



Form ROW-RM-37

Replaces Form ROW-RM-37 and ROW-RM-38

(Rev. 4/2006)

GSD-EPC

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CONTRACTUAL AGREEMENT FOR RIGHT OF WAY PROCUREMENT - LOCAL GOVERNMENT
(MODIFIED 100% LOCAL PARTICIPATION) Revised

County: Collin
District: Dallas

Federal Project No:
Highway: FM 2551

Const CSJ No: 2056-01-045
ROW CSJ 2056-01-046

This Agreement by and between the State of Texas, acting by and through the Texas Department of Transportation, hereinafter called the **State**, and Collin County, Texas, acting by and through its duly authorized official pursuant to an Ordinance or Order dated the ____ day of _____, _____, hereinafter called the **Local Government**, *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 2551 from FM 544 to FM 2514, and which section of highway improvements will necessitate the acquisition of certain right of way; and

WHEREAS, it is agreed such right of way purchase shall be a joint effort of the **State** and the **Local Government**;

NOW, THEREFORE be it agreed that acquisition of such right of way shall be in accordance with the terms of this agreement and in accordance with the Texas Department of Transportation Right of Way Manual and all applicable Federal and State laws governing the acquisition policies for acquiring real property. The **State** hereby authorizes and requests the **Local Government** to proceed with acquisition.

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

Determination of Right of Way Values: The **Local Government** agrees to make a determination of property values for each right of way parcel by methods acceptable to the **State** and to submit to the **State's** District Office a tabulation of the values so determined, signed by the appropriate **Local Government** 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) and the amounts by which the total compensation will be reduced if the owner retains improvements. This tabulation shall be accompanied by an explanation to support the determined values, together with a copy of information or reports used in arriving at all determined values. Such work will be performed by the **Local Government** at its expense without cost participation by the **State**.

Negotiations: Negotiation and settlement with the property owner will be the responsibility of the **Local Government** without participation by the **State**. The **Local Government** will deliver properly executed instruments of conveyance which, together with any curative instruments found to be necessary, will properly vest good and indefeasible title in the **State** for each right of way parcel involved. The **Local Government** will also deliver to the **State** an owner's policy of title insurance for each parcel, except as otherwise specifically approved by the **State**. Upon payment to the property owner of the agreed purchase price, the **Local Government** is authorized and directed to secure for the **State** possession of each parcel in accordance with all applicable Federal and State laws governing relocation assistance, notices to vacate and forcible detainer. The costs incidental to negotiation, recording the right of way instruments, and securing possession of the parcels will be the responsibility of the **Local Government**, as well as the cost of title insurance, closing services and all costs of relocation assistance as may be required and authorized by applicable Federal and State laws.

Condemnation: Condemnation proceedings will be initiated at a time selected by the **Local Government** and will be the **Local Government's** responsibility at its own expense. The **Local Government** will obtain current title information and engineering data at the time condemnation is to be initiated. The **Local Government** 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 and possession to the property condemned to the **State**. The **Local Government** may, as set forth herein under "Excess Takings" and where it is determined to be necessary,

enter condemnation proceedings in its own name. Property acquired in the **Local Government's** name for the **State** must comply with requirements set forth in the engineering data and title investigation previously furnished to the **Local Government** by the **State** at such time as the **Local Government** conveys said property to the **State**.

Court Costs, Costs of Special Commissioners' Hearings and Appraisal Expense: Court costs and costs of Special Commissioners' hearings assessed against the **State** or **Local Government** in condemnation proceedings conducted on behalf of the **State** and fees incident thereto will be paid by the **Local Government**.

Excess Takings: If the **Local Government** 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 **Local Government** and that portion requested by the **State** for right of way will be separately conveyed to the **State** by the **Local Government**.

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 the event 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** shall dispose of all improvements acquired. The net revenue derived by the **State** from the disposition of any improvements sold through the General Services Commission will be credited to the cost of the right of way procured by the **Local Government**.

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 **Local Government** will establish the necessity for the utility work and shall be responsible for all of the eligible items of cost as paid to the utility owner. The adjustment, removal or relocation of any utility line on publicly owned right of way by sufferance or permit will not be eligible items of cost. The term "utility" under this agreement shall include publicly, privately and cooperatively owned utilities.

Fencing Requirements: The **Local Government** 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 **Local Government** may do the fencing on the property owner's remaining property.

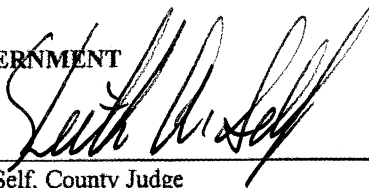
Reimbursement: Except as specifically stated herein to the contrary, the **State** will not reimburse the **Local Government** for costs of the right of way, utility adjustments or fencing acquired in accordance with the terms and provisions of this agreement. All requests by the **Local Government** for reimbursement shall comply with the then current reimbursement submission requirements set forth in the Texas Department of Transportation Right of Way Manual.

Inspection of Books and Records: The **Local Government** shall maintain all books, papers, accounting records and other documentation relating to costs incurred under this agreement and shall make such materials available to the **State** and, if federally funded, the Federal Highway Administration (FHWA) or their duly authorized representatives for review and inspection at its office during the contract period and for four (4) years from the date of completion of work defined under this agreement or until any impending litigation, or claims are resolved. Additionally, the **State** and FHWA and their duly authorized representatives shall have access to all the governmental records that are directly applicable to this agreement for the purpose of making audits, examinations, excerpts, and transcriptions. The **State** auditor may conduct an audit or investigation of any entity receiving funds from the **State** directly under this agreement or indirectly through a subcontract under this agreement. Acceptance of funds directly under this agreement or indirectly through a subcontract under this agreement acts as acceptance of the authority of the **State** auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

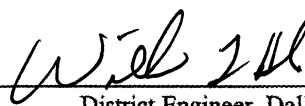
General: It is understood that the terms of this agreement shall apply to new right of way authorized and requested by the **State** which is needed and not yet dedicated, in use or previously acquired in the name of the **State** or **Local Government** for highway, street or road purposes. This agreement shall also apply, with regard 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 Local Government.

LOCAL GOVERNMENT
Collin County

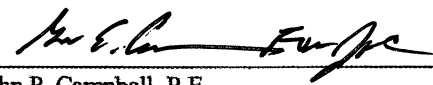
By: 
Keith Self, County Judge
Title: County Judge
Date: 4/27/10

EXECUTION RECOMMENDED:


District Engineer, Dallas District
Date: 2/8/10

THE STATE OF TEXAS

Executed and approved for the Texas Transportation Commission 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.

By: 
John P. Campbell John P. Campbell, P.E.
Director, Right of Way Division
Date: 12-17-10