

AGENDA ITEM # 15

March 10, 1998

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Consider approving Resubdivision of Lots 1 & 2, Durham Park, Section Six.

County Engineer Joe England recommended this item be tabled until the streets have been constructed or a Letter of Credit put on file.

Moved: Commissioner Boatright

Seconded: Judge Doerfler

Motion: To table this item.

Vote: Motion carried 5 - 0

AGENDA ITEM # 16

March 10, 1998

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Consider authorizing, advertising and setting date to accept proposals for the provision of professional appraisal services for Anderson Mill Road. (Funding from Anderson Mill Road certificates of obligation)

Commissioner Heiligenstein will provide specifications for the proposals to the office of the County Auditor.

Moved: Commissioner Boatright

Seconded: Judge Doerfler

Motion: To authorize advertising 10:45 a.m. on March 31, 1998, to receive proposals for the provision of professional appraisal services for Anderson Mill Road to be funded from Anderson Mill Road certificates of obligation.

Vote: Motion carried 5 - 0

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AGENDA ITEM # 17

March 10, 1998

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Consider entering into agreement for professional services with Reata Management Company for the provision of professional right-of-way acquisition services.

Moved: Commissioner Boatright

Seconded: Commissioner Heiligenstein

Motion: To approve entering into agreement for professional services with Reata Management Company for the provision of professional right-of-way acquisition services.

Vote: Motion carried 4 - 0 with Commissioner Hays absent from the dais.

< Clerk copy here >

Feb-25-98 09:56A WALKER

512-288-4418

P.01

Reata Management Company

February 25, 1998

Commissioner Mike Heiligenstein
 Williamson County Precinct #1
 211 Commerce #7
 Round Rock, TX 78664

FAX (512) 248-3243

Re: Agreement for Acquisition of R.O.W. for the Widening of Anderson Mill Road

Dear Commissioner Heiligenstein:

Please accept this letter as the agreement between Reata Management Company and Williamson County for acquisition of R.O.W. for the widening of Anderson Mill Road.

The complete acquisition is estimated to take approximately 60 to 80 hours per month and approximately six (6) months to finish from the date the agreement is signed..

The scope of work agreed to by Reata on behalf of Williamson County will include the negotiating with the property owners of parcels of land as outlined by the Texas Department of Transportation to purchase R.O.W. on behalf of Williamson, and the delivery of the county-prepared documents for said R.O.W. acquisition to be executed by both parties.

Williamson County agrees to pay Reata the fee of \$2,750 per month, plus pre-approved administrative out-of-pocket expenses.

If I may be of further assistance or if you have additional questions, please contact me.

Sincerely,


 Jim Hislop

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ACCEPTED AND AGREED TO THIS 10TH DAY OF March, 1998.

Reata Management Company

Williamson County

By

Jim Hislop

By


 John C. Doerflinger, County Judge

James S. (Jim) Hislop, P. O. Box 44, McNeil, TX 78651-0044 Phone (512) 918-0871

RECORDERS MEMORANDUM

All or parts of the text on this page was not
 clearly legible for satisfactory recordation.



Texas Department of Transportation

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

December 2, 1997

Williamson County
0914-05-072
Anderson Mill Road: From U.S. 183
To F.M. 734

Mr. Mike Heiligenstein
Williamson County Commissioner, Pct. #1
211 Commerce Cove, Suite #7
Round Rock, Texas 78664

Dear Commissioner Heiligenstein:

The above project was authorized by Highway Commission Minute Order Number 102542 dated July, 1993. It will be necessary for Williamson County to acquire the right of way for this project.

Attached for your use are two copies of the field notes and parcel sketches for the property to be acquired.

In order that eligibility for use of Federal funds in construction be retained, it will be necessary that the acquisition of this right of way be in strict compliance with the applicable Federal and State laws and regulations. We have consolidated the various necessary requirements in the attachment entitled "Procedures for acquiring Highway Right of Way."

An example of the information notice to be sent to all owners is attached. All appraisal assignments and appraisals are to comply with the appraisal requirements. Offers to purchase and negotiating procedures are applicable on all parcels. A sample letter of offer is also attached for your use in meeting the various requirements. A copy of your letter to each owner must be submitted to this office at the same time the letter is sent to the owner so that we may comply with requirements imposed upon us. All property owners must be made aware of the Relocation Assistance benefits that are available immediately after the offer to acquire is initiated.

In the event a property owner chooses to donate all or a portion of the needed right of way, it will be necessary for you to secure a waiver from the owner. This waiver should acknowledge that the owner relinquishes his rights to have his property appraised as well as his rights to receive just compensation of the taking and for any consequential damages resulting from that taking. We have attached a copy of a sample donation letter and waiver of compensation form letter for your use.

An Equal Opportunity Employer

Mr. Mike Heiligenstein

Page 2

December 2, 1997

In order to comply with Federal requirements, the Department must be furnished documentation assuring that all incidental expenses have been paid by the County and not by the landowner on any and all projects that involve federal funding in any manner. Incidental expenses include recording fees, transfer taxes and similar expenses incidental to conveying title to real property.

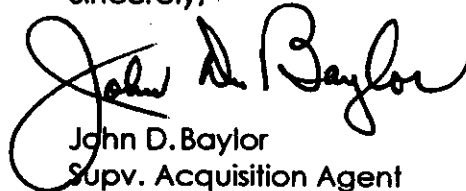
The Department is also required to make an accounting of all money actually paid to the landowner(s) for the acquisition of the needed right of way for all projects that involve Federal funding in any aspect of project development, including construction.

In order for us to comply with the above requirements, it is necessary that we be furnished a copy of the closing statements for each parcel. If the closing statements contain the information regarding incidental expenses and right-of-way costs, this document will be sufficient. If a closing statement is not available, some other accounting of right of way costs will be required. We will also need some form of documentation assuring that all incidental expenses, if any, have been paid by the County and not by the landowner.

Please inform us in writing as soon as possible on an estimated date that Williamson County will have these parcels obtained. This project currently has a June 1999 letting date, so it is necessary that the needed right of way be obtained as quickly as possible.

We trust that you have sufficient information to allow you to acquire this right of way. If you have any questions, please contact Steve Bohuslav at (512) 832-7242.

Sincerely,



John D. Baylor
Supv. Acquisition Agent

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SDB:bd

Attachments

xc: Mr. Chris Grose - Special Design Ofc.

Procedures for Acquiring Highway Right of Way

INTRODUCTION: Highway right of way for Farm to Market, Metropolitan or any other designated highway on the State Highway System must be acquired in accordance with applicable Federal laws and regulations in order for highway construction to be eligible for Federal aid. These procedures have been prepared for use by counties and cities or any other entity in acquiring highway right of way. Acquisition on all right of way projects must be closely coordinated between the acquiring agency and the appropriate District Office because of certain prerequisites and mutual responsibilities involved.

Before any right of way acquisition activities on any project can be undertaken, required environmental and public hearing requirements must be completed and approved. The District Office will advise the agency when all prerequisites have been met and acquisition can be initiated.

RELOCATION REQUIREMENTS: The relocation program will be administered and all benefits paid by the Department. A very close working relationship between the acquiring agency and District personnel is necessary to provide timely relocation benefits to landowners and businesses. The Department must comply with all applicable Federal laws and regulations related to relocation and benefits.

EXPENSES INCIDENTAL TO TRANSFER OF TITLE: Eligible incidental expenses incurred by landowners will be reimbursed by the Department. All owners will be advised of eligibility for these benefits.

GENERAL ACQUISITION PROCEDURES: The acquiring agency must comply with these requirements:

1. In accordance with these procedures, every reasonable effort will be made to acquire all right of way parcels expeditiously by negotiation.
2. The acquiring agency is to make reasonable effort to contact the owner or the owner's representative and (1) discuss the offer to purchase the property including the basis for the offer to purchase, and (2) explain acquisition policies and procedures. The owners will be advised, if not informed in the informational notice, eligibility for reimbursement of incidental expenses. Each owner is to be given reasonable opportunity to consider the offer and present material which the owner believes is relevant to determining the value of the property. The acquiring agent will give appropriate consideration to the owner's position.

3. The acquiring agency shall not advance the time of condemnation or defer negotiations or condemnation or the deposit of funds with the court or take any other coercive action in order to induce any agreement on the price to be paid for the right of way.

4. Before requiring the owner to surrender possession of the right of way, the acquiring agency shall (1) pay the agreed purchase price to the owner, or (2) in the case of condemnation, deposit with the court the amount of the award or compensation in the condemnation proceeding. A right of entry may, however, be obtained prior to payment in exceptional cases when mutually agreeable to the owner and the acquiring agency.

5. Improvements located on right of way parcels, whether owned by fee owners or leasees, will be included in the appraisal and acquisition procedures when the improvements are real property under State law.

6. An appraiser or review appraiser shall not act as negotiator on any parcel where such appraiser or review appraiser was involved in the determination of just compensation for that particular parcel. However, where the just compensation for a parcel is ~~\$2,500~~ or less, the acquiring agency may allow the same person to appraise and negotiate for that parcel. → \$ 5,000

7. Procedures for all functions in the acquisition process must be applied uniformly without regard to race, color, age, religion, sex, national origin or handicap.

8. In the event unusual circumstances indicate that a hardship acquisition is warranted or that there is a need for protective buying of a parcel or parcels in advance of the standard notice of release to acquire, the District Office must be contacted before any action is taken to acquire such property.

9. After being informed of the right to receive just compensation, an owner may make a gift or donation of a right of way or any part thereof, or any interest therein, or of any compensation paid therefor. The acquiring agency is responsible for assuring that an appraisal of the real property affected is obtained unless the owner releases the agency from such obligation by indicating that all or part of the property will be donated.

10. The acquiring agency will be responsible for reimbursing litigation expenses when the final judgement of a court is that the agency cannot acquire the right of way by condemnation, or the proceedings are abandoned by the agency. Such expenses may also be awarded in an inverse condemnation proceeding. These expenses are to be substantiated by court order.

INFORMATIONAL NOTICE TO OWNER: As soon as feasible, the property owner or the owner's representative shall be notified of the agency's interest in acquiring the right of way, the basic protections provided to the owner by law and required procedures or regulations. The notice shall be made after the project is released for acquisition. Since the owner may be contacted for pre-appraisal purposes, this contact is suggested as the optimum time for furnishing the informational notice. The notice is to be written in plain, understandable language. Each notice shall indicate the name and telephone number of a person who may be contacted for answers to questions or other needed help. Agencies are encouraged to furnish along with the notice a brochure or other prepared statement to help explain the acquisition process.

APPRAISAL AND INVITATION TO OWNER: Before the initiation of negotiations, the real property shall be appraised and the owner or the owner's designated representative shall be given an opportunity to accompany the appraiser during the appraiser's inspection of the property.

DEFINITION OF APPRAISAL: An appraisal is a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

ESTABLISHMENT AND OFFER OF JUST COMPENSATION: Before the initiation of negotiations, the agency shall establish an amount which it believes is just compensation for the real property to be acquired. The amount shall not be less than the approved appraisal of just compensation, including damages or enhancements to the remaining property.

Promptly there after the agency shall make a written offer to the owner to acquire the property for the full amount believed to be just compensation.

STANDARDS OF APPRAISAL: The format and level of documentation for an appraisal are dependent on the complexity of the appraisal problem. The agency shall develop minimum standards for appraisals consistent with established and commonly accepted appraisal practice for those acquisitions which by virtue of low value or simplicity, do not require the in-depth analysis and presentation necessary in a detailed appraisal. A detailed appraisal shall be prepared for all other acquisitions. A detailed appraisal shall reflect nationally recognized appraisal standards, including, to the extent appropriate, the Uniform Appraisal Standards for Federal Land Acquisition. An appraisal must contain sufficient documentation, including valuation data and the appraiser's analysis of that data, to support his or her opinion of value. As a minimum, the appraisal shall contain the following items:

1. The purpose and/or the function of the appraisal, a definition of the estate being appraised, and a statement of the assumptions and limiting conditions affecting the appraisal.
2. An adequate description of the physical characteristics of the property being appraised (and, in the case of a partial acquisition, an adequate description of the remaining property); a statement of the known and observed encumbrances, if any; title information; location; zoning; present use; an analysis of highest and best use; and at least a five-year sales history of the property.
3. All relevant and reliable approaches to value consistent with commonly accepted professional appraisal practices. When sufficient market sales data are available to reliably support the fair market value given the specific appraisal problem encountered, the agency, at its discretion, may require only the market approach. If more than one approach is utilized, there shall be an analysis and reconciliation of value that is sufficient to support the appraiser's opinion(s) of value.
4. A description of comparable sales, including a description of all relevant physical, legal, and economic factors such as parties to the transaction, source and method of financing, and verification by a party involved in the transaction.
5. A statement of the value of the real property to be acquired and, for a partial acquisition, a statement of damages and enhancements, if any, to the remaining real property.
6. The effective date of valuation, date of appraisal, signature, and certification of the appraiser.

The agency has the option of developing its own minimum standards, or it may elect to adopt the Department's standard appraisal forms which comply with all applicable requirements. Standards must be developed.

QUALIFICATIONS OF APPRAISERS: The agency shall establish for determining the minimum qualifications of appraisers. Appraiser qualifications shall be consistent with the level of difficulty of the appraisal assignment. The agency shall review the experience, education, training, and other qualifications of appraisers, including review appraisers, and utilize only those determined to be qualified. Rather than establish its own qualifications of appraisers, the agency may, as its standard procedure, elect to use fee appraisers approved by the Department.

CONFLICTS OF INTEREST: No appraiser or review appraiser shall have any interest, direct or indirect, in the real property being appraised for the agency that would in any way conflict with the preparation or review of the appraisal. Compensation for making an appraisal shall not be based on the amount of the valuation. No appraiser shall act as a negotiator for real property which that person has appraised, except that the agency may permit the same person to both appraise and negotiate an acquisition where the value of the acquisition is ~~\$2,500~~ or less.

\$ 5,000

INFLUENCE OF THE PROJECT ON JUST COMPENSATION: To the extent permitted by applicable law, the appraiser shall disregard any decrease or increase prior to the date of valuation, in the fair market value of the real property, cause by the project for which the property is to be acquired, or by the likelihood that the property would be acquired for the project, other than that due to physical deterioration within the reasonable control of the owner.

REVIEW OF APPRAISALS: The agency shall have an appraisal review process which includes at a minimum:

1. A qualified reviewing appraiser shall examine all appraisals to assure that they meet agency appraisal requirements and shall, prior to acceptance, seek correction or revision of those which do not.
2. If the reviewing appraiser is unable to approve or recommend approval of an appraisal as adequate support or compensation, the reviewing appraiser may develop appraisal documentation in accordance with the procedures entitled "Standards of Appraisal" to support an approved or recommended value if it is determined that it is not practical to obtain additional appraisals.
3. The reviewing appraiser's certification and the recommended or approved value of the property shall be set forth in a signed written statement which identifies the appraisal reports reviewed and explains the basis for such determination. Any damages or enhancements to any remaining property shall also be identified in a statement.

On right of way projects where the Department appraises and determines approved values, the acquiring agency is not required to review appraisals unless an amount different from the State's approved value is offered in negotiation.

OWNER RETENTION OF IMPROVEMENTS: If the owner of a real property improvement is permitted to retain it for removal from the project site, just compensation for the interest in the real property to be acquired shall be not less than the difference between the amount determined to be just compensation or the owner's entire interest and the salvage value of the retained improvement. The amount to be deducted from the just

compensation for a parcel when any improvement is to be retained by an owner is commonly referred to as the retention value. Retention value for an improvement is usually the same as the salvage value.

Retention values as determined by the Department in its appraisal process comply with these requirements.

ACQUISITION OF IMPROVEMENTS: All buildings, structures or other improvements located on right of way parcels, whether owned by fee owners or lessees, will be included in appraisals when they are determined to be real property under State law.

UPDATING OFFER OF JUST COMPENSATION: If information presented by an owner, or a material change in the character or condition of the property, indicates the need for new appraisal information, or if a significant delay has occurred since the time of the appraisal(s) of the property, the agency shall have the appraisal(s) updated or obtain a new appraisal(s). If the latest appraisal information indicates a change in the purchase offer is warranted, the agency shall promptly reestablish just compensation and offer the amount so established to the owner in writing.

INITIATION OF NEGOTIATIONS: The term "initiation of negotiations" means the delivery of the written offer to purchase a parcel or parcels under one ownership. Prior to the initiation of negotiations, the property must be appraised in order to establish what the agency believes is just compensation for the property. The amount of the written offer to purchase shall not be less than the approved appraised estimate of just compensation. Delivery of the offer will be to the owner or the owner's representative(S), whichever is appropriate. However, in any case where a person moves after the Department issues an advanced eligibility notice for relocation assistance purposes, but before delivery of the initial written purchase offer, the "initiation of negotiations" means the date the person moves from the property.

WRITTEN OFFER TO PURCHASE: A prompt written offer in an amount not less than the approved appraised value is to be made to the owner. All entities or agencies who acquire highway right of way are encouraged to pattern notices and offers to purchase after the samples contained in the Department's Right of Way Manual. Copies of all written offers are to be promptly forwarded to the Department's District Office. Delivery of the offer constitutes the initiation of negotiations, and is principal date for determining relocation assistance entitlements. This data also is useful in notifying owners of reimbursement of eligible incidental expenses in transferring the title to the State. All written offers must include the following:

1. A statement of the amount offered as just compensation. In the case of a partial acquisition, the compensation for the real property to be acquired and the compensation for damages, if any, to the remaining real property shall be separately stated.
2. A description and location identification of the right of way parcel and of the interest in the real property to be acquired. The description and location can be in general terms.
3. An identification of the buildings, structures and other improvements which are considered to be part of the real property for which the offer is made. Where appropriate, the statement, such as public utilities, outdoor advertising sign leases and railroads, and shall indicate that such interest is not included in the offer. Generally the owner is required to negotiate with lessees and offers to purchase are usually addressed to the owner; however, caution should be exercised regarding real property improvements which may belong to a lessee.

RECORDKEEPING: The agency shall maintain adequate records of its acquisition activities in sufficient detail to demonstrate compliance with these procedures. Records shall be retained for at least three (3) years after each owner of a parcel receives the final payment to which he or she is entitled. The records are to be considered confidential regarding their use as public information, but must be maintained in accordance with applicable State law.

MONITORING: The Department is required by Federal regulations to monitor the acquisition process on all right of way projects. Each District Office must maintain documented files which support satisfactory monitoring.

AGENDA ITEM # 18

March 10, 1998

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Consider appointing a commissioner to work with the Region K representative on the 50 year water plan.

Moved: Commissioner Hays

Seconded: Commissioner Boatright

Motion: To appoint Judge John Doerfler to work with the Region K representative on the 50 year water plan.

Vote: Motion carried 3 - 1 with Commissioner Mehevec questioning appointment of a Judge and not Commissioner according to wording of agenda item. Judge Doerfler abstained from the vote.

< Clerk copy here >

MILLS COUNTY

PRECINCT 3 COMMISSIONER DALE HENRY
P.O. Box 483
Goldsmith, Texas 76844

Telephone 916343-2222
Fax 916343-2222

February 25, 1998

RE: Mills County Commissioners Court (Dale Henry) Letter of 2/24/98 & Senate Bill # 1; Regional Planning Group K

Dear County Judges:

The Texas Water Development Board selected the Mills County nominee (Dale Henry) to represent Region K counties on February 19, 1998. I would like to propose that each Commissioners' Court in Region K select one commissioner from each county to work with me on the 50 year water plan. Eleven interest groups were identified in Senate Bill #1 (which included counties).

The eleven interest group representatives for Region K will probably meet on March 11 - (the first official date that the representatives of the Group K can take any action.)

If possible please place the need for appointing one commissioner from your county on a Commissioners' Court agenda prior to March 11, and forward name, address, fax and phone numbers to the Mills County Judge's secretary, (Diana) before March 11.

After the eleven interest groups representatives meet on March 11, I will contact your commissioners regarding the next steps required.

Sincerely,

Dale Henry

Dale Henry
Mills County Commissioners Court
Region K Water Planning Group

RECORDERS MEMORANDUM
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clearly legible for satisfactory recordation.

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Attachment: 1

c: David Measey
Texas Water Development Board