of a structure severed by the right of way line if the part of the house, building or similar structure outside the right of way cannot be reconstructed adequately or there is nothing but salvage left, provided the **State's** value is established on this basis and provided title to the entire structure is taken in the name of the **State**. The **State** shall dispose of all improvements acquired. The net revenue derived by the **State** from the disposition of any improvements sold through the **State** Purchasing and General Services Commission will be credited to the cost of the right of way procured and shared with the **County**.

Relocation of Utilities: If the required right of way encroaches upon an existing utility located on its own right of way and the proposed highway construction requires the adjustment, removal or relocation of the utility facility, the State will establish the necessity for the utility work. State participation in the cost of making the necessary change, less any resulting increase in the value to the utility and less any salvage value obtainable, may be obtained by either the "actual cost" or "lump sum" procedures. Reimbursement under "actual cost" will be made subsequent to the County's certification that the work has been completed and will be made in an amount equal to 90 percent of the eligible items of cost as paid to the utility owner. The "lump sum" procedure requires that the State establish the eligibility of the utility work and enter into a three-party agreement with the owners of the utility facilities and the County which sets forth the exact lump sum amount of reimbursement based on a prior appraisal. The utility will be reimbursed by the County after proper certification by the utility that the work has been done, said reimbursement to be on the basis of the prior lump sum agreement. The State will reimburse the County in an amount equal to 90 percent of the firm commitment as paid to the utility owner. The foregoing is subject to the provision that the individual lump sum approved value shall not exceed \$20,000, except as specifically approved by the State. In those cases where a single operation is estimated to exceed \$20,000, the transaction will be brought to the attention of the State for determination of proper handling based upon the circumstances involved. Such utility firm commitment will be an appropriate item of right of way. The adjustment, removal or relocation of any utility line on publicly owned right of way by sufferance or permit will not be eligible for State reimbursement. The term "utility" under this contract shall include publicly, privately, and cooperatively owned utilities.

Fencing Requirements: The County may either pay the property owner for existing right of way fences based on the value such fences contribute to the part taken and damages for an unfenced condition resulting from the right of way taking, in which case the estimated value of such right of way fences and such damages will be included in the recommended value and the approved value, or the County may do the fencing on the property owner's remaining property.

Where the County performs right of way fencing as a part of the total right of way consideration, neither the value of existing right of way fences nor damages for an unfenced condition will be included in the recommended value or the approved value. State participation in the County's cost of constructing right of way fencing on the property owner's remainder may be based either on the actual cost of the fencing or on a predetermined lump sum amount. The State will be given credit for any salvaged fencing material and will not participate in any overhead costs of the County.

If State participation is to be requested on the lump sum basis, the State and the County will reach an agreement prior to the actual accomplishment of work as to the necessity, eligibility, and a firm commitment as to the cost of the entire fencing work to be performed. The foregoing is subject to the provision that the lump sum approved cost shall not exceed \$20,000, except as specifically approved by the State. In case the fencing is estimated to exceed \$20,000, the transaction will be brought to the attention of the State for determination of proper handling based upon the circumstances involved.

Reimbursement: The State will reimburse the County for right of way acquired after the date of this contract in an amount not to exceed 90 percent of the cost of the right of way acquired in accordance with the terms and provisions of this agreement. The State's reimbursement will be in the amount of 90 percent of the State's predetermined value of each parcel, or the net cost thereof, whichever is the lesser amount.

If condemnation is necessary and title is taken as set forth herein under the section headed "Condemnation," the participation by the State shall be based on the final judgment, conditioned that the State has been notified in writing prior to the filing of such suit and prompt notice is also given as to all action taken therein. The State shall have the right to become a party to the suit at any time for all purposes, including the right of appeal at any stage of the proceedings. All other items of cost shall be borne by the State and the County as provided by other provisions of this agreement.

If a lump sum fencing or utility adjustment agreement has been executed, the State will reimburse the County in the amount of 90 percent of the predetermined lump sum cost of the right of way fencing or utility adjustment.

If the County prefers not to execute a lump sum agreement for either fencing or utility adjustments, the State will reimburse on the actual cost of such adjustments. The County's request for reimbursement will be supported by a breakdown of the labor, materials and equipment used.

General: It is understood that the terms of this agreement shall apply to new right of way authorized and requested by the State which is needed and not yet dedicated, in use, or previously acquired in the name of the State or County for highway, street, or road purposes. This agreement shall also apply, as to any existing right of way, to outstanding property interests not previously acquired and to eligible utility adjustments not previously made, as authorized and requested by the State.

It is further understood that if unusual circumstances develop in the right of way acquisition which are not clearly covered by the terms of this agreement, such unusual circumstances or problems will be resolved by mutual agreement between the State and the County.

COMMISSIONERS' COURT
OF

EXECUTION RECOMMENDED:

Williamson County, Texas

For District Engineer

By: John C. Daehler 5-13-97
County Judge

THE STATE OF TEXAS

Certified as being executed for the purpose and effect of activating and/or carrying out the orders, established policies, or work programs heretofore approved and authorized by the State Highway and Public Transportation Commission.

By: [Signature]
Commissioner, Precinct Number 1

By: [Signature]
Commissioner, Precinct Number 2

BY: _____
Right of Way Engineer

By: [Signature]
Commissioner, Precinct Number 3

Date _____

By: [Signature]
Commissioner, Precinct Number 4

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AGENDA ITEM # 7May 13, 1997*Consider granting preliminary and final plat approval to Brushy Creek Village, Section Two.

County Engineer Joe England advised this subdivision is located at the intersection of Great Oaks and O'Connor. Developer, David Bodenman, advised he had designed this subdivision for 3 neighborhood commercial lots.

The County Engineer continued with his visit to the City of Round regarding notes on the plat and this plat met all Williamson County requirements.

Moved: Commissioner Boatright

Seconded: Commissioner Hays

Motion: To grant preliminary and final plat approval to Brushy Creek Village, Section Two.

Vote: Motion carried 5 - 0

AGENDA ITEM # 8May 13, 1997*Consider granting preliminary plat approval to Gabriel Farms, Section 1.

The County Engineer advised the developer will post fiscal for streets.

Moved: Commissioner Heiligenstein

Seconded: Commissioner Boatright

Motion: To grant preliminary plat approval to Gabriel Farms, Section 1.

Vote: Motion carried 5 - 0

AGENDA ITEM # 9May 13, 1997*Discuss and take appropriate action on water well relocation for Lot 4, Springcreek Ranch plat.

Commissioner Boatright advised the Health District had signed off on the plat.

Moved: Commissioner Boatright

Seconded: Commissioner Heiligenstein

Motion: To approve water well relocation for Lot 4, Springcreek Ranch plat.

Vote: Motion carried 5 - 0

AGENDA ITEM # 10May 13, 1997*Consider awarding bid for expansion of EMS Administration building.

Moved: Commissioner Hays

Seconded: Commissioner Boatright

Motion: To award bid for expansion of EMS Administration building to PrimeStore, Inc. for \$121,000.00.

Vote: Motion carried 5 - 0

AGENDA ITEM # 11May 13, 1997*Consider awarding bid for County Depository.

Moved: Commissioner Mehevec

Seconded: Commissioner Boatright

Motion: To award bid for County Depository to Union State Bank.

Vote: Motion carried 5 - 0