

MINUTE TRAQ # 3983

# \_\_\_\_\_

Travis County Commissioners Court Agenda Request

Voting Session 4/12/11

Work Session \_\_\_\_\_

I. A. Request made by: Steven M. Manilla, P.E. Phone # 854-9383  
County Executive, TNR

B. Requested Text:

**Consider and take appropriate action on a requested Agreement to Contribute Funds – Local Government from the Texas Department of Transportation for County financial participation in costs for planned roadway improvements to F.M. 973 in Precinct One.**

C. Approved by: \_\_\_\_\_  
Samuel T. Biscoe, County Judge

II. A. Backup memorandum and exhibits should be attached and submitted with this Agenda Request (original and eight (8) copies of agenda request and backup).

B. Please list all of the agencies or officials names and telephone numbers that might be affected or be involved with the request. Send a copy of the Agenda Request and backup to them:

<u>Cynthia McDonald, TNR</u>	<u>854-9383</u>	<u>Donna Williams-Jones, TNR</u>	<u>854-9383</u>
<u>John Hille, Asst. CA</u>	<u>854-9513</u>	<u>Greg Chico, TNR</u>	<u>854-4659</u>

III. Required Authorizations: Please check if applicable:

Planning and Budget Office (854-9106)

- \_\_\_\_\_ Additional funding for any department or for any purpose
- \_\_\_\_\_ Transfer of existing funds within or between any line item budget
- \_\_\_\_\_ Grant

Human Resources Department (854-9165)

- \_\_\_\_\_ A change in your department's personnel (reclassifications, etc.)

Purchasing Office (854-9700)

- \_\_\_\_\_ Bid, Purchase Contract, Request for Proposal, Procurement

County Attorney's Office (854-9415)

- X Contract, Agreement, Policy & Procedure

AGENDA REQUEST DEADLINE: This Agenda Request complete with backup memorandum and exhibits MUST be submitted to the County Judge's Office no later than 5:00 p.m. on Monday for the following week's meeting. Late or incomplete requests will be deferred.

*MINUTE TRAQ # 3983*



**TRANSPORTATION AND NATURAL RESOURCES**

STEVEN M. MANILLA, P.E., COUNTY EXECUTIVE

COURT DATE: 4 / 12 / 11

AGENDA ITEM #

**MEMORANDUM**

DATE: March 30, 2011

TO: Members of the Commissioners Court

FROM: *Steven M. Manilla*  
Steven M. Manilla, P.E., County Executive

SUBJECT: Proposed Agreement submitted to Travis County from TxDOT seeking funding contribution for Right-of-Way acquisitions and Utility Adjustments required for improvements to FM 973

**SUMMARY OF BRIEFING AND STAFF RECOMMEDATION**

TxDOT has been actively upgrading various segments of FM 973 since the 1990s, and is now planning to initiate activity in a section between Harold Green Drive and ½ mile south of S.H. 71, to include a new bridge over the Colorado River. Within this nearly 3-mile stretch, most property is located within Austin's city limits. However, just north of the river, there are six parcels (from four property owners) that are located wholly within unincorporated Travis County, comprising about 22.7 acres.

On March 11, 2011, Travis County received a certified letter dated March 10, 2011 from the Austin District for TxDOT (please see attached Exhibit "A") referencing this project, and an proposed agreement for County financial participation (Exhibit "B"). Along with the agreement for contributory funding, TxDOT provided a preliminary estimate of ROW costs totally about \$1.8 million, and anticipated utility expenses of about \$3.2 million. Combined, the total is just over \$5 million, and TxDOT is requesting a standard (per their procedures) 10% local entity participation rate. In sum, they estimate Travis County costs for the project at \$501,316.40. Of course actual expenses can and will likely be either less or more than this projected amount, and the proposed agreement calls for refund or additional funding in either scenario.

This agreement is typical to the many funding agreements that the County has entered into with TxDOT for improvements to state roadways, and is a common mechanism that the State uses to defray expenses associated with ROW acquisition and utility relocation. As such, it is not unfamiliar to the County, and is nearly identical to many of the previous agreements entered into between these two parties for other segments of FM 973 improvements.

Travis County Commissioners' Court  
March 30, 2011  
Page 2 of 2

TNR staff has reviewed the agreement, the project plans, the proposal, and possible funding sources, and recommends that the Commissioners Court:

- 1) **Approve the agreement as proposed by TxDOT;**
- 2) **Execute the Agreement (four original copies); and,**
- 3) **Authorize the issuance of a check to TxDOT in the amount of \$501,316.40.**

### **FISCAL AND BUDGETARY IMPACT**

If the County chooses to enter into this proposed agreement, TNR staff has identified and recommends using remnant 1984 bond money previously allocated to other projects that have been either completed under budget, or determined that they can be completed without use of these funds. If the Commissioners Court were to direct such, all remaining 1984 bond program funds would be effectively depleted.

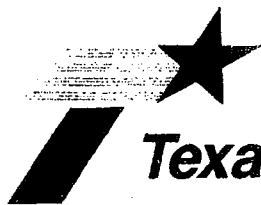
### **ISSUES AND OPPORTUNITIES**

The proposed agreement represents an opportunity for Travis County to facilitate construction of needed infrastructure upgrades at an important north-south roadway crossing of the Colorado River. Development pressure and activity on numerous land tracts in the vicinity of the project point towards increasing demands on the existing roadway network, and an accompanying rise in future traffic volume. Consequently, TxDOT's continuation of improvements to FM 973, and in particular the planned new bridge across the Colorado River, may help in alleviating traffic congestion in this high-growth sector of Travis County.

### **REQUIRED AUTHORIZATION** None

**EXHIBITS**      A: March 10, 2011 TxDOT letter  
                          B: Proposed Agreement

copy: Cynthia MacDonald, Financial Manager  
      Donna Williams-Jones, Senior Financial Analyst  
      Steve Sun, P.E., CIP Manager  
      Greg Chico, Right-of-Way Manager  
      John Hile, Assistant County Attorney  
      Chris Gilmore, Assistant County Attorney



# Texas Department of Transportation

**EXHIBIT "A"**

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

March 10, 2011

CERTIFIED MAIL 7005 0390 0005 2892 6954

Austin District  
FM 973 – Travis County  
RCSJ: 1200-03-048  
CCSJ: 1200-03-028  
Limits: From: 1.2 M North of the Colorado  
River (Begin Station 5033+45.28)  
To: SH 71, (End Station 5099+54.41)

The Honorable Samuel T. Biscoe  
Judge in Travis County  
314 W 11<sup>th</sup> Street, #520  
Austin, Texas 78701

RECEIVED  
COUNTY CLERK  
TRAVIS COUNTY  
MAR 16 AM 10:00

Dear Honorable Judge Biscoe:

This letter concerns the acquisition of additional land needed to improve highway FM 973 from 1.2 miles north of the Colorado River to SH 71, in Travis County. The improvements will require acquisition of a portion of six (6) parcels located south of the Colorado River, comprised of a total of approximately 22.702 acres (988,894 square feet).

As you may be aware, there are two types of contractual agreements which may be executed for right of way acquisition. The first type, the "Contractual Agreement for Right of Way Procurement," provides for the County of Travis to handle the acquisition of right of way. The State would reimburse 90% of the right of way costs upon delivery of acceptable conveyance instruments to the State.

The alternate agreement is known as the "Agreement to Contribute Funds-Local Government." This agreement provides for Travis County to contribute an amount equal to 10% of the estimated cost of right of way and utility adjustments. This is the option typically chosen, where TxDOT handles the right of way acquisition and utility adjustments for the Local Participating Agency (LPA). The following is an estimate of costs the City would participate in if this method of contribution is utilized.

Total Estimated Cost (Right of Way and Utilities)	\$5,013,164.00
Travis County's 10%	\$501,316.40

Consequently, we ask the county of Travis to agree to contribute \$501,316.40 to allow us to commence with acquisition of this project. An additional contribution will be required if the actual costs exceed the \$501,316.40 estimate. If actual costs are less than the estimate, the overage will be refunded.

Blank contracts for the typical method of contribution are attached, along with a right of way map for the project. Please review and consider the information, and contact us when a decision is reached. We will need the following to enable us to begin the right of way acquisition process:

1. Four (4) executed originals of "Agreement to Contribute Funds-Local Government"
2. Ordinance or Resolution of the City Council (County Commissioners)
3. Grant of signature authority to the person(s) signing the Agreement so stated in the Resolution or Ordinance
4. Check for \$501,316.40

We appreciate your cooperation and look forward to working with you. Please contact Laura Nelson at (512) 832-7024 if you have any questions, or require additional information.

Sincerely,



Nelda R. Eureste  
Right of Way Manager  
South Region

Enclosures: Preliminary Right of Way Map  
"Agreement to Contribute Funds – Local Government"

cc: Carlos Lopez, P.E. – Austin District Engineer  
Terry McCoy, P.E. – North Austin Office Area Engineer



Form ROW-RM-129  
Replaces Form ROW-RM-129 and ROW-RM-130  
(Rev. 6/2006)  
GSD-EPC  
Page 1 of 2

**EXHIBIT "B"**

**AGREEMENT TO CONTRIBUTE FUNDS - LOCAL GOVERNMENT**

County: Travis  
District: Austin

Federal Project No:  
Highway: FM 973

ROW CSJ No: 1200-03-048  
Parcel 1-6 County Portion

This Agreement by and between the State of Texas, acting by and through the Texas Department of Transportation, hereinafter called the **State**, and Travis County, Texas, acting by and through its duly authorized officials 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** and the **Local Government** hereby agree to enter into a contractual agreement to acquire right of way and adjust utilities for a highway project on Highway No. FM 973 with the following project limits:

From: 1.2 Miles N of the Colorado River (Begin Station 5033+45.28)  
To: SH 71 (End Station 5099+54.41); and

**WHEREAS**, the **Local Government** requests that the **State** assume responsibility for acquisition of all necessary right of way and adjustment of utilities for said highway project; and

**WHEREAS**, the **Local Government** desires to voluntarily contribute to the **State** funding participation as defined in 43 TAC, §15.55 for the cost of acquiring said right of way and relocating or adjusting utilities for the proper improvement of the State Highway System;

**NOW, THEREFORE**, in consideration of the foregoing premises and the mutual benefits to be derived therefrom, the **Local Government** shall contribute to the **State** an amount equal to ten percent (10%) of the cost of the right of way to be acquired by the **State** and shall transmit to the **State** with the return of this agreement, duly executed by the **Local Government**, a warrant or check in the amount of Five hundred and one thousand, three-hundred sixteen dollars and forty cents (\$501,316.40), which represents ten percent (10%) of Five million, thirteen thousand, three hundred-sixty four dollars (\$5,013,364.00), the estimated total cost of the right of way. If however, it is found that this amount is insufficient to pay the **Local Government's** obligation, then the **Local Government** will within thirty (30) days after receipt of a written request from the **State** for additional funds, transmit to the **State** such supplemental amount as is requested. The cost of providing such right of way acquired by the **State** shall mean the total value of compensation paid, either through negotiations or eminent domain proceedings, to the owners for their property interests, plus costs related to the relocation, removal or adjustment of eligible utilities.

Whenever funds are paid by the **Local Government** to the **State** under this agreement, the **Local Government** shall remit a warrant or check made payable to the "Texas Department of Transportation Trust Fund." The warrant or check shall be deposited by the **State** in an escrow account to be managed by the **State**. Funds in the escrow account may only be applied to this highway project. Upon completion of the highway project and in the event the total amount as paid by the **Local Government** is more than ten percent (10%) of the actual cost of the right of way, any excess amount will be returned to the **Local Government** by the **State**, or upon written request of the **Local Government**, the excess amount may be applied to other **State** highway projects in which the **Local Government** is participating.

In the event any existing, future, or proposed **Local Government** ordinance, commissioners court order, rule, policy, or other directive, including, but not limited to, outdoor advertising or storm water drainage facility requirements, is more restrictive than **State** or federal regulations, or any other locally proposed change, including, but not limited to, plats or re-plats, results in any increased costs to the **State**, then the **Local Government** will pay one hundred percent (100%) of all such increased costs, even if the applicable county qualifies as an economically disadvantaged county. The amount of the increased costs associated with the existing, future, or proposed **Local Government** ordinance, commissioners court order, rule, policy, or other directive will be determined by the **State** at its sole discretion.

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.

**THE LOCAL GOVERNMENT**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**EXECUTION RECOMMENDED:**

\_\_\_\_\_  
Nelda R. Eureste  
Right of Way Manager, South Region

Date: \_\_\_\_\_

**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, P.E.  
Right of Way Division Director

Date: \_\_\_\_\_