

**CITY OF EL PASO, TEXAS  
AGENDA ITEM  
DEPARTMENT HEAD'S SUMMARY FORM**

**DEPARTMENT:** Department of Transportation

**AGENDA DATE:** May 24, 2011

**CONTACT PERSON NAME AND PHONE NUMBER:** Terry Quezada, (915) 621-6750,  
quezadatx@elpasotexas.gov

**DISTRICT(S) AFFECTED:** 1

**SUBJECT:**

That the Mayor be authorized to sign an Agreement to Contribute Funds with the Texas Department of Transportation (TxDOT) for the acquisition of right of way and adjustment of utilities for a highway project on Highway No. Spur 276, North of Borderland Rd. The City's contribution is \$420,288.00, which represents 8.8 percent of the estimated total of the cost of the right of away.

**BACKGROUND / DISCUSSION:**

Spur 276 is a new state highway connecting Talbot to Doniphan in the northwest sector of the City. The roadway will provide additional connectivity to the Northwest Soccer Complex, El Paso Community College's northwest campus and Canutillo High School. Construction funding for this project is included in the 2008 Comprehensive Mobility Plan. This agreement provides the required City contribution for right-of-way acquisition. The City's contribution has been decreased to 8.8% from the usual 20% of the total estimate for ROW acquisition based on the approved Economically Disadvantaged Counties Adjustment. The City match totals \$420,288.00.

**PRIOR COUNCIL ACTION:**

March 30, 2010 -- Transportation Funding Plan approved by Council  
August 19, 2008 -- 2008 Comprehensive Plan Approved by Council  
January 2006 -- Certificates of Obligation Approved by Council

**AMOUNT AND SOURCE OF FUNDING:**

\$420,288.00 from 2006 Certificates of Obligation

**BOARD / COMMISSION ACTION:**

\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**DEPARTMENT HEAD:**



(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

*Information copy to appropriate Deputy City Manager*

**RESOLUTION**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:**

That the Mayor be authorized to sign an Agreement to Contribute Funds with the Texas Department of Transportation (TxDOT) for the acquisition of right of way and adjustment of utilities for a highway project on Highway No. Spur 276, north of Borderland Rd. The City's contribution is \$420,288.00, which represents 8.8 percent of the estimated total of the cost of the right of way.

**ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2011.**

THE CITY OF EL PASO

\_\_\_\_\_  
John F. Cook  
Mayor

ATTEST:

\_\_\_\_\_  
Richarda Duffy Momsen  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Elaine S. Hengen  
Senior Assistant City Attorney

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Daryl W. Cole, Director  
El Paso department of Transportation



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

County: El Paso  
District: El Paso

Federal Project No:  
Highway: Spur 276

ROW CSJ No: 0608-01-002

This Agreement by and between the State of Texas, acting by and through the Texas Department of Transportation, hereinafter called the **State**, and City of El Paso, 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. Spur 276 with the following project limits:

From: SH 20, 0.168 Miles North of Borderland Rd.

To: 0.13 Miles West of IH-10; 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 October 28, 2010 by virtue of Minute Order No. 112470 attached hereto and incorporated into this agreement, approving a Fifty Six percent ( 56 %) adjustment to the required Twenty percent ( 20%) local participation for this project, thereby resulting in a **Local Government** net contribution amount of Eight and Eight Tenths percent ( 8.8%) 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 Eight and Eight Tenths percent ( 8.8%) 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 Four Hundred Twenty Thousand and Two Hundred Eighty Eight and No/100 Dollars (\$ 420,288.00), which represents Eight and Eight Tenths percent ( 8.8%) of Four Million Seven Hundred Seventy Six Thousand and No/100 Dollars (\$ 4,776,000.00), 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 Eight and Eight Tenths percent (8.8%) 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 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**

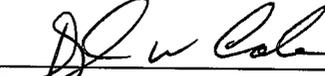
**EXECUTION RECOMMENDED:**

By: \_\_\_\_\_  
John Cook, Mayor

\_\_\_\_\_  
District Engineer, El Paso District

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

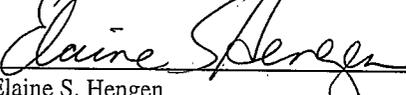
**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
David W. Cole, Director  
El Paso Department of Transportation

**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.

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Elaine S. Hengen  
Senior Assistant City Attorney

By: \_\_\_\_\_  
John P. Campbell, P.E.  
Right of Way Division Director

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

TEXAS TRANSPORTATION COMMISSION

VARIOUS Counties

MINUTE ORDER

Page 1 of 1

VARIOUS Districts

Transportation Code, §222.053(a), 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; (2) below average per capita income; and (3) above average unemployment.

Transportation Code, §222.053(c) directs the Texas Transportation Commission (commission), when evaluating a proposal for a highway 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 the political subdivision's effort and ability to meet the requirement.

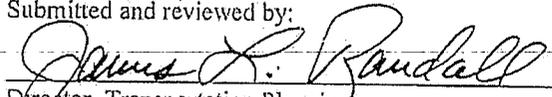
Transportation Code, §222.053(f) requires the commission to certify a county as an economically disadvantaged county on an annual basis as soon as possible after the comptroller reports on the economic indicators listed above.

43 TAC §15.55(b)(2) provides that, in determining the adjustment to the local matching funds requirement, and a local government's effort and ability to meet the requirement, the commission will consider a local government's: (A) population level; (B) bonded indebtedness; (C) tax base; (D) tax rate; (E) extent of in-kind resources available; and (F) economic development sales tax.

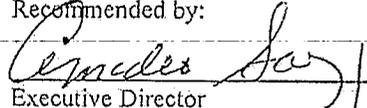
The Comptroller of Public Accounts has provided the data needed to determine the counties eligible for the Economically Disadvantaged Counties Program for 2011. The counties' efforts and ability to provide a local match have been considered using the criteria set forth in 43 TAC §15.55. Exhibit A lists the eligible counties and their respective recommended local match adjustments.

IT IS THEREFORE ORDERED that the list of counties eligible for the 2011 Economically Disadvantaged Counties Program, as shown in Exhibit A, is certified and the local match adjustment for each county is established.

Submitted and reviewed by:

  
Director, Transportation Planning  
and Programming Division

Recommended by:

  
Executive Director

112470 OCT 28 10

Minute Number      Date Passed

# EXHIBIT A

## Economically Disadvantaged Counties FY 2011

FY 2011 Eligible Counties	Adjustment %
Anderson County	71
Atascosa County	76
Bastrop County	70
Bee County	76
Brooks County	59
Caldwell County	83
Calhoun County	31
Cameron County	73
Camp County	47
Cass County	59
Cherokee County	68
Childress County	95
Coke County	56
Concho County	76
Crosby County	60
Dawson County	62
Delta County	88
Dickens County	47
Dimmit County	84
Duval County	70
Ellis County	45
El Paso County	56
Falls County	89
Fannin County	70
Floyd County	61
Frio County	85
Grayson County	57
Grimes County	62
Hall County	80
Henderson County	54
Hidalgo County	92
Hill County	61
Houston County	53
Hunt County	55
Jasper County	63
Johnson County	45
Jones County	72
Karnes County	90

FY 2011 Eligible Counties	Adjustment %
Kaufman County	58
Kinney County	71
Lamar County	54
La Salle County	83
Lynn County	91
Madison County	74
Marion County	55
Matagorda County	35
Maverick County	83
Medina County	63
Milam County	66
Mitchell County	62
Morris County	37
Navarro County	66
Newton County	72
Presidio County	91
Rains County	70
Red River County	77
Reeves County	53
Runnels County	71
Sabine County	46
San Augustine County	80
San Jacinto County	58
San Patricio County	54
San Saba County	75
Shelby County	59
Starr County	95
Trinity County	74
Tyler County	54
Uvalde County	66
Val Verde County	61
Walker County	76
Webb County	69
Willacy County	79
Wilson County	51
Wood County	55
Zavala County	95

Cities within an Economically Disadvantaged County may receive higher percentage adjustments beyond their respective county's adjustment under two conditions: if they have a local economic development sales tax and their population is less than 5000. An adjustment can not exceed 95 percent or be less than 15 percent.



# **Spur 276 Right-of-Way Agreement**

## **City Council Meeting**

**May 24, 2011**



## Spur 276

- Project is state highway from Talbot to Doniphan
- Construction Funding in 2008  
Comprehensive Mobility Plan - \$22 million of CBI and STP funding
- Project is scheduled to let in 2011 – contingent on ROW acquisition



## Spur 276

- ROW costs are estimated at \$4.8 million  
– funded through STP funding & City match
- Local match for ROW is \$420,288
- Match reduced to 8.8% through Economically Disadvantaged Counties program
- City match budgeted through FY06 Certificates of Obligation



## Spur 276

- 13 parcels to be acquired from various property owners including a parcel from the City of El Paso held in trust by EPWU
- TXDOT responsible for acquisition process
- City responsible for providing match



# Proposed Alignment for Spur 276





# **Spur 276 Right-of-Way Agreement**

## **City Council Meeting**

**May 24, 2011**