

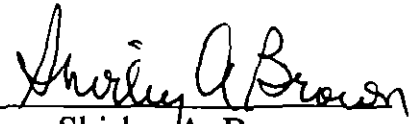
**RESOLUTION NO. 20050818-022**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

That the City Council ratifies, approves, and confirms the execution of the Second Supplemental Contractual Agreement for Right-of-Way Procurement, attached hereto as Exhibit A and made a part hereof, with the Texas Department of Transportation, further amending the provisions of the Contractual Agreement for Right of Way Procurement for ROW CSJ NO: 011313086, for the portion of the State Highway 71 Project from Riverside Drive to Thornberry Lane and including the S.H. 71 Intersection with U.S. 183, regarding reimbursement to the City of expenditures for right of way acquisition and utility relocation for toll road or turnpike projects.

**ADOPTED:** August 18, 2005

**ATTEST:**

  
Shirley A. Brown  
City Clerk

## **EXHIBIT A**

SECOND  
SUPPLEMENTAL CONTRACTUAL AGREEMENT  
FOR RIGHT OF WAY PROCUREMENT-CITY

THE STATE OF TEXAS	§	County: Travis
	§	District: Austin
COUNTY OF TRAVIS	§	ROW CSJ NO.: 011313086
		Federal Project No.:
		Highway: S.H. 71

This supplemental contractual agreement by and between the State of Texas, acting by and through the Texas Department of Transportation, hereinafter called the **State**, and the City of Austin, Texas, acting by and through its duly authorized official, hereinafter called the **City**, shall be effective on the date of approval and execution by and on behalf of the **State**.

**WHEREAS**, **City's** staff was given direction by Austin City Council to negotiate with the **State** regarding issues covered by this supplemental agreement; and

**WHEREAS**, the **State** and the **City** have previously entered into a contractual agreement on the date of June 27, 1986, and amended such agreement on February 24, 1994 with regard to the procurement of right of way and utility relocation on the following indicated highway project limits:

From: Woodward Street

To: F.M. 973 at Del Valle

and, which terms are incorporated herein for any and all purposes; and

**WHEREAS**, a portion of the project is being evaluated as a candidate turnpike or toll project and is identified as S.H. 71 from Riverside Drive to Thornberry Lane and including the S.H. 71 Intersection with U.S. 183 (the "turnpike or toll project"); and

**WHEREAS**, pursuant to Chapter 361, Transportation Code and Title 43, Texas Administrative Code, § 15.55(c), effective January 9, 2005, the cost to acquire right of way for a turnpike or toll project on the state highway system is funded entirely with **State** funds or turnpike or toll revenue bonds, with no local cost participation required, and Transportation Code, Section 361.234 provides that a utility shall make a relocation of a utility facility for a turnpike or toll project at the expense of the State; and

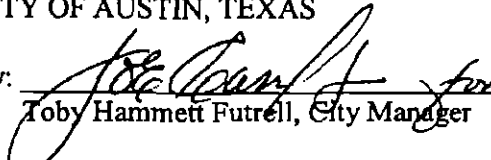
**WHEREAS**, the **City** has now requested that they be relieved of the obligation to contribute to the **State** an amount equal to ten percent (10%) of the cost to acquire the necessary right of way for the candidate turnpike or toll project, and has requested that in the event that the above project is designated a turnpike or toll project by the Texas Transportation Commission pursuant to Section 361.101, Transportation Code, that it be reimbursed for certain amounts previously contributed to the **State** for the candidate turnpike or toll project, which amounts are equal to ten percent (10%) of the cost to acquire the necessary right of way for the candidate turnpike or toll project; and

**WHEREAS** it is mutually desired by the **City** and the **State** to amend said previous contractual agreement in order to modify the terms and provisions for **City** participation in the cost of acquiring right of way for the turnpike or toll project and to modify terms and conditions for reimbursing the costs of relocating all utility facilities for said turnpike or toll project; and

**NOW, THEREFORE**, in consideration of the foregoing premises and the mutual benefits to be derived therefrom, the above described contractual agreement is hereby modified as follows:

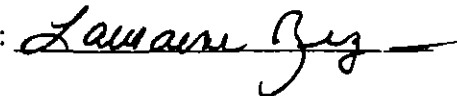
1. The above recitals are incorporated in this Supplemental Agreement for all purposes.
2. On or after January 9, 2005, the State will hereby assume the obligation to pay, one hundred percent (100 %) of the cost of right of way acquired for the turnpike or toll project, and one hundred percent (100%) of utility relocation cost required by the turnpike or toll project. Upon a determination by the State that the candidate turnpike or toll project will be developed as a non-tolled project, the City shall reimburse the State in the amount of ten percent (10%) of the cost of such right of way and the relocation of utility facilities of other entities and shall reimburse the State all costs of relocating City owned utilities not eligible for reimbursement under Transportation Code Section 203.092.
3. For purposes of this Supplemental Agreement, eligible utility relocation costs are those that are necessary to relocate utilities that are in conflict with the design of the turnpike or toll project, as determined by the State.
4. The City and State shall continue to negotiate terms for reimbursement to the City for right of way and utility relocation costs incurred by the City prior to January 9, 2005; provided however, that the State is not obligated to reimburse the City for any costs other than as provided in this Supplemental Agreement.
5. All other provisions of the Contractual Agreement for Right of Way Procurement, as amended, remain the same.

CITY OF AUSTIN, TEXAS

By:   
Toby Hammett Futrell, City Manager

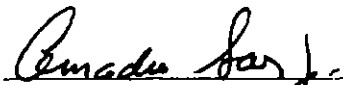
EXECUTION RECOMMENDED:

  
District Engineer, Austin District

ATTEST: 

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:   
Title: Asst. Exec. Dir. Eng. Open

Date: 6/13/05