

**AGENDA ITEM 46**

Discuss and take any appropriate action regarding issuance of certificates of obligation.

No action was taken on this agenda item.

**AGENDA ITEM 47**

Discuss and take any appropriate action on road bond program.

No action was taken on this agenda item.

**AGENDA ITEM 48**

Discuss and take any appropriate action on jail/courthouse annex expansion.

No action was taken on this agenda item.

**COMMISSIONERS' COURT ADJOURNED TO EXECUTIVE SESSION AT 10:52 A.M. ON TUESDAY, AUGUST 28, 2001.**

**AGENDA ITEM 49**

Discuss sale of parkland on FM 112 in Taylor to TEDC: (EXECUTIVE SESSION REQUESTED as per VTCA 551.072 pertaining to real property)

No action was taken in Executive Session.

**AGENDA ITEM 50**

Discuss SH 45 right of way: (EXECUTIVE SESSION REQUESTED as per VTCA 551.072 pertaining to real property).

No action was taken in Executive Session.

**AGENDA ITEM 51**

Discuss right of way acquisition on Highway 79: (EXECUTIVE SESSION REQUESTED as per VTCA 551.072 pertaining to real property)

No action was taken in Executive Session.

**COMMISSIONERS' COURT RECONVENED FROM EXECUTIVE SESSION AT 11:12 A.M. ON TUESDAY, AUGUST 28, 2001.**

**AGENDA ITEM 52**

Discuss and take any appropriate action on sale of parkland on FM 112 in Taylor to TEDC.

No action was taken on this agenda item, which will be added to the September 4, 2001 agenda.

**AGENDA ITEM 53**

Discuss and take any appropriate action on SH 45 right of way.

Moved: **Judge Doerfler**

Seconded: **Commissioner Boatright**

Motion: To execute the agreement with TxDOT on right-of-way acquisition.

Vote: **4 - 0** with Commissioner Heiligenstein absent from the meeting.

< Attachment >

**FUNDING AGREEMENT FOR  
RIGHT-OF-WAY ACQUISITION AND UTILITY ADJUSTMENT  
STATE HIGHWAY 45**

**THE STATE OF TEXAS   §  
                                  §  
COUNTY OF TRAVIS   §**

**THIS AGREEMENT IS MADE BY AND BETWEEN** the State of Texas, acting through the Texas Turnpike Authority ("TTA"), a division of the Texas Department of Transportation ("Department"), hereinafter called the "State," and Williamson County, acting by and through its duly authorized officials, hereinafter called the "Outside Entity."

**WITNESSETH**

**WHEREAS**, the Texas Transportation Code authorizes the State to lay out, construct, maintain, and operate a system of streets, roads, highways and turnpikes that comprise the State Highway System; and,

**WHEREAS**, the Board of Directors ("Board") of the TTA has authorized the acquisition of right-of-way for the construction of State Highway 45, to be a controlled access highway from the intersection of existing FM 734 and proposed SH 45, on the west, to the intersection of Louis Henna Boulevard and CR 170, on the east, hereinafter called the "Project"; and,

**WHEREAS**, the Outside Entity believes that the Project would benefit the citizens of Williamson County and has therefore requested that the State proceed with right of way acquisition and utility adjustments necessary to construct the Project and allow the Outside Entity to participate in certain costs and obligations for that portion of the Project in Williamson County as set forth in this Agreement, which is being entered into with the consent and approval of the Commissioners' Court of Williamson County; and

**WHEREAS**, the State has determined that such participation is in the best interest of the citizens of the State;

**NOW THEREFORE**, in consideration of the premises and of the mutual covenants and agreements of the parties hereto, the State and the Outside Entity agree as follows:

**AGREEMENT**

**ARTICLE 1. TIME PERIOD COVERED**

This Agreement becomes effective when signed by the last party whose signature makes the agreement fully executed, and said Agreement shall be in full force and effect until all right-of-way acquisition and utility adjustment work on the Project described herein has been completed ~~(or until)~~ **[and all obligations hereunder have been paid, unless]** this Agreement is terminated **[sooner]** as hereinafter provided.

**ARTICLE 2. PROJECT FUNDING**

The State will authorize performance of only those Project items of work which the Outside Entity and the State have agreed to undertake and/or pay for as described in "Work Responsibilities and Payment Provision," as reflected in Attachment "A" which is attached to and made a part of this Agreement. In addition to identifying those items of work that are the State's responsibility, Attachment "A" may also specify those Project items of work that are the responsibility of the Outside Entity and will be carried out and completed by the Outside Entity, at no cost to the State. This Agreement is intended to cover funding for right-of-way acquisition, relocation assistance, clearance of the right of way, and utility adjustments for the Project within the limits of Williamson County.

### **ARTICLE 3. TERMINATION**

Without prejudice to any other legal or equitable right or remedy that either party would otherwise possess hereunder, or as a matter of law, the non-defaulting party, upon giving the defaulting party written notice, shall be entitled to terminate this Agreement in its entirety if the defaulting party shall fail to remedy any default within thirty (30) days after receipt of written notice by the defaulting party.

This Agreement may also be terminated by any of the following methods:

- Upon mutual written agreement and consent of both parties;
- By the State, upon thirty (30) days written notice to the Outside Entity, if the State determines that completion of the Project is not in the best interest of the State.
- By the Outside Entity, upon thirty (30) days written notice to the State; provided however, such right to terminate by the Outside Entity may be exercised only up until such time as the State has provided written notice to the Outside Entity that the State has committed to construct the Project, whereupon the Outside Entity's unilateral right to terminate shall end. "Committed to construct" for these purposes means that either (i) the State issues bonds, notes or other obligations, the proceeds of which are to be used to construct all or any position of the Project or (ii) the Texas Highway Commission adopts a minute order to fund construction of all or any portion of the Project.

If the Agreement is terminated in accordance with the above provisions, the Outside Entity will be responsible for the payment of Project costs incurred by the State and which are covered by this Agreement up to the time of termination. The State will return any remaining funds initially provided by the Outside Entity and which are not used for purposes of this Agreement at the time of termination.

### **ARTICLE 4. RIGHT OF ACCESS**

If the Outside Entity is the owner of any part of the Project site, the Outside Entity shall permit the State or its authorized representative access to the site to perform any activities required in connection with the Project.

### **ARTICLE 5. RELATIONSHIP OF THE PARTIES**

Each party acknowledges to the other that (i) it is not an agent, servant, or employee of the other party, and (ii) it is responsible for its own acts and deeds and for those of its agents, contractors, representatives or employees during the performance of the work on the Project.

#### **ARTICLE 6. SOLE AGREEMENT**

This Agreement, including any attachments, constitutes the entire agreement between the parties and supersedes all prior or contemporaneous understandings or representations, whether oral or written, respecting the subject matter of the Agreement. ~~No amendment of this Agreement shall be effective unless and until it is duly approved by each party and reduced to writing and signed by the authorized representatives of the parties.~~ This Agreement is separate from and shall not constitute an amendment or modification of any other agreement between the parties.

#### **ARTICLE 7. SUCCESSORS AND ASSIGNS**

This Agreement shall inure to the benefit of and be binding upon the parties and their respective successors, assigns, and administrators.

#### **ARTICLE 8. AMENDMENTS**

By mutual written consent of the parties, the scope of work and payment provisions of this Agreement may be amended prior to the expiration of this contract. No amendment to this Agreement shall be effective and binding until it is reduced to writing and signed by duly authorized representatives of both parties.

#### **ARTICLE 9. CONDUCT OF WORK**

The parties have agreed to follow certain procedures in the right of way acquisition, relocation assistance, right-of-way clearance, and utility adjustment process for this particular Project that are set forth in Attachment "B" to this Agreement and made a part hereof. Unless otherwise specifically stated in Attachments "A" or "B" to this Agreement, the State, its consultants or contractors and/or the effected utility companies shall supervise and inspect all work performed hereunder and provide such appraisal, negotiation, relocation assistance, condemnation, engineering inspection and testing services, utility relocation and adjustment work, and any other work or service as may be required to pursue the acquisition of all necessary right of way and the completion of utility adjustments in accordance with the approved plans and specifications. Outside Entity shall provide reasonable assistance to the State upon request.

#### **ARTICLE 10. INCREASED COSTS**

In the event it is determined that the funding provided by the Outside Entity will be insufficient to cover the Outside Entity's share of the cost of right of way acquisition and utility adjustment work, the Outside Entity will make available to the State the additional funding necessary to cover the anticipated additional cost, subject to the terms of Attachment A. The State shall send the Outside Entity a written notification stating the amount of additional funding needed and the reasons for needed additional funds. The Outside Entity shall make the funds available to the State within 60 days of the written notification, subject to the terms of Attachment A and particularly Section 3.B therein, or unless otherwise agreed to by all parties to this Agreement.

#### **ARTICLE 11. SIGNATORY WARRANTY**

The signatories to this Agreement warrant that each has the authority to enter into this Agreement on behalf of the party represented.

#### ARTICLE 12. VENUE

Any and all legal action related directly or indirectly to this Agreement must be filed in Travis County, Texas.

#### ARTICLE 13. 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.

#### ARTICLE 14. OWNERSHIP OF DOCUMENTS

Upon completion or termination of this ~~agreement~~ [Agreement], all documents prepared by the State[, its agents or contractors] shall remain the property of the State. All data 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 Outside Entity shall be transmitted to the State in the form of photocopy reproduction on a monthly basis as required by the State. The originals shall remain the property of the Outside Entity.

#### ARTICLE 15. 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 Outside Entity shall furnish the State with satisfactory proof of this compliance.

#### ARTICLE 16. NOTICES

Where the parties are required to provide written notice, such notice shall be deemed given when either (i) hand-delivered or (ii) deposited in the U.S. mail, first class, postage pre-paid, provided a copy is also sent via facsimile on the same day as the mailing. Such written communication shall be sent or delivered to the following:

The State: Texas Turnpike Authority  
Texas Department of Transportation  
125 E. 11<sup>th</sup> Street  
Austin, Texas 78701  
Attn: Director  
Fax: \_\_\_\_\_

The Outside Entity: Williamson County  
\_\_\_\_\_  
Georgetown, Texas 78\_\_\_\_  
Attn: \_\_\_\_\_

Fax: \_\_\_\_\_

**ARTICLE 17. DUPLICATE COUNTERPARTS**

This agreement may be executed in duplicate counterparts, and when both parties have signed this Agreement, each counterpart shall be deemed an original as if the parties had signed one and the same instrument.

**IN WITNESS WHEREOF, THE STATE AND THE OUTSIDE ENTITY** have executed this Agreement to effectuate its purposes.

**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 Texas Transportation Commission and/or the Board of Directors of the Texas Turnpike Authority Division of the Texas Department of Transportation.

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Phillip E. Russell, P.E.  
Director, Texas Turnpike Authority Division of the  
Texas Department of Transportation

**THE OUTSIDE ENTITY**

Williamson County

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Approval for the execution of this Agreement by the County Judge of Williamson County was approved by the Commissioners' Court of Williamson County on \_\_\_\_\_, 2001.

**ATTACHMENT "A"****Work Responsibilities  
and  
Payment Provisions****A. Work Responsibilities****1. Right of Way Acquisition and Relocation Assistance**

The State shall prepare right-of-way maps, property descriptions[, **title information**] and other data as needed to properly describe the right of way for the Project. Except as set forth in Attachment B hereto, the State shall be responsible for providing the services associated with acquiring right of way for the Project and administering relocation assistance to displacees and will pay for the personnel and services necessary to accomplish both. All applicable Federal and State laws governing the acquisition policies for acquiring real property [**and disposition of improvements**] will be followed.

**2. Utility Adjustments/Relocations**

The proposed construction of the Project will require the adjustment, removal or relocation of utility facilities (including, *without limitation*, equipment and facilities used directly or indirectly in the provision of water, wastewater, gas, electric, telephone, internet, cable, voice, video or data transmission services). The State shall identify the necessary utility work and shall coordinate with the effected utility companies to design and schedule their adjustments. The State or the appropriate utility companies shall be responsible for all of the work associated with the removal or relocation of such utility facilities, which work shall be in accordance with applicable State law, regulations, policies and procedures.

**3. Environmental Mitigation**

A. The State has prepared the appropriate environmental documentation and has secured environmental clearance for the Project.

B. The State shall be responsible for the cost associated with the acquisition of land to mitigate for karst features on the Project, currently identified as ~~{Parcel \_\_\_\_\_}~~ [Parcels 414M, 415M, 422M, 423M, 425M, 426M, and 427M], or for any other property acquisition required for wildlife mitigation purposes. As to ~~{Parcel \_\_\_\_\_}~~ [the seven mitigation Parcels identified above], the Outside Entity shall negotiate the purchase of such ~~{Parcel,}~~ [Parcels] and attempt to acquire ~~{it}~~ [them] in the name of the Outside Entity[, in accordance with the procedures set forth in Attachment B]. The State shall reimburse the Outside Entity its ~~closing costs~~ [costs of acquiring the mitigation Parcels] upon transfer of the ~~{Parcel}~~ [Parcels] to the State or upon the issuance of bonds to finance the Project. All other costs associated with the remediation or mitigation

of any environmental problems caused by the Outside Entity and/or the property owners shall be the responsibility of the Outside Entity and/or [responsible] property owners and not the State of Texas.

**B. Payment Provision and Time of Performance**

**1. Funding**

As to that portion of the right of way and utility adjustments required for the Project that is situated within Williamson County, the Outside Entity shall be responsible for funding 100% of the cost of the following (hereinafter collectively referred to as "ROW Costs"):

- (1) the amount of just compensation determined for each parcel of right of way and the remainder damages, if any, associated with such parcel;
- (2) relocation assistance costs for any owner or occupant eligible for relocation assistance;
- (3) clearance and disposition of improvements from the right of way; and
- (4) utility adjustments and relocations.

**2. Administration of Funds**

The Outside Entity 's responsibility for the ROW Costs for that portion of the Project within its boundaries is estimated to be \$60,000,000.00. The Outside Entity shall set aside such sum for purpose of funding the Project and shall not use these funds for any other purpose. The Outside Entity shall deposit such amount into a segregated account as described below in three (3) installments~~-, the first installment being \$20,000,000, the second installment being \$20,000,000, and the third installment being \$20,000,000~~ [of \$20,000,000 each]. Within thirty (30) calendar days after execution of this Agreement, the Outside Entity certifies that the first installment in the amount of \$20,000,000.00 shall be placed into a segregated account at the Texas Treasury Safekeeping Trust Company ("TexPool"), which account shall be earmarked for this Project and which funds deposited therein (including accrued interest) shall be devoted solely and exclusively to this Project. The Outside Entity shall not withdraw funds allocated to the Project pursuant to this Agreement from such TexPool account, except as provided in Attachment B hereto setting forth the procedures for the right-of-way acquisition and utility adjustment work for the Project within the limits of Williamson County. As the balance in the TexPool account is depleted and as the State determines that additional sums are required to continue acquisition of right of way and/or utility adjustments for the Project in a timely manner, the State shall notify the Outside Entity in writing of the need for the deposit of the second or third installment, as the case may be. Within thirty (30) calendar days of receipt of such written notice, the Outside Entity shall deposit the amount of the second or third installment, as appropriate, into the above-referenced TexPool account, which funds shall be subject to the same conditions and obligations as set forth herein. If the total amount deposited in the TexPool account is more than the



actual ROW Costs, then the excess amount will be released to the Outside Entity. If the funding provided by the Outside Entity will be insufficient to cover the ROW Costs for that portion of the Project within Williamson County, the State will provide a written notice to the Outside Entity of the additional funding needed to cover the unanticipated additional costs. The Outside Entity will make such amount available within sixty (60) days from the receipt of such written notification, subject to the terms set forth in Section B.3 below.

3. Suspension of Funding

In the event that the Outside Entity has depleted the budgeted funds allocated to the Project, the Outside Entity may suspend further funding of the Project as to any portion or segment of the Project that the State has not yet notified the Outside Entity that the State is committed to construct. "Committed to construct" for these purposes means that either (i) the State issues bonds, notes or other obligations, the proceeds of which are to be used to construct all or any position of the Project or (ii) the Texas Highway Commission adopts a minute order to fund construction of all or any portion of the Project. As to such uncommitted portion (s) or segment(s), the Outside Entity may suspend funding as to one or more uncommitted portions or segments by providing thirty (30) days prior written notice to the State of its intent to suspend, and identifying the portion(s) or segment(s) subject to the suspension. The Outside Entity shall not suspend funding of any portions or segments of the Project for which the State has provided written notification of its commitment to construct.

4. Transfer of Right of Way and Commencement of Construction

As set forth in Attachment B hereto, ~~{some of the}~~ Project right of way [west of I-35] will be acquired in the name of the Outside Entity[, and Project right of way east of I-35 will be acquired in the name of the State]. The Outside Entity shall transfer to the State any and all right of way acquired in ~~{its}~~ [the Outside Entity's] name prior to commencement of construction of the Project. If the State does not commence construction of the Project within two (2) years after all of the Project right of way is acquired and all utilities are adjusted, then [the State will transfer to] the Outside Entity ~~{may retain}~~ [the] right of way acquired in ~~{its name and may}~~ [the State's name, and the Outside Entity may retain right of way acquired in its name, all of which the Outside Entity may] utilize ~~{same}~~ for county road purposes[; provided however, that such two-year period shall be extended by the number of days of delay, if any, caused by the failure of the Outside Entity to fulfill its obligations under this Agreement in a timely manner]. "Commenced" for purposes of this section shall mean that construction bids for the Project have been awarded. In the event that the ability of the State to award bid(s) for the Project is halted by some extraordinary event beyond the control of the State, then this two-year deadline shall be extended in time equal to the amount of time required to resolve the impediment to bid.

## ----- REVISION LIST -----

The bracketed numbers refer to the Page and Paragraph for the start of the paragraph in both the old and the new documents.

[2:3 2:3] Changed "or until " to "and all obligations ... paid, unless "  
 [2:3 2:3] Changed "terminated as" to "terminated sooner as"  
 [3:6 3:6] Changed "Agreement. ... parties. This" to "Agreement. This"  
 [4:10 4:10] Changed "agreement" to "Agreement"  
 [4:10 4:10] Changed "State shall" to "State, its ... contractors shall"  
 [8:7 7:7] Changed "descriptions and" to "descriptions, ... information and"  
 [8:7 7:7] Changed "property will" to "property and ... improvements will"  
 [8:12 7:12] Changed "as Parcel \_\_," to "as Parcels ... and 427M,"  
 [8:12 7:12] Changed "Parcel \_\_\_\_" to "the seven ... identified above"  
 [8:12 7:12] Changed "Parcel, " to "Parcels "  
 [8:12 7:12] Changed "it " to "them "  
 [8:12 7:12] Changed "Entity." to "Entity, in ... Attachment B."  
 [8:12 7:12] Changed "closing costs " to "costs of acquiring the mitigation Parcels "  
 [8:12 7:12] Changed "the Parcel to" to "the Parcels to"  
 [8:12 7:12] Changed "and/or property" to "and/or responsible property"  
 [9:9 8:9] Changed ", the first ... \$20,000,000" to "of \$20,000,000 each"  
 [10:4 9:4] Changed "hereto, some of the Project" to "hereto, Project"  
 [10:4 9:4] Changed "way will" to "way west of I-35 will"  
 [10:4 9:4] Changed "Entity." to "Entity, and ... the State."  
 [10:4 9:4] Changed "acquired in its name prior" to "acquired in ... name prior"  
 [10:4 9:4] Changed "then the" to "then the State will transfer to the"  
 [10:4 9:4] Changed "may retain " to "the "  
 [10:4 9:4] Changed "its name and may " to "the State's ... Entity may "  
 [10:4 9:4] Changed "utilize same for" to "utilize for"  
 [10:4 9:4] Changed "purposes." to "purposes; ... timely manner."

2. Except as provided below, the TTA will provide and pay for the personnel to prepare right of way mapping, [investigate title,] appraise the Parcels, review such appraisals, negotiate the purchase of Parcels, and handle relocation assistance on all of the Parcels. As to those Parcels in the Project that are located west of I-35 ~~((currently identified as Parcels \_\_\_\_\_, \_\_\_\_\_, etc.)),~~ [(hereinafter referred to as "County-Negotiated Parcels"), Williamson County will handle negotiations to purchase them, while the TTA will provide the appraisals and other acquisition services. The TTA will handle negotiations to acquire all Parcels east of I-35. The TTA has previously contracted with outside service providers who have begun the appraisal process, have contacted owners of Parcels, and are prepared to continue performing acquisition functions. Both parties agree to conduct all negotiations and activities according to applicable state and federal statutes, rules and regulations, including but not limited to the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act, as amended. The parties also acknowledge the "fast track" nature of the Project and agree to proceed expeditiously to negotiate and acquire the Parcels in a timely manner. Further, the TTA will provide to Williamson County a monthly status report on Parcel acquisition, and Williamson County will provide the TTA with monthly status reports concerning its County-Negotiated Parcels.

*located within Williamson County*

3. All Parcels west of I-35 will be purchased in the name of Williamson County[, **subject to transfer to the State as provided in Section 4 of Attachment A to the Agreement**]. If negotiations prove unsuccessful and condemnation is required, these Parcels shall be condemned jointly in the name of the State and Williamson County. All Parcels east of I-35 will be purchased and/or condemned in the name of the State of Texas.

4. With regard to Parcels that cannot be acquired through negotiation and purchase but will require the initiation of condemnation proceedings, such condemnation proceedings will be handled by the Office of the Attorney General ("OAG") or its designee. The TTA will be responsible for the cost of such legal services.

5. With regard to appraisals to be made the basis of offers, the TTA will submit such appraisals to Williamson County's counsel or other designee at the same time that they are submitted to the review appraisers. Any review by Williamson County shall be conducted within ten business days of receipt of a copy of the appraisal. If the TTA receives no comment from Williamson County regarding the appraisal within such time, then it will be assumed that Williamson County had no comment to make upon such appraisal.

6. Once an appraisal has been reviewed and approved by the TTA, an offer will be made to the owner based upon the approved appraisal.

7. Where persons will be displaced as a result of the acquisition process, the TTA will prepare a relocation assistance supplement to be tendered to the displacee at the same time that the offer is tendered to the owner of the Parcel. The TTA will also provide a copy of the proposed relocation assistance supplement to Williamson County's counsel or designee in sufficient time to allow review and comment on the same. As with the appraisal, Williamson County may comment upon the relocation assistance supplement within ~~{five}~~ **[ten]** business days of receipt of a copy of same and, failing timely comment, it will be assumed that no comment is to be made on such relocation assistance supplement.

8. If the owner of a Parcel accepts the offer, the TTA will notify a designated representative of Williamson County of such acceptance. Within five days of such notice, Williamson County will effectuate an electronic transfer of funds from its TexPool Account to the TTA in an amount sufficient to close the purchase.

9. As to relocation assistance, when the TTA notifies a designated representative of Williamson County that payment of relocation assistance is ready for funding, then Williamson County shall transfer funds electronically from its TexPool Account as set forth in ¶8 above.

10. If the owner rejects the offer to purchase, the owner will have the opportunity to seek an administrative settlement. A representative of Williamson County may be a member of the TTA's administrative settlement team and will have the opportunity to participate in the review of administrative settlement requests from owners. If the administrative settlement process results in a settlement with the owner, then Williamson County, upon notice from the TTA, shall transfer funds electronically from its TexPool Account in the same fashion as in ¶8 above.

11. If the administrative settlement process does not result in a negotiated settlement, then the matter shall proceed to condemnation, which will be handled by the OAG. The OAG shall provide a copy of all pleadings in each condemnation proceeding to Williamson County's counsel at the same time that it sends copies of such pleadings to the TTA. With regard to condemnation proceedings, counsel for Williamson County may consult with the OAG in the prosecution of the cases, but shall not appear on any of the pleadings.

12. After a Commissioners Hearing and the rendition of a Commissioners' Award on a Parcel, the OAG shall deliver a copy of the Award both to the TTA and to a designated representative of Williamson County. Within ~~ten~~ [five] days after receipt of the Commissioners' Award, Williamson County shall transfer funds electronically in the same fashion as set forth in ¶8, and the TTA or OAG shall take the necessary steps to deposit the amount of the Award into the registry of the court.

13. The TTA will pay the costs and legal fees associated with all condemnation cases of Parcels through the Commissioners' Hearing stage.

14. After the Commissioners' Hearing on each Parcel, the OAG will prepare a memorandum that recommends either an appeal or acceptance of the Commissioners' Award. The memorandum will be delivered to both the TTA's counsel and to Williamson County's counsel. If both the TTA and Williamson County agree to appeal the Commissioners' Award, or if only the TTA desires to appeal the Award, then the TTA shall continue to fund all of the costs of condemnation proceedings through settlement or trial. If, on the other hand, only Williamson County desires to appeal the Award but the TTA desires to accept it, then costs of going forward through settlement or trial will be shared 50/50 between the TTA and Williamson County.

15. Prior to trial, if the court orders mediation in any case involving a Parcel, a Williamson County representative may attend the mediation with the TTA.

16. If a condemnation case involving a Parcel proceeds to trial and a verdict is rendered and judgment entered, then the OAG will prepare a memorandum analyzing whether an appeal of the judgment is advisable. The OAG will send a copy to Williamson County's counsel when it sends a copy to TTA's counsel. If both the TTA and Williamson County agree to appeal or if only the TTA desires to appeal, then the TTA will bear the expense of the appeal. If only Williamson County desires to appeal, then Williamson County will bear all of the costs of the appeal. If the appeal results in a remand for new trial, then the costs of a new trial will be born by the party or parties who bore the costs of the original trial.

17. Williamson County shall undertake to clear and dispose of improvements on Parcels acquired in its name, and the TTA shall undertake to clear and dispose of improvements on Parcels acquired either in the name of the State or acquired jointly in the name of the State and Williamson County. In any event, Williamson County will bear 100% of such costs. Williamson County acknowledges that the construction of the Project is on an accelerated basis and recognizes the TTA's need to clear the right of way as expeditiously as possible. Accordingly, Williamson County will accomplish clearance of the right of way on Parcels acquired in its name in a timely and expeditious manner so as not to delay the timely relocation of utilities and the construction of the Project.

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18. After right of way is acquired and cleared, the TTA will be responsible for utility relocation, either by contracting to have the work done or by arranging for the utility to accomplish relocation of its own facilities. In either event, for purposes of funding utility adjustments, the TTA shall provide Williamson County with a good faith estimate of the cost of utility adjustments for the Project or for sections of the Project before the utility adjustment work begins. The TTA will also provide Williamson County with the basis for its good faith estimate. Within ten business days after receipt of the estimate, Williamson County shall cause funds in the amount of the estimate to be transferred electronically from its TexPool Account to the TTA, and the TTA will thereafter utilize such funds to pay the costs of utility adjustments.

19. Williamson County will obtain use and possession of and will fund utility adjustments for all Parcels west of I-35 within one year after this Agreement is executed by both parties. The TTA will obtain use and possession of, and Williamson County will fund utility adjustments for, all Parcels east of I-35 within two years after this Agreement is executed by both parties.

**AGENDA ITEM 54**

Discuss and take any appropriate action on right of way acquisition on Highway 79.

No action was taken on this agenda item, which will be added to the September 4, 2001 agenda.

**AGENDA ITEM 55**

Comments from commissioners.

**Commissioner Boatright** expressed his approval of the budget, complimented Judge Doerfler on his work on the budget, and mentioned that he is in favor of the three-year plan for the Sheriff's Department, but realizes that it cannot all be done in one budget year.

**COMMISSIONERS' COURT ADJOURNED AT 11:58 A.M. ON TUESDAY, AUGUST 28, 2001.**

THE FOREGOING MINUTES recorded on Minutes Pages 1 through 224, inclusive had at a Special Session of Commissioners' Court of Williamson County, Texas, having been read are hereby approved this 4th day of September, 2001.

  
\_\_\_\_\_  
John C. Doerfler, County Judge

ATTEST: Nancy E. Rister, Clerk County Court & Ex-officio Clerk,  
Commissioners' Court, Williamson County, Texas

By:  \_\_\_\_\_  
Deputy Clerk