

County Upshur
District Atlanta
ROW CSJ # 0520-02-046
CCSJ # 0520-02-037
Federal Project # BR 2009(190)
CFDA Title: Highway Planning & Construction
CFDA # 20.205
Federal Highway Administration
Not Research and Development

STATE OF TEXAS §

COUNTY OF TRAVIS §

**AGREEMENT TO CONTRIBUTE RIGHT OF WAY FUNDS
SUPPLEMENTAL AGREEMENT # 1**

THIS SUPPLEMENTAL AGREEMENT is made by and between the State of Texas, acting through the Texas Department of Transportation (the "State"), and Upshur County, Texas (the "Local Government"), acting by and through its duly authorized officials.

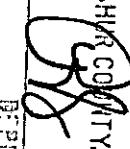
WITNESSETH

WHEREAS, the State and Local Government executed the AGREEMENT TO CONTRIBUTE FUNDS – LOCAL GOVERNMENT (the "Agreement") on October 30, 2008 to contribute funds for the acquisition of right of way and adjustment of utilities necessary for highway improvements on Highway No. SH 155 from at Sabine River and Sabine River Relief to South of Big Sandy; and

WHEREAS, it has become necessary to amend the Agreement; and

WHEREAS, the Governing Body of the Local Government has approved entering into this supplemental agreement by resolution or ordinance dated July 15, 2008 which is attached to and made a part of this supplemental agreement as Attachment A;

NOW THEREFORE the State and the Local Government do agree as follows:

FILED
TERRI ROSS
COUNTY CLERK
2020 SEP 15 AM 11:52
UPSHUR COUNTY, TX.
BY  DEPUTY

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AGREEMENT

1. The method for calculating Local Government's contribution to the project contained in the Agreement is hereby amended to delete the four and one-half percent (4.5%) of the total cost of right of way calculation. Local Government's project contribution amount is amended to be set at the fixed total sum of Twenty-Eight Thousand Six Hundred and Seventy-Four dollars (\$28,674.00).
2. State acknowledges that said sum has been remitted to State by instrument number 154995 dated July 31, 2008.
3. The Agreement is further amended to remove any obligation for Local Government to contribute any additional funds above or beyond the fixed sum of Twenty-Eight Thousand Six Hundred and Seventy-Four dollars (\$28,674.00).
4. Local Government acknowledges that the fixed sum of Twenty-Eight Thousand Six Hundred and Seventy-Four dollars (\$28,674.00) represents the final determination of Local Government's project contribution and that said sum does not include any excess payments subject to the refund provision of the agreement.

All other provisions of the Agreement are unchanged and remain in full force and effect.

2. Signatory Warranty

Each signatory warrants that the signatory has necessary authority to execute this amendment on behalf of the entity represented.

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THIS AGREEMENT IS EXECUTED by the State and the Local Government in duplicate.

THE LOCAL GOVERNMENT


Signature

TODD TEFTELLER

Typed or Printed Name

UPSHUR COUNTY JUDGE

Title

AUG 19, 2020

Date

THE STATE OF TEXAS

DocuSigned by:



07/08/2020 10:58:41 AM
Rose Wheeler

Contracts & Finance Director
Right of Way Division
Texas Department of Transportation

9/4/2020

Date

County Upshur
District Atlanta
ROW CSJ # 0520-02-046
CCSJ # 0520-02-037
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**ATTACHMENT A
RESOLUTION OR ORDINANCE**

RESOLUTION NO.

A RESOLUTION AUTHORIZING THE UPSHUR COUNTY JUDGE TO EXECUTE FOR AND ON BEHALF OF UPSHUR COUNTY, TEXAS, AN AGREEMENT TO CONTRIBUTE FUNDS TO THE STATE FOR PROPER DEVELOPMENT AND CONSTRUCTION OF THE STATE HIGHWAY SYSTEM

WHEREAS, the Texas Department of Transportation has approved a project for SH 155 From At Sabine River and Sabine River Relief To South of Big Sandy ; and

WHEREAS, the State has requested the County to enter into Contractual Agreements and acquire right-of-way on the above referenced project; and

WHEREAS, the County has now requested that the State assume responsibility for acquisition of all necessary right-of-way; and

WHEREAS, the County desires to voluntarily contribute to the State funds equal to 4.5% of the cost of the right-of-way for the proper development and construction of the State Highway System,

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSIONERS' COURT OF UPSHUR COUNTY, TEXAS:

Section 1: That the County Judge of Upshur County is authorized to execute for and on behalf of Upshur County, Texas, the Agreement to Contribute Funds with the State to cover right of way acquisition, and the County Clerk is directed to attest this agreement with the State and to affix the seal of Upshur County thereto.

Section 2: It is further resolved that the County Judge is authorized to execute on behalf of the County any supplemental agreements or further modifications to the above referenced agreement.

Section 3: That a copy of said agreement is attached hereto and made a part hereof as if fully set out herein.

Section 4: That this resolution shall become effective immediately upon passage and approval.

MOTION made by Commissioner Joe Ferguson and SECONDED by Commissioner Lloyd Crabtree.

PASSED AND APPROVED this 15 day of July, 2008.

FILED
PEGGY LAGRONE
COUNTY CLERK
08 JUL 15 AM 11:23
UPSHUR COUNTY, TX.
BY [Signature]
DEPUTY

UPSHUR COUNTY COMMISSIONERS' COURT:

[Signature]
UPSHUR COUNTY JUDGE

[Signature]
COMMISSIONER - PRECINCT NO. 1

[Signature]
COMMISSIONER - PRECINCT NO. 2

[Signature]
COMMISSIONER - PRECINCT NO. 3

[Signature]
COMMISSIONER - PRECINCT NO. 4

ATTEST:
[Signature]
COUNTY CLERK, UPSHUR COUNTY



Form ROW-RM-EDC
(Rev. 6/2006)
GSD-EPC
Page 1 of 2

AGREEMENT TO CONTRIBUTE FUNDS – LOCAL GOVERNMENT
(Economically Disadvantaged County)

County: Upshur
District: Atlanta (19)

Federal Project No: BR 2009 (190)
Highway: SH 155

ROW CSJ No: 0520-02-046

This Agreement by and between the State of Texas, acting by and through the Texas Department of Transportation, hereinafter called the State, and Upshur County, Texas, acting by and through its duly authorized officials pursuant to an Ordinance or Order dated the 15th day of July, 2008, 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. SH 155 with the following project limits:

From: At Sabine River and Sabine River Relief

To: South of Big Sandy; 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 43TAC, §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; and

WHEREAS, the Local Government requested and has been granted an Economically Disadvantaged County Adjustment from the Texas Transportation Commission on August 29, 2002 by virtue of Minute Order No. 109000 attached hereto and incorporated into this agreement, approving a fifty five percent (55%) adjustment to the required ten percent (10%) local participation for this project, thereby resulting in a Local Government net contribution amount of four and one half percent (4.5%) participation;

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 four and one half percent (4.5%) 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 Twenty eight thousand six hundred seventy four Dollars (\$28,674.00), which represents four and one half percent (4.5%) of Six hundred thirty seven thousand two hundred Dollars (\$637,200.00), 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 four and one half percent (4.5%) 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.

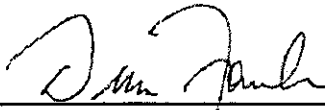
In the event any existing, future, or proposed Local Government ordinance, commissioners court order, rule, policy, or other directive, including but not limited to, outdoor advertising or storm water drainage facility requirements, is more restrictive

Form ROW-RM-EDC
(Rev. 6/2006)
Page 2 of 2

than State or federal regulations, or any other locally proposed change, including, but not limited to , plats or re-plats, results in any increased cost 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: Upshur County Judge

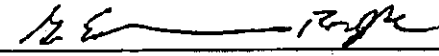
Date: July 15, 2003

EXECUTION RECOMMENDED:


District Engineer, Atlanta District

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: 10/20/08

RESOLUTION NO.

A RESOLUTION AUTHORIZING THE UPSHUR COUNTY JUDGE TO EXECUTE FOR AND ON BEHALF OF UPSHUR COUNTY, TEXAS, AN AGREEMENT TO CONTRIBUTE FUNDS TO THE STATE FOR PROPER DEVELOPMENT AND CONSTRUCTION OF THE STATE HIGHWAY SYSTEM

WHEREAS, the Texas Department of Transportation has approved a project for SH 155 From At Sabine River and Sabine River Relief To South of Big Sandy ; and

WHEREAS, the State has requested the County to enter into Contractual Agreements and acquire right-of-way on the above referenced project; and

WHEREAS, the County has now requested that the State assume responsibility for acquisition of all necessary right-of-way; and

WHEREAS, the County desires to voluntarily contribute to the State funds equal to 4.5% of the cost of the right-of-way for the proper development and construction of the State Highway System,

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSIONERS' COURT OF UPSHUR COUNTY, TEXAS:

Section 1: That the County Judge of Upshur County is authorized to execute for and on behalf of Upshur County, Texas, the Agreement to Contribute Funds with the State to cover right of way acquisition, and the County Clerk is directed to attest this agreement with the State and to affix the seal of Upshur County thereto.

Section 2: It is further resolved that the County Judge is authorized to execute on behalf of the County any supplemental agreements or further modifications to the above referenced agreement.

Section 3: That a copy of said agreement is attached hereto and made a part hereof as if fully set out herein.

Section 4: That this resolution shall become effective immediately upon passage and approval.

MOTION made by Commissioner Joe Ferguson and SECONDED by Commissioner Lloyd Crabtree.

PASSED AND APPROVED this 15 day of July, 2008.

FILED
PEGGY LAGRONE
COUNTY CLERK
08 JUL 15 AM 11:23
UPSHUR COUNTY, TX.
BY [Signature]
DEPUTY

UPSHUR COUNTY COMMISSIONERS' COURT:

[Signature]
UPSHUR COUNTY JUDGE

[Signature]
COMMISSIONER - PRECINCT NO. 1

[Signature]
COMMISSIONER - PRECINCT NO. 2

[Signature]
COMMISSIONER - PRECINCT NO. 3

[Signature]
COMMISSIONER - PRECINCT NO. 4

ATTEST:

[Signature]
COUNTY CLERK, UPSHUR COUNTY

TEXAS TRANSPORTATION COMMISSION

VARIOUS Counties

MINUTE ORDER

Page 1 of 2

Districts VARIOUS

Transportation Code, §222.053 requires the Texas Transportation Commission (commission), when evaluating a proposal for a highway improvement project in a political subdivision that consists of all or a portion of an economically disadvantaged county, to adjust the minimum local matching funds requirement after evaluating a political subdivision's effort and ability to meet the requirement.

Title 43, Texas Administrative Code (TAC), §15.55 states that the commission will consider a local government's effort and ability to meet the local matching funds requirement, and will consider the following criteria when evaluating a request for an adjustment to the requirement:

- (1) population level;
- (2) bonded indebtedness;
- (3) tax base;
- (4) tax rate;
- (5) extent of in-kind resources available; and
- (6) economic development sales tax.

Transportation Code, §222.053 defines an economically disadvantaged county as a county that has, in comparison to other counties in the state:

- (1) below average per capita taxable property value;
- (3) below average per capita income; and
- (4) above average unemployment.

In accordance with these criteria, 55 counties are classified as economically disadvantaged for Fiscal Year 2002.

The Texas Department of Transportation (department) received applications from political subdivisions in counties that have been classified as economically disadvantaged for Fiscal Year 2002 for adjustment of the local matching funds requirement.

The department reviewed the applications and found them to be in compliance with the requirements of Transportation Code §222.053 and 43 TAC §15.55.

The commission has considered the criteria contained in 43 TAC §15.55, has reviewed the project information for the applications for adjustment, and has determined that the local matching funds requirement should be adjusted in the amount indicated in Exhibit A to this order.

IT IS THEREFORE ORDERED by the commission that the adjustment to the local matching funds requirement described in Exhibit A of this order be and is hereby respectively adjusted to the

TEXAS TRANSPORTATION COMMISSION

VARIOUS Counties

MINUTE ORDER

Page 2 of 2

Districts VARIOUS

percentage indicated.

IT IS FURTHER ORDERED that any existing advance funding agreement between the department and the respective local governments be modified to reflect the adjusted cost participation requirements, provided that funds already received by the department under the terms of existing agreements will not be adjusted or reimbursed.

Submitted and reviewed by:

Recommended by:

Director, Transportation Planning
and Programming Division

Executive Director

| | |
|---------------|------------------|
| <u>109000</u> | <u>AUG 29 02</u> |
| Minute | Date |
| Number | Passed |

EXHIBIT A
Local Matching Funds
Economically Disadvantaged Counties
August 2002

| County | Applicant | FYCS# | Project Location | Component | Total Cost | Local Participation | Adjustment | Net Local Participation After Adjustment |
|--------|-------------------|-------------|---|-------------------------------------|------------|---------------------|------------|--|
| Upshur | Upshur County | 0096-03-044 | US 80: from FM 2685 to Virginia Street; Reconstruct to 4-Lane Divided Roadway (Urban Section) | Right of Way and Eligible Utilities | \$ 29,020 | \$ 2,902 | 5% | \$ 1,306 |
| Upshur | Upshur County | 0401-04-025 | SH 154: at Kelsey Creek; Replace Bridge and Approaches | Right of Way and Eligible Utilities | \$ 11,660 | \$ 1,166 | 5% | \$ 525 |
| Upshur | Upshur County | 0320-02-035 | SH 155: from St. Louis and Southwestern Railroad Overpass to 2.9 km Northeast of FM 1002; Replace Bridge and Approaches | Right of Way and Eligible Utilities | \$ 58,580 | \$ 5,858 | 5% | \$ 2,636 |
| Upshur | Upshur County | 0520-02-036 | SH 155: at Big Sandy Creek to 0.6 Mile South of FM 1002; Replace Bridge and Approaches | Right of Way and Eligible Utilities | \$ 70,180 | \$ 7,018 | 5% | \$ 3,158 |
| Upshur | Upshur County | 0520-02-037 | SH 155: at Sabine River and Sabine River Relief to South of Big Sandy; Replace Bridge and Approaches | Right of Way and Eligible Utilities | \$ 637,200 | \$ 63,720 | 5% | \$ 28,674 |
| Upshur | Upshur County | 0520-02-038 | SH 155: at Union Pacific Railroad Overpass to South of Big Sandy; Replace Bridge and Approaches | Right of Way and Eligible Utilities | \$ 64,020 | \$ 6,402 | 5% | \$ 2,881 |
| Upshur | City of Big Sandy | 0520-02-038 | SH 155: at Union Pacific Railroad Overpass to South of Big Sandy; Replace Bridge and Approaches | Right of Way and Eligible Utilities | \$ 65,670 | \$ 6,567 | 5% | \$ 2,955 |

FILED
TERRI ROSS
COUNTY CLERK

2020 SEP 15 AM 11:52

UPSHUR COUNTY, TX.


BY  DEPUTY

EXHIBIT A
Local Matching Funds
Economically Disadvantaged Counties
August 2002

| County | Applicant | CSJ | Project Location | Components | Total Cost | Est. Local Participation | Adjustment | Est. Local Participation After Adjustment |
|---------------------------------------|--------------------|-------------|---|-------------------------------------|------------|--------------------------|------------|---|
| Upshur | Upshur County | 0520-02-039 | SH 155: from North of Sabine River Relief Bridge to South of Union Pacific Railroad Overpass; Reconstruct to 4-Lane Divided Roadway (Rural Section) | Right of Way and Eligible Utilities | \$ 132,230 | \$ 13,223 | 25% | \$ 5,950 |
| Upshur | City of Big Sandy | 0520-02-039 | SH 155: from North of Sabine River Relief Bridge to South of Union Pacific Railroad Overpass; Reconstruct to 4-Lane Divided Roadway (Rural Section) | Right of Way and Eligible Utilities | \$ 34,540 | \$ 3,454 | 25% | \$ 1,554 |
| Upshur | City of Gladewater | 0096-03-044 | US 80: from FM 2685 to the West End of Gladc Creek Bridge; Reconstruct to 4-Lane Divided Roadway (Urban Section) | Right of Way and Eligible Utilities | \$ 139,500 | \$ 13,950 | 25% | \$ 5,580 |
| Total | | | | | \$ 306,270 | \$ 30,627 | | \$ 12,114 |
| Estimated Total To Be Adjusted | | | | | | | | \$ 12,114 |