

THE STATE OF TEXAS

COUNTY OF SABINE

On this the 22nd day of January, 1968, the Commissioners Court met in regular session with the following members present, to-wit:

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|-----------------|------------------------------|
| O. A. Beauchamp | County Judge |
| H. W. Wright | Commissioner, Precinct No. 1 |
| T. A. Seales | Commissioner, Precinct No. 2 |
| Paul Lout | Commissioner, Precinct No. 3 |
| H. E. Wilburn | Commissioner, Precinct No. 4 |
| W. W. Cavender | Clerk of the Court. |

The Court approved the following Agreement:

CONTRACTUAL AGREEMENT

FOR

RIGHT OF WAY PROCUREMENT

(COUNTY FORM)

| | | | |
|------------------|---|---------------|-----------|
| STATE OF TEXAS | 1 | COUNTY | SABINE |
| COUNTY OF TRAVIS | 1 | PROJECT | 8011-1-27 |
| | | STATE HIGHWAY | 21 |

This agreement entered into this 1rst day of February, 1968, by and between the State of Texas, acting by and through the Texas Highway Department, hereinafter called the State, and Sabine County, Texas, acting by and through its duly authorized official under Commissioners Court Order dated 22nd day of January, 1968, hereinafter called the County.

WHEREAS, the State has deemed it necessary to make certain highway improvements on State Highway No. 21 from Approximately 3.1 Miles East of Milam to Approximately 5.6 Miles East of Milam, 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. 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 as 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 the 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 the 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 herein 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 of Texas. The County may, as set forth herein under "Excess Takings", as enter condemnation proceedings in its own name.

COURT COSTS

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 50 per cent 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 Commissioners' hearings or subsequent appeals, the cost of the appraiser of updating his report, of preparing new reports, preparing for court testimony and appearing in court to testify in support of his appraisal will be paid direct by the County, but will be eligible for 50 per cent 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 his 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 Board of Control 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 any amount equal to 50 per cent 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 50 per cent 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.

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FENCING REQUIREMENTS: The County may either pay the property owner for his 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 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 50 per cent 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 50 per cent of the State's predetermined value of each parcel, or the net cost thereof, which ever 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 50 per cent 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 Texas Highway Department 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~~ acquired and to eligible utility adjustments not previously made, as authorized and requested by the Texas Highway Department.

It is understood that this contract shall be effective from and after the date of full execution by the State of Texas.

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

SABINE County, Texas

By: O. N. Beauchamp /s/

By: H. W. Wright /s/
Commissioner, Precinct Number 1

By: T. A. Seales /s/
Commissioner, Precinct Number 2

By: Paul Lout /s/
Commissioner, Precinct Number 3

By: Horace Wilburn /s/
Commissioner, Precinct Number 4

THE STATE OF TEXAS

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

By: J. C. Dingwall /s/
Executed as State Highway Engineer and approved for State Highway Commission.

RECOMMENDED FOR APPROVAL

J. M. York /s/
District Engineer

P. C. Goode /s/
Supervising Program Engineer

T. N. Huff /s/
Chief Engineer of Highway Design

A. H. Christian /s/
Right of Way Engineer

All accounts were allowed and made payable.

There being no further business, the court adjourned.

O. B. Beschard
County Judge

H. W. Wright
Commissioner, Precinct No. 1

Paul Lent
Commissioner Precinct No. 3

T. A. Sessler
Commissioner, Precinct No. 2

H. E. Wilson
Commissioner, Precinct No. 4

[Signature]
Clerk of the Court