Commissioners Court November 2, 2021
NOTICE OF A MEETING OF THE
COMMISSIONERS COURT OF HAYS COUNTY, TEXAS

This Notice is posted pursuant to the Texas Open Meetings Act. (VERNONS TEXAS CODES ANN. GOV. CODE CH.551). The Hays County Commissioners Court will hold a meeting at **9:00 A.M.** on the **2nd day of November 2021**, in the Hays County Courthouse, Room 301, San Marcos, Texas. An Open Meeting will be held concerning the following subjects:

CALL TO ORDER
INVOCATION
PLEDGE OF ALLEGIANCE - Pledge of Allegiance to the American Flag & Pledge of Allegiance to the Texas Flag
ROLL CALL

PUBLIC COMMENTS

At this time **3-MINUTE** comments will be taken from the audience on Non-Agenda related topics. To address the Court, please submit a Public Participation/ Witness Form to the County Clerk. Please Complete the Public Participation/ Witness Form in its Entirety.
NO ACTION MAY BE TAKEN BY THE COURT DURING PUBLIC COMMENTS.

PRESENTATIONS & PROCLAMATIONS

1	5-6	Adopt a Proclamation observing the first Saturday of every November as Harvey E. Miller Day of Service. **INGALSBE**
2	7	Presentation by the Redistricting Advisory Commission regarding proposals for redistricting of Commissioners' Precincts within Hays County. **BECERRA**

CONSENT ITEMS

The following may be acted upon in one motion.
A Commissioner, the County Judge, or a Citizen may request items be pulled for separate discussion and/or action.

3	8	Approve payments of County invoices. **VILLARREAL-ALONZO**
4	9	Approve the payment of United Healthcare claims. **VILLARREAL-ALONZO**
5	10	Approve Commissioners Court Minutes of August 24, 2021 and August 27, 2021. **BECERRA/CARDENAS**
6	11-18	Approve the appointment of Kenneth Eshelman to serve on the board of Emergency Services District #6 to replace Brad Ruoff, for a term ending December 31, 2022. **SMITH**
7	19-94	Ratify the execution of a contract with the Department of State Health Services (DSHS) in the amount of $26,756.00 for activities in relation to the Tuberculosis Prevention and Control - Federal Grant Program. **INGALSBE/T.CRUMLEY**
8	95-96	Authorize the purchase of items from BJ's Tees for $1,793.96 for the continuing education safety program for the Transportation Department. **BECERRA/JONES/BORCHERDING**
9	97-150	Authorize the execution of an Interlocal Agreement with the Texas A&M AgriLife Extension Service for the Feral Hog Abatement Program in the amount of $7,500 and amend the budget accordingly. **JONES/T.CRUMLEY**
10	151-155	Authorize the County Judge to execute a service agreement with Personnel Evaluation, Inc. for the Sheriff's Office to perform pre-employment screenings. **INGALSBE/CUTLER**
11	156-157	Authorize a purchasing waiver for the Sheriff's Office to utilize The Wrap by Safe Restraints, Inc. for FY22 approved safety restraints. **INGALSBE/CUTLER**
12	158-162	Approve and confirm the appointment of Darrell Perez as Deputy Constable Bailiff in the Hays County Constable Precinct 1 Office, effective date September 21, 2021. **INGALSBE/PETERSON**
13	163-213	Approve specifications for IFB 2022-B03 Cotton Gin Road - Low Water Crossing and authorize Purchasing to solicit for bids and advertise. **JONES/BORCHERDING**
14	214-250	Approve specifications for RFP 2022-P02 Consulting Services - Animal Shelter and Animal Services Feasibility Study and authorize Purchasing to solicit for bids and advertise. **SHELL/INGALSBE**
15	251-277	Authorize the submission of a grant application to the Texas Division of Emergency Management (TDEM) for the Hazard Mitigation Grant Program (HMGP) in the amount of $159,228.00. **BECERRA/T.CRUMLEY/MIKE JONES**
16	278-279	Accept a proposal from Beckwith Electronic Systems, LLC in the amount of $8,390 for repairs needed to the Crestron System in District Courtroom #7 of the Government Center; authorize a discretionary exemption pursuant to Texas Local Government Code 262.024A (7) (D) and amend the budget accordingly. **INGALSBE/STEEL**

17	280-281	Authorize payment to Austin Extreme Graphics in the amount of $998.22 for the Constable Pct. 2 Office in which no purchase order was issued as required per the Hays County Purchasing Policy. **JONES/TORRES**
18	282-285	Approve renewal of IFB 2020-B02 Hauling Solid Waste with Central Waste & Recycling and Texas Disposal Systems for one (1) additional year as stated in the original bid, effective November 5, 2021. **BECERRA/T.CRUMLEY**
19	286	Call for a Public Hearing at the regular session of Commissioners Court on November 9, 2021 starting at 9 a.m., related to the redistricting of justice of the peace (and constable) and commissioners precincts within Hays County, Texas. **BECERRA**

ACTION ITEMS

ROADS

20	287-288	Hold a public hearing with possible action to establish 3-way stop locations on Old Bastrop Highway at the intersections of Posey Road and Francis Harris Lane. **INGALSBE/BORCHERDING**
21	289	Discussion and possible action to consider the release of the maintenance bond #58S211340-001 in the amount of $174,546.55, and the acceptance of roads into the county road maintenance system for Crosswinds subdivision, Phase 2. **INGALSBE/BORCHERDING**
22	290-295	Discussion and possible action to consider the acceptance of road construction & drainage improvements, release of the performance bond #9933969 in the amount of $345,571.00, and acceptance of the 2-year maintenance bond #146805D in the amount of $29,557.10 for Northridge subd., Phase 3. **SMITH/BORCHERDING**
23	296-302	Discussion and possible action to consider the acceptance of road construction & drainage improvements, acceptance of the 2-year maintenance bond #PB03016800693M in the amount of $49,235.54, and acceptance of the 1-year revegetation bond #PB03016800693M in the amount of $19,781.95 for 6 Creeks subd., Phase 1, Section 4A. **SMITH/BORCHERDING**
24	303-306	Discussion and possible action to authorize the County Judge to execute Change Order No. 3 in the amount of $58,577.04 to the Construction Contract between Hays County and Cox Commercial Construction for the RM 3237 at RM 150 Roundabout (IFB-2021-B06) project as part of the Hays County Road Bond Program. **SHELL/BORCHERDING**
25	307-342	Discussion and possible action to authorize the County Judge to execute a Professional Services Agreement (Contract) between Hays County and Cobb Fendley & Associates, Inc. to provide utility coordination services for the low water crossing projects in Precinct 4. **SMITH/BORCHERDING**
26	343-383	Discussion and possible action to authorize the County Judge to execute a Professional Services Agreement between Hays County and LJA Engineering, Inc. to provide right-of-way acquisition services for the FM 2001 West project in Precinct 2. **JONES/BORCHERDING**
27	384-386	Discussion and possible action to authorize the County Judge to execute Supplemental No. 10 to the Professional Services Agreement between Hays County and HNTB Corporation for the Hays County/TxDOT Partnership Program General Engineering Consultant (GEC)/Program Management services in Hays County, increasing the Compensation Cap by $336,800.00 from $7,205,491.30 to $7,542,291.30 and extending the termination date of the contract to September 30, 2022. **JONES/BORCHERDING**
28	387-389	Discussion and possible action to authorize the County Judge to execute Supplemental Agreement No. 8 to the Professional Services Agreement between Hays County and HNTB Corporation for the Pass-Through Finance Program Management effort in Hays County, increasing the Compensation Cap by $62,022.00 from $7,715,500.00 to $7,777,522.00 and extending the termination date of the contract to September 30, 2022. **JONES/BORCHERDING**
29	390-400	Discussion and possible action to authorize the County Judge to execute a Professional Services Agreement (time & materials contract) between Hays County and HNTB Corporation for Fiscal Year Work Authorizations in the total amount of $2,635,006.00 to continue providing General Engineering Consultant (GEC)/Program Management services for the Hays County 2016 Road Bond Program projects. **JONES/BORCHERDING**
30	401-407	Discussion and possible action to accept the Irrevocable Letter of Credit No. SBP702741 for street and drainage improvements for Parten Ranch, Phase 2B, Final Plat in the amount of $808,725.50. **SMITH/BORCHERDING**
31	408-429	Discussion and possible action to approve Advance Funding Agreement for Preventative Maintenance and Rehabilitation Program On-System Project (RM 967 Maintenance) and authorize the County Judge to execute Advance Funding Agreement on behalf of Hays County. **JONES/BORCHERDING**
32	430-440	Discussion and possible action to authorize the County Judge to execute an Interlocal Agreement between Hays County and the City of Kyle relating to the Center Street Union Pacific Railroad (UPRR) Siding Relocation Project and amend the budget accordingly. **JONES/BORCHERDING**

SUBDIVISIONS		
33	441-444	PLN-1736-PC; Hold a Public Hearing with possible action to approve the final plat of the Replat of Lots 13 and 14, Out of the Resubdivision of Lots 45 through 53 and Lot 58, Rolling Oaks Subdivision, Section 3. **SHELL/MACHACEK**
34	445-448	PLN-1689-NP; Henly Creek Subdivision (1 Lot). Discussion and possible action to approve the final plat. **SMITH/MACHACEK**
35	449-450	PLN-1756-PC; Call for a Public Hearing on November 23, 2021 to discuss possible action regarding the Douglas Estates Subdivision, Lot D-40, Replat. **SMITH/MACHACEK**

MISCELLANEOUS		
36	451	Discussion and possible action to approve changes to the FY 2021 healthcare plan as recommended by the Insurance Committee. **INGALSBE/SHELL/MILLER**
37	452-473	Discussion and possible action to authorize the County Judge to execute an Agreement between Hays County and HDR Architecture, Inc. to provide architectural designs and services related to the upgrade of the Government Center security, camera and badge reader system, and the installation of a surveillance system for the Historic Courthouse in the amount of $184,100 and authorize a discretionary exemption pursuant to Texas Government Code Chapter 2254. **INGALSBE/T.CRUMLEY**
38	474-475	Discuss and possible action to authorize the submission of a Community Development Block Grant - Local Hazard Mitigation Plans Program Application to the General Land Office; and authorizing the County Judge to act as the County's Executive Officer and Authorized representative in all manners pertaining to the County's participation in the Community Development Block Grant - Mitigation Program. **BECERRA/T.CRUMLEY/MIKE JONES**
39	476-486	Discussion and possible action to authorize the County Judge to execute an Interlocal Agreement for Access to Drill and Complete a Groundwater Monitor Well and to Conduct Groundwater Monitoring Between Hays County, Texas and Barton Springs/Edwards Aquifer Conservation District. **SHELL/T.CRUMLEY**
40	487-518	Discussion and possible action to authorize the County Judge to execute a Statement of Work and Participating Addendum with 8 x 8, Inc. utilizing the National Association of State Procurement Officials (NASPO) ValuePoint Master Agreement related to a new Countywide Phone/Communications System. **BECERRA/MCGILL**
41	519-522	Discussion and possible action to authorize the County Judge to execute a renewal Service Order with Grande Communications related to the Countywide Fiber contract. **BECERRA/MCGILL**
42	523-524	Discussion and possible action related to Fire Code regulation of properties under a Development Agreement with the City of Dripping Springs. **SMITH**

WORKSHOP		
43	525	1:00PM - Workshop regarding a Needs Assessment roadmap and funding for a Mental Health Hospital. Possible action may follow. **BECERRA**

EXECUTIVE SESSIONS The Commissioners Court will announce it will go into Executive Session, if necessary, pursuant to Chapter 551 of the Texas Government Code, to receive advice from Legal Counsel to discuss matters of land acquisition, litigation, and personnel matters as specifically listed on this agenda. The Commissioners Court may also announce it will go into Executive Session, if necessary, to receive advice from Legal Counsel regarding any other item on this agenda.		
44	526	Executive Session pursuant to Sections 551.071 and 551.074 of the Texas Government Code: consultation with counsel and deliberation regarding the positions of the Hays County Fire Marshal and the Hays County Office of Emergency Services Director; and regarding state statutes on Fire Code. Possible discussion and/or action may follow in open court. **BECERRA**
45	527	Executive Session pursuant to Sections 551.071 and 551.072 of the Texas Government Code: consultation with counsel and deliberation regarding the purchase, exchange, lease and/or value of real property associated with the POSAC-recommended 2020 Parks and Open Space Bond Projects; and regarding POSAC reviewing criteria. Possible discussion and/or action may follow in open court. **SHELL**
46	528	Executive Session pursuant to Sections 551.071 and 551.072 of the Texas Government Code: consultation with counsel and deliberation regarding the purchase, exchange, lease and/or value of real property located on or near Stagecoach Trail in San Marcos, Texas and within Precinct 3. Possible discussion and/or action may follow in open court. **SHELL**

STANDING AGENDA ITEMS

The Commissioners Court utilizes Standing Agenda Items to address issues that are frequently or periodically discussed in court. This section allows the Court to open the item when a need for discussion arises.

47	Discussion and possible action related to the burn ban and/or disaster declaration. **BECERRA**
48	Discussion related to the Hays County inmate population, to include current population counts and costs. **BECERRA**
49	Discussion and possible action related to proposed bills in the 87th Special Session of the Texas Legislature and to consider adoption of resolution(s) regarding proposed bills. The Court may opt to withdraw to Executive Session during this item to consult with legal counsel pursuant to Texas Government Code 551.071. **SMITH**
50	Discussion of issues related to the Hays County Jail, and the planning of projects pertaining to the public safety facilities needs within the County. Possible action may follow. **INGALSBE/CUTLER**
51	Discussion and possible action regarding funding received or to be received by Hays County under the American Rescue Plan Act (ARPA). **BECERRA**

ADJOURNMENT

Posted by 5:00 o'clock P.M. on the 29th day of October, 2021

COMMISSIONERS COURT, HAYS COUNTY, TEXAS

CLERK OF THE COURT

Hays County encourages compliance with the Americans with Disabilities Act (ADA) in the conduct of all public meetings. To that end, persons with disabilities who plan to attend this meeting and who may need auxiliary aids such as an interpreter for a person who is hearing impaired are requested to contact the Hays County Judge's Office at (512) 393-2205 as soon as the meeting is posted (72 hours before the meeting) or as soon as practical so that appropriate arrangements can be made. While it would be helpful to receive as much advance notice as possible, Hays County will make every reasonable effort to accommodate any valid request regardless of when it is received. Braille is not available.

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Adopt a Proclamation observing the first Saturday of every November as Harvey E. Miller Day of Service.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
PROCLAMATIONS/PRESENTATIONS	November 2, 2021	N/A

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
Jonafa Banbury / The Dunbar Heritage Association	INGALSBE	N/A

SUMMARY

Please refer to the attached proclamation.

PROCLAMATION OBSERVING THE FIRST SATURDAY OF EVERY NOVEMBER AS HARVEY E. MILLER DAY OF SERVICE

STATE OF TEXAS §
§
COUNTY OF HAYS §

WHEREAS, The Dunbar Heritage Association, the Miller Family, and Hays County will observe the first Saturday of every November as a day of service in honor of trailblazer, civil rights hero, community builder, youth worker, and historian Harvey E. Miller, "The Good-Looking Fella," in recognition of his 54 years of service to the Hays County community; and

WHEREAS, Harvey Edward (Ercie) Miller was born on November 4, 1929 in Rocky Hollow outside of Georgetown Texas, the oldest of 10 children born to Frank and Elnora Sedwick Miller, and Harvey accepted Jesus as his Lord and Savior at a young age-although he was renowned as a prankster among his family and friends; and

WHEREAS, this exceptional citizen attended the Carver School in Georgetown and married his high school sweetheart, Ara Belle Jefferson, on July 7, 1948, and they brought into this world four beloved daughters, Chrystal (Chris) and Linda, both now deceased, Mittie (Kathie) and Tricia; and

WHEREAS, Harvey Miller and his family moved to San Marcos in 1966 where he had a distinguished career at Gary Job Corps Center for more than 35 years until his retirement, and Ara Belle Miller was the first African American nurse at the Hays County Health Department; and

WHEREAS, Mr. Miller started a group called the Bridge Builders to improve race relations in the late 1960s and to transform the old Dunbar School site (the negro school) into a park and recreation center and became its first director.

WHEREAS, Harvey Miller initiated the annual Juneteenth Celebration commemorating the freeing of Texas slaves in 1865. He also helped Hays County residents understand and appreciate the significant contributions and legacy of African American citizens in our community and across Texas through his dedication, wisdom, and courage to speak to his mind; and

WHEREAS, this wonderful citizen is known for his support for the Greater Bethel Baptist Church and as founder of the Dunbar Heritage Association, was the recipient in 2008 "Spirit of San Marcos Award," and named "Outstanding Senior Volunteer" by The San Marcos Senior Citizen Advisory Board; and

WHEREAS, Deacon Harvey Miller, age 90, went to be with the Lord on September 1, 2020. He passed away peacefully in his San Marcos home surrounded by family and friends.

WHEREAS, Now, the extended family and friends of Harvey Miller will celebrate his 92ND birthday on Thursday, November 4, 2021, to honor this exceptional leader, father, grandfather, and great-grandfather;

NOW, THEREFORE, BE IT RESOLVED that the Hays County Commissioners Court does hereby proclaim the first Saturday of every November as:

"HARVEY E. MILLER DAY OF SERVICE"

And call upon the citizens of Hays County to recognize the immeasurable contributions of this highly esteemed citizen and honor him by serving the community.

ADOPTED THIS THE 2nd DAY OF November 2021

Ruben Becerra
Hays County Judge

Debbie Gonzales Ingalsbe
Commissioner, Pct. 1

Mark Jones
Commissioner, Pct. 2

Lon A. Shell
Commissioner, Pct. 3

Walt Smith
Commissioner, Pct. 4

ATTEST:

Elaine H. Cárdenas, MBA, PhD
Hays County Clerk

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

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AGENDA ITEM

Presentation by the Redistricting Advisory Commission regarding proposals for redistricting of Commissioners' Precincts within Hays County.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
PROCLAMATIONS/PRESENTATIONS	November 2, 2021	

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
	BECERRA	N/A

SUMMARY

Additional information will be provided during Court.

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court
Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Approve payment of County invoices.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
CONSENT	November 2, 2021	

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR APPROVAL:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
Auditor's Office	VILLARREAL-ALONZO	N/A

SUMMARY

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court
Tuesdays at 9:00 AM

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AGENDA ITEM

Approve the payment of United Healthcare claims.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
CONSENT	November 2, 2021	

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR APPROVAL:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
Auditor's Office	VILLARREAL-ALONZO	N/A

SUMMARY

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Approve Commissioners Court Minutes of August 24, 2021 and August 27, 2021.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
CONSENT	November 2, 2021	

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
CARDENAS	BECERRA	N/A

SUMMARY

Backup will be sent under separate cover.

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Approve the appointment of Kenneth Eshelman to serve on the board of Emergency Services District #6 to replace Brad Ruoff, for a term ending December 31, 2022.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
CONSENT	November 2, 2021	

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
Commissioner Walt Smith	SMITH	N/A

SUMMARY

See attached resume.

Driftwood, TX 78619

Kenneth K. Eshelman

SUMMARY

Operational Leader with proven leadership ability, excellent organizational management skills, a proven P & L track record of success and commitment to employee and client satisfaction and retention. Extremely strong experience in construction operations with direct responsibility for at least 65 major projects totaling in excess of $1.3 billion. The projects have been for the Federal Government, Local Government, Public & Private Healthcare Companies, Public and Private Corporations. The contracting methods range from Hard Bid to Negotiated CM at Risk, and Competitive Job Order Contracting. Proven ability to bring immediate value and measurable results to organizations and operations. Expertise includes:

Managing Change
Healthcare Construction
Leadership at Multi Levels of Organization
Understanding Challenges & Issues Confronting Field Operations
Strong Client Focus & Satisfaction
Multi-State / Multi-Site Experience & Understanding
Training & Mentoring of Personnel
Willingness to Travel

PROFESSIONAL EXPERIENCE

COMMERCIAL CONSTRUCTION CONSULTANT, Driftwood, TX October 2010 – Present
Client: SureTec Insurance, Austin, TX – Construction Bonding Company

Independent Construction Consultant
Worked on an hourly basis to provide construction expertise to assist one of SureTec's contractors

- Helped prevent additional defaults by the contractor
- Worked with the contractor's clients to restore confidence
- Documented and protected the bonding company and contractor's position
- Helped expedite the remaining work

CENTENNIAL CONTRACTORS ENTERPRISES, Inc. Reston, VA August 2005 – September 2010
A $400 million national General Contractor providing services in commercial construction for Federal, State and Local government and the educational market with emphasis in Indefinite Delivery, Indefinite Quantity contracting.

Regional Operations Manager – Sr. Project Executive
Total P & L responsibility for Centennial's operations in the state of Texas with revenues in excess of $75 million in Job Order Contracting activities. These clients were Federal, Local Governments (Counties & Cities), Hospitals, School Districts, Universities, & Airports.

- Lead the successful turnaround in profitability of the Texas Operations thru focus on priority clients and personnel leadership
- Improved Client satisfaction for the Texas operation by achieving 100% satisfaction scores and therefore increased new awards from existing clients
- Active Participation in Leadership changes and enhancements for Regional operations, resulting in profitable growth for the region
- Aligned and mentored key managers into leaders for the Texas operation
- Actively participated in State Legislation in support of the JOC Program in Texas

FAULKNER CONSTRUCTION / ROGERS O'BRIEN, Austin, TX October 1999 – August 2005
$300 million Commercial General Contractor providing Healthcare Construction and other Institutional and Public Construction. Most of the projects were CM at Risk. Faulkner Construction was sold to Rogers O'Brien.

Construction Manager -- Regional Operations Manager
Total P & L responsibility for projects with a total contract amount in excess of $66 million. These projects were negotiated CM at Risk healthcare (hospital) projects.

- Successfully organized, planned, staffed, and completed two very critical large hospital projects
- Mentored key personnel in healthcare construction thereby enhancing the capabilities of the company
- Successfully oversaw multiple operations throughout Central & South Texas insuring timely & profitable project completion

CADENCE McSHANE CORPORATION, Austin, TX May 1998 – October 1999
Commercial General Contractor specializing in Tilt-Wall and K-12 construction.

Vice President – Manager of Austin Office
Total P & L responsibility for Cadence McShane's Austin, Texas operation.

- Took decisive corrective action related to quality and operational issues to insure successful completion of projects.

CENTEX LANDIS, New Orleans, LA June 1996 – May 1998
A subsidiary of Centex General Construction (Centex Corporation). A General Contractor performing Commercial work in the New Orleans area. Specializing in Higher Education, Airports, Local Private Restaurants, Parish Libraries, etc.

Senior Vice President -- Chief Operating Officer
As COO, had P & L responsibility for major projects with a total contract amount in excess of $105 million.

CENTEX CONSTRUCTION, Dallas, TX April 1993 – June 1996
A subsidiary of Centex General Construction (Centex Corporation). A large General Contractor performing both Hard Bid Federal work, primarily healthcare (VA Hospitals) and large non-Federal healthcare & other commercial projects. Same company as CENTEX BATESON, however the name was changed and a specialized non-federal Healthcare Group was formed.

Senior Vice President – Operations Manager for the Healthcare Group
Total P & L responsibility for major projects with a total contract value in excess of $225 million, in the non-Federal healthcare market.

CENTEX BATESON, Dallas, TX April 1989 – April 1993
A subsidiary of Centex General Construction (Centex Corporation). A large General Contractor performing both Hard Bid Federal work, primarily healthcare (VA Hospitals) and large non-Federal healthcare & other commercial projects. Same company as J.W. BATESON, however the name was changed.

Vice President – Contract Manager
Total P & L responsibility for major projects with a total contract value in excess of $46 million. The projects were in the healthcare market.

J.W. BATESON CONSTRUCTION CO., Inc., Dallas, TX December 1971 – April 1989
A subsidiary of Centex General Construction (Centex Corporation). A large General Contractor performing primarily Hard Bid Federal work.

Office Engineer / Project Engineer / Project Manager / Senior Project Manager
Responsible for all on-site field operations. With advancement increased responsibility for P & L. Responsible for major projects with a total contract value in excess of $526 million. These projects were located in Texas, Virginia, Washington DC, California, Mississippi, and Oregon. Projects were constructed for the VA, Navy, Corps of Engineers, and several corporate clients.

MILITARY EXPERIENCE

197TH INFANTRY BRIGADE, Fort Benning, GA January 1970 – December 1971
1st Lieutenant, Army Ordinance Corps
In charge of a vehicle maintenance shop with approximately 110 mechanics. Vietnam Era veteran. Honorable Discharge

EDUCATION

Kansas State University, Manhattan, KS (1964 – 1970)
Bachelor of Science, Building Construction

PROFESSIONAL ORGANIZATIONS

Design Build Institute of America, Member
Center for Job Order Excellence, Member
American Society for Healthcare Engineering, Past Member

RECAP OF KEN ESHELMAN'S MAJOR PROJECTS

Grouped by Classification

Classification	KE's Title	Name	City	ST	Compl.Date	Contract Value	Total SF
City - Airport	Project Executive	N.O.I.A. West Terminal Expansion	Kenner	LA	12/15/97	$20,595,000	175,000
City - HUD	Project Manager	Forest Green Manor	Dallas	TX	12/01/77	$4,700,000	120,000
City - Museum	Project Manager	Museum of Fine Arts	Dallas	TX	10/01/82	$34,700,000	150,000
City - Museum	Project Executive	Dallas Museum of Art Expansion, Nancy and Jake L. Hamon Building,	Dallas	TX	08/15/93	$25,010,509	305,200
County - Library	Project Executive	Jefferson Parish East Bank Regional Library & Headquarters	Metairie	LA	06/14/96	$17,477,546	144,000
County - Hospital	Project Executive	Ben Taub General Hospital	Houston	TX	11/20/89	$96,218,980	750,000
County - Hospital	Project Executive	Odessa Medical Center Hospital	Odessa	TX	02/29/96	$22,912,900	150,000
County - HUD	Project Executive	St. Bernard Manor - Phase III	Meraux	LA	05/17/96	$2,615,540	50,000
Federal - CoE	Office Engineer	Northern Virginia Central Postal Facilities	Fairfax	VA	12/31/71	$12,000,000	100,000
Federal - CoE	Project Manager	155MM ICM Projectile Metal Parts Facility	Bay St. Louis	MS	11/01/78	$38,100,000	500,000
Federal - CoE	Project Manager	Load, Assemble & Pack (LAP) Facility	Bay St. Louis	MS	12/01/80	$27,700,000	400,000
Federal - Navy	Project Engineer	Engineering Studies Complex at Naval Academy - Phase III	Annapolis	MD	12/01/73	$20,200,000	300,000
Federal - USPS	Project Executive	USPS General Mail & Vehicle Maintenance Facility	Los Angeles	CA	11/17/88	$59,781,680	1,247,432
Federal - VA	Asst. Project Manager	Los Angeles Wadsworth Hospital	Los Angeles	CA	12/01/74	$59,400,000	1,300,000
Federal - VA	Project Manager	390 Bed Replacement Hospital, Phase III, VA Medical Center	Portland	OR	12/01/83	$60,000,000	800,000
Federal - VA	Project Executive	VA Outpatient Clinic	Los Angeles	CA	04/07/92	$48,119,282	451,000
Higher Education	Office Engineer	Basic Science Building and Paul Himmelfarb Medical Library	Washington	DC	12/01/72	$20,400,000	200,000
K - 12	Project Executive	Baty Elementary School	Austin	TX	07/01/99	$7,815,000	85,000
K - 12	Project Executive	Bee Cave Elementary School	Bee Cave	TX	07/16/99	$5,810,000	70,000
K - 12	Project Executive	Lake Travis High School Additions & Improvements	Lakeway	TX	01/03/00	$10,052,700	100,000
Private Corp - High Tech	Sr. Project Manager	Electronic Data Systems (EDS): Data Center 1	Plano	TX	06/01/85	$9,621,007	75,000
Private Corp - High Tech	Sr. Project Manager	Electronic Data Systems (EDS): Data Center 2	Plano	TX	08/01/85	$8,685,487	75,000
Private Corp - High Tech	Sr. Project Manager	Electronic Data Systems (EDS): Data Centers 3 & 4	Plano	TX	09/15/86	$12,207,977	150,000
Private Corp - High Tech	Project Executive	TECCOR: E-Glass Expansion	Irving	TX	05/27/96	$778,679	1,500
Private Corp - High Tech	Project Executive	Abbott Diagnostics Division, LC-8 Project (Confidential)	Irving	TX	06/01/96	$21,915,321	325,000
Private Corp - High Tech	Project Executive	TECCOR: Chiller/Boiler	Irving	TX	06/05/96	$496,875	0
Private Corp - High Tech	Project Executive	TECCOR: Diffusion Furnace Areas	Irving	TX	06/05/96	$723,112	2,400
Private Corp - High Tech	Project Executive	TECCOR: Wet Chemical	Irving	TX	11/04/96	$945,174	1,500
Private Corp - Hospital	Project Executive	Presbyterian Hospital of Plano	Plano	TX	03/30/90	$25,158,683	256,000
Private Corp - Hospital	Project Executive	Carolinas Medical Center	Charlotte	NC	03/31/91	$38,935,620	334,059

RECAP OF KEN ESHELMAN'S MAJOR PROJECTS

Grouped by Classification

Classification	KE's Title	Name	City	ST	Compl.Date	Contract Value	Total SF
Private Corp - Hospital	Project Executive	St. John's Regional Medical Center	Oxnard	CA	07/15/92	$67,429,000	365,000
Private Corp - Hospital	Project Executive	Richardson Medical Office Building and Community Cancer Center	Richardson	TX	11/15/93	$6,117,662	96,873
Private Corp - Hospital	Project Executive	Memorial Hospital of Southern Oklahoma Additions	Ardmore	OK	03/01/95	$418,148	82,216
Private Corp - Hospital	Project Executive	Children's Med. Center (CMC): Ongoing Construction Activity	Dallas	TX	03/01/95	$17,500,000	150,000
Private Corp - Hospital	Project Executive	CMC: Add'ns & Alt's to Children's Med. Center/Base Contract	Dallas	TX	03/01/95	$42,317,000	550,643
Private Corp - Hospital	Project Executive	Doctors Hospital of Laredo	Laredo	TX	05/31/95	$550,000	3,980
Private Corp - Hospital	Project Executive	Austin Diagnostic Medical Center (North Austin Medical Center)	Austin	TX	06/15/95	$66,056,118	697,000
Private Corp - Hospital	Project Executive	Medical City Dallas, Building D Addition	Dallas	TX	08/21/95	$26,889,825	241,750
Private Corp - Hospital	Project Executive	Medical Plaza Hospital	Sherman	TX	08/31/95	$631,000	6,488
Private Corp - Hospital	Project Executive	Jo Ellen Smith Medical Center Renovations	Gretna	LA	02/14/97	$527,850	9,870
Private Corp - Hospital	Project Executive	Meadowcrest Hospital ICU Renovations	Gretna	LA	04/04/97	$268,182	10,600
Private Corp - Hospital	Project Executive	Meadowcrest Hospital First Floor Refurbishment	Gretna	LA	05/31/97	$213,106	8,525
Private Corp - Hospital	Project Executive	Meadowcrest Hospital Emergency Room Additions and Renovations	Gretna	LA	06/05/97	$346,890	3,000
Private Corp - Hospital	Project Executive	Meadowcrest Hospital Endoscopy Addition	Gretna	LA	08/12/97	$1,338,588	10,600
Private Corp - Hospital	Project Executive	Memorial Med. Center (Mercy Campus) -Alt's to Nursing Units 4 West	New Orleans	LA	12/15/97	$349,900	10,000
Private Corp - Hospital	Construction Mgr.	Heart Hospital of South Dakota	Sioux Falls	SD	02/11/01	$29,000,000	175,000
Private Corp - Hospital	Construction Mgr.	St. David's Medical Center -- Phase VI -- New Central Plant	Austin	TX	02/22/02	$7,000,000	15,000
Private Corp - Hospital	Construction Mgr.	St. David's Medical Center -- Phase VI -- ER Expansion	Austin	TX	09/30/05	$30,000,000	101,000
Private Corp - Hospitality	Project Executive	Sheraton New Orleans Lobby Renovation	New Orleans	LA	10/06/97	$3,370,000	20,000
Private Corp - Hospitality	Project Executive	Crossland Economy Suites	Austin	TX	08/24/98	$3,232,800	40,000
Private Corp - Office Complex	Project Manager	Conoco Woodcreek Park	Houston	TX	12/24/84	$125,900,000	1,300,000
Private Corp - Office Complex	Sr. Project Manager	Electronic Data Systems (EDS): Training Centers	Plano	TX	08/15/85	$11,753,349	193,450
Private Corp - Office Complex	Sr. Project Manager	Electronic Data Systems (EDS): Office Complex 1	Plano	TX	03/15/86	$40,988,046	888,282
Private Corp - Office Complex	Sr. Project Manager	Electronic Data Systems (EDS): Office Complex 2	Plano	TX	08/01/86	$39,741,657	888,282
Private Corp - Office Complex	Project Executive	Plaza of the Americas Renovation	Dallas	TX	07/25/92	$9,148,625	158,000
Private Corp - Office Complex	Project Executive	First USA Tenant Finishes - Thanksgiving Tower	Dallas	TX	02/11/96	$15,600,000	225,000
Private Corp - Office Complex	Project Executive	Centex Finish Out	Dallas	TX	11/15/96	$5,054,949	170,000
Private Corp - Office Complex	Project Executive	International Center Phase II	Dallas	TX	11/27/96	$23,814,555	414,421
Private Corp - Office Complex	Project Executive	Hudson Street Parking Garage	Metairie	LA	06/11/97	$9,722,914	410,000
Private Corp - Restaurant	Project Executive	Ralph Brennan's Redfish Grill	New Orleans	LA	12/31/96	$1,100,000	10,000

RECAP OF KEN ESHELMAN'S MAJOR PROJECTS

Grouped by Classification

Classification	KE's Title	Name	City	ST	Compl.Date	Contract Value	Total SF
State - Higher Education	Project Executive	LSU Clinic/Neuroscience Center Addition	New Orleans	LA	03/31/97	$10,375,000	74,000
State - Higher Education	Project Executive	Newcomb Art Building Renovations & Addition Tulane University	New Orleans	LA	05/15/97	$9,228,674	78,621
State - Higher Education	Project Executive	Tulane Mechanical Services Bldg. - Phase III Renov	New Orleans	LA	05/26/97	$132,577	5,000
State - Higher Education	Project Executive	Tulane University Center - Elevator Addition and A.D.A. Improvements	New Orleans	LA	10/07/97	$364,125	3,000
Federal (NASA),State, County, Hospital Districts, City, K-12, Higher Education, Airports	Sr. Project Executive	Job Order Contract Projects (8/29/05-9/17/10)	Misc.	TX	NA	$76,588,863	NA
		T O T A L S	65			$1,396,146,475	16,033,692

Centennial
contractors enterprises, inc.

September 20, 2010

Letter of Recommendation: **Kenneth K. Eshelman**

Ken most recently served as Senior Project Executive of our Texas Operations for Centennial Contractors Enterprises, Inc. of Reston, Virginia. He was employed with our firm from August 29, 2005 through September 17, 2010. Regrettably Centennial separated with Ken through a reduction in force action due to the current economic impact on our business.

Ken was responsible for all construction operations in our Texas Region, which consisted of up to five locations and an annual volume of nearly $20M at its peak. He was involved in the hiring and termination of all staff and regional business development efforts. Ken was directly responsible for all project bids, execution, close-out and Owner relations. Ken's operations were consistently profitable, achieved customer satisfaction and executed quality work safely.

Most noteworthy was the turnaround of our Texas operation under Ken's leadership. He tirelessly put the right people in the right seats, and removed the underperformers and individuals that were not committed to our processes. He traveled extensively to provide personal training and close oversight of the field operations. As a result, he methodically built a high achieving profitable operation specializing in Job Order Contracting.

Equally important was the strategic role Ken contributed to Centennial. In Training and Development, Legal, Business Development and Operations, his opinion was sought and advice utilized to shape our vision. His passion is the training and mentoring of motivated employees. His integrity and personal values are second to none.

I would highly recommend Ken to any prospective employer.

Sincerely,

Mark E. Bailey
President & CEO

11111 Sunset Hills Road Suite 350 Reston, VA 20190 www.cce-inc.com
office 703-885-4600 fax 703-885-4601

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Ratify the execution of a contract with the Department of State Health Services (DSHS) in the amount of $26,756.00 for activities in relation to the Tuberculosis Prevention and Control - Federal Grant Program.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
CONSENT	November 2, 2021	$4,459.00

LINE ITEM NUMBER

120-675-99-087]

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** MARISOL VILLARREAL-ALONZO

REQUESTED BY	SPONSOR	CO-SPONSOR
T. Crumley	INGALSBE	N/A

SUMMARY

DSHS provides funding to the local health department for the identification and treatment of those persons with, or who have been exposed to tuberculosis (TB). The federal allocation amount is $22,297.00, with a required match amount of $4,459.00 from the County for participation in the program, for the total amount of $26,756.00. The contract period for this is from January 1, 2022 through December 31, 2022. The grant renewal was approved in court on July 27, 2021 and the contract was signed on October 19, 2021.

Contract Number: HHS001096400019

Attachments:
Hays County_TBFederal_Executed

DocuSign Envelope ID: 87720C03-3A2C-44D2-833E-CFEF1F908C49

INTERLOCAL COOPERATION CONTRACT
DEPARTMENT OF STATE HEALTH SERVICES
CONTRACT NO. HHS001096400019
TUBERCULOSIS PREVENTION AND CONTROL – FEDERAL (TB/PC-FEDERAL) GRANT PROGRAM

THE DEPARTMENT OF STATE HEALTH SERVICES ("System Agency" or "DSHS") and **HAYS COUNTY HEALTH DEPARTMENT** ("Local Government" or "Grantee"), each a "Party" and collectively the "Parties," enter into the following contract to provide federal funding for Tuberculosis Prevention and Control (the "Contract") pursuant to the provisions of the "Interlocal Cooperation Act," Chapter 791 of the Texas Government Code.

I. PARTIES

System Agency

Department of State Health Services
Attention: Lacy Alexander
1100 W. 49th Street, MC 1990
Austin, Texas 78756
lacy.alexander@dshs.texas.gov

Local Government

Hays County Health Department
Attention: Tammy Crumley
712 S. Stagecoach Trail, Suite 1045
San Marcos, Texas 78666
tammy.crumley@co.hays.tx.us

II. STATEMENT OF SERVICES TO BE PROVIDED

The Parties agree to cooperate to provide necessary and authorized services and resources in accordance with the terms of this Contract. Specific services provided are described in **Attachment A – Statement of Work**.

III. CONTRACT PERIOD AND RENEWAL

The Contract is effective on January 1, 2022 or the signature date of the latter of the Parties to sign this Contract, and terminates on December 31, 2022, unless renewed, extended, or terminated pursuant to the terms and conditions of the Contract.

The System Agency, at its own discretion, may extend this Contract subject to terms and conditions mutually agreeable to both Parties. The Contract may be renewed for up to four (4) additional one-year periods, with renewal initiated at the sole discretion of System Agency. Continued funding of the Contract in future years is contingent upon the availability of funds and the satisfactory performance of the Local Government during the prior Contract period. Funding may vary and is subject to change each renewal period. Reimbursement will only be made for those allowable expenses that occur within the term of the Contract.

IV. AMENDMENT

The Parties to this Contract may modify this Contract only through the execution of a written amendment signed by both Parties.

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V. CONTRACT AMOUNT AND PAYMENT FOR SERVICES

The total amount of this Contract will not exceed **$26,756.00**. This includes System Agency's share of this $22,297.00 and Grantee's required match amount of $4,459.00.

All expenditures under this Contract will be in accordance with **Attachment B, Budget**.

Indirect Cost Rate: The Grantee's acknowledged or approved Indirect Cost Rate (ICR) is contained within **ATTACHMENT B, BUDGET** and either the ICR Acknowledgement Letter, ICR Acknowledgement Letter – Ten Percent De Minimis, or the ICR Agreement Letter is attached to this Contract and incorporated as **ATTACHMENT H, INDIRECT COST RATE LETTER**.

If an Indirect Cost Rate Letter is required but it is not issued at the time of Contract execution, the Parties agree to amend the Contract to include the Indirect Cost Rate Letter as **ATTACHMENT H** and revise **ATTACHMENT B** when the Indirect Cost Rate Letter is issued.

If the System Agency, at its sole discretion, approves or acknowledges an updated indirect cost rate, the new rate, together with the revised ICR Acknowledgement Letter, ICR Acknowledgement Letter – Ten Percent De Minimis, or the ICR Agreement Letter, will be included in the revised **ATTACHMENT H** and amended **ATTACHMENT B**.

VI. ADDITIONAL GRANT INFORMATION

In accordance with 2 CFR 200.332(A), any of the following information that is not available at time of Contract execution will be provided via email once available.

Federal Award Identification Number (FAIN): To be determined
Federal Award Date: To be determined
Name of Federal Awarding Agency: Centers for Disease Control and Prevention
CFDA Name and Number: 93.116 – Tuberculosis Elimination and Laboratory Cooperative Agreement – Prevention & Control
Awarding Official Contact Information: To be determined
DUNS: 081078891

VII. LEGAL NOTICES

Legal Notices under this Contract shall be deemed delivered when deposited either in the United States mail, postage paid, certified, return receipt requested; or with a common carrier, overnight, signature required, to the appropriate address below:

System Agency
Department of State Health Services
1100 W. 49th Street, MC 1919, M526
Austin, Texas 78756
Attention: General Counsel

Local Government
Hays County Health Department
111 E. San Antonio St., Suite 300

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San Marcos, Texas 78666
Attention: Judge Ruben Becerra

Notice given in any other manner shall be deemed effective only if and when received by the Party to be notified. Either Party may change its address for receiving legal notice by notifying the other Party in writing.

VIII. CERTIFICATIONS

The undersigned contracting Parties certify that:

(1) The services specified above are necessary and essential for activities that are properly within the statutory functions and programs of the affected agencies of state government;

(2) Each Party executing this Contract on its behalf has full power and authority to enter into this Contract;

(3) The proposed arrangements serve the interest of efficient and economical administration of state government; and

(4) The services contracted for are not required by Section 21, Article XVI of the Constitution of Texas to be supplied under a contract awarded to the lowest responsible bidder.

The System Agency further certifies that it has statutory authority to contract for the services described in this Contract under Texas Health and Safety Code Chapter 12 or 1001.

SIGNATURE PAGE FOLLOWS

SIGNATURE PAGE FOR
SYSTEM AGENCY CONTRACT NO. HHS001096400019

DEPARTMENT OF STATE HEALTH SERVICES

DocuSigned by:
Imelda Garcia
87AFD32AD9D24A9...
Signature

Imelda Garcia
Printed Name

Associate Commissioner
Title

October 19, 2021
Date

HAYS COUNTY HEALTH DEPARTMENT

DocuSigned by:
Ruben Becerra
C96E4E0BDEF0410...
Signature

Ruben Becerra
Printed Name

Hays County Judge
Title

October 19, 2021
Date

THE FOLLOWING ATTACHMENTS TO SYSTEM AGENCY CONTRACT NO. HHS001096400019 ARE HEREBY INCORPORATED BY REFERENCE:

ATTACHMENT A – STATEMENT OF WORK
ATTACHMENT B – BUDGET
ATTACHMENT C – UNIFORM TERMS AND CONDITIONS
ATTACHMENT D – CONTRACT AFFIRMATIONS
ATTACHMENT E – DATA USE AGREEMENT
ATTACHMENT F – FEDERAL ASSURANCES AND CERTIFICATIONS
ATTACHMENT G – FFATA CERTIFICATION

ATTACHMENTS FOLLOW

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ATTACHMENT A
STATEMENT OF WORK

I. GRANTEE RESPONSIBILITIES

Grantee will:

A. Comply with the most current version of the Tuberculosis (TB) Work Plan located at: http://www.dshs.texas.gov/idcu/disease/tb/policies/.

B. Use federal funds under this Contract to support any of the following core TB control front-line activities:

1. Directly observed therapy (DOT);
2. Outpatient services (tuberculin skin testing, chest radiography, medical evaluation, treatment);
3. Class B immigrant evaluation and treatment;
4. Contact Investigation, evaluation and treatment;
5. Cohort Review;
6. Surveillance;
7. Reporting;
8. Data analyses;
9. Cluster investigations; and
10. Provider education and training.

C. Provide a match of no less than 20% of the total budget as reflected in the Contract.

D. Provide match at the required percentage or System Agency may withhold payments, use administrative offsets, or request a refund from Grantee until such time as the required match ratio is met. No federal or other grant funds can be used as part of meeting the match requirement.

E. Ensure no System Agency funds or matching funds are used for:

1. Medication purchases;
2. Inpatient clinical care (hospitalization services);
3. Entertainment;
4. Furniture;
5. Equipment; or
6. Sectarian worship, instruction, or proselytization.

However, food and incentives are allowed using System Agency funds, but are not allowed using matching funds.

F. Not lapse more than 1% of the total funded amount of the Contract.

G. Maintain and adjust spending plan throughout the Contract term to avoid lapsing funds.

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During the term of this Contract, System Agency reserves the right to decrease funding amounts as a result of the Grantee's budgetary shortfalls and/or due to the Grantee lapsing more than 1% of total funds.

H. Maintain staffing levels to meet required activities of the Contract and to ensure all funds in personnel category are expended.

I. Use System Agency-designated data systems available for local entry. All collected TB information shall be entered into designated state TB information system according to documented timelines and specifications in the Tuberculosis Work Plan. Data entered into System Agency data systems will be considered submitted to System Agency.

J. Comply with all applicable federal and state statutes and regulations, policies and guidelines as revised.

II. PERFORMANCE MEASURES

System Agency will monitor the Grantee's performance of the requirements in Attachment A and compliance with the Contract's terms and conditions.

If Grantee fails to meet any of the performance measures, Grantee will respond to any findings in a written narrative explaining the barriers and include a plan to address those barriers. This requirement does not excuse any violation of this Contract, nor does it limit System Agency as to any options available under the Contract regarding breach.

III. INVOICE AND PAYMENT

Grantee will request payment by preparing an invoice and submitting acceptable supporting documentation for reimbursement of the required services/deliverables. Invoices and supporting documentation provided shall be submitted to System Agency no later than thirty (30) days after the last day of each month.

A. Grantee will submit the State of Texas Purchase Voucher (Form B-13) and any supporting documentation to: invoices@dshs.texas.gov & CMSinvoices@dshs.texas.gov or fax to: (512) 458-7442.
The form is located at http://www.dshs.state.tx.us/grants/forms/b13form.doc.

B. Grantee will email the Financial Status Report (FSR-269A) and the Match Certification Form (B-13A) to the following: FSRgrant@dshs.texas.gov and TBContractReporting@dshs.texas.gov.
Grantee must submit final FSR, Match Certification Form (B-13A), and a reimbursement or final payment request no later than forty-five (45) calendar days following the end of the Contract term.

C. Grantee will be paid on a cost reimbursement basis and in accordance with the Budget in Attachment B of this Contract.

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IV. REPORTING REQUIREMENTS

Report Name	Frequency	Period Begin	Period End	Due Date
Annual Progress Report	Annually	January 1, 2022	December 31, 2022	April 1, 2023
Financial Status Report (FSR)	Quarterly	January 1, 2022	March 31, 2022	April 30, 2022
Financial Status Report (FSR)	Quarterly	April 1, 2022	June 30, 2022	July 31, 2022
Financial Status Report (FSR)	Quarterly	July 1, 2022	September 30, 2022	October 31, 2022
Financial Status Report (FSR)	Quarterly	October 1, 2022	December 31, 2022	February 15, 2023
Match Reimbursement/ Certification Form (B-13A)- Final Quarter	Annually	October 1, 2022	December 31, 2022	February 15, 2023

Cohort Review Periods and Submission Schedule	
Cohort period cases counted in:	**Are reviewed and reported by:**
First quarter (Jan. 1 – Mar. 31) current year	March 31 of the following year
Second quarter (Apr. 1 – June 30) current year	June 30 of the following year
Third quarter (July 1 – Sept. 30) current year	September 30 of the following year
Fourth quarter (Oct. 1 – Dec. 31) current year	December 31 of the following year

Annual Report Submission Instructions:
Submit program report to the TB Reporting Mailbox at TBContractReporting@dshs.texas.gov. System Agency TB Program will provide the form and format for the Annual Report. The Annual Report will be a separate report for the Grantee and must not be included with reports for the region.

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ATTACHMENT B
BUDGET

Budget Category	DSHS Funds	Cash Match	Category Total
Personnel	$14,512.00	$1,782.00	$16,294.00
Fringe Benefits	$7,785.00	$953.00	$8,738.00
Travel	$0.00	$0.00	$0.00
Equipment	$0.00	$0.00	$0.00
Supplies	$0.00	$0.00	$0.00
Contractual	$0.00	$1,724.00	$1,724.00
Other	$0.00	$0.00	$0.00
Total Direct Costs	$22,297.00	$4,459.00	$26,756.00
Indirect Costs	$0.00	$0.00	$0.00
Totals:	$22,297.00	$4,459.00	$26,756.00

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TEXAS
Health and Human Services

Health and Human Services (HHS)

Uniform Terms and Conditions - Grant

Version 3.0

Published and Effective – August 2021

Responsible Office: Chief Counsel

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ABOUT THIS DOCUMENT

In this document, Grantees (also referred to in this document as subrecipients or contractors) will find requirements and conditions applicable to grant funds administered and passed-through by both the Texas Health and Human Services Commission (HHSC) and the Department of State Health Services (DSHS). These requirements and conditions are incorporated into the Grant Agreement through acceptance by Grantee of any funding award by HHSC or DSHS.

The terms and conditions in this document are in addition to all requirements listed in the RFA, if any, under which applications for this grant award are accepted, as well as all applicable federal and state laws and regulations. Applicable federal and state laws and regulations may include, but are not limited to: 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; requirements of the entity that awarded the funds to HHS; Chapter 783 of the Texas Government Code; Texas Comptroller of Public Accounts' agency rules (including Uniform Grant and Contract Standards set forth in Title 34, Part 1, Chapter 20, Subchapter E, Division 4 of the Texas Administrative Code); the Texas Grant Management Standards (TxGMS) developed by the Texas Comptroller of Public Accounts; and the Funding Announcement, Solicitation, or other instrument/documentation under which HHS was awarded funds. HHS, in its sole discretion, reserves the right to add requirements, terms, or conditions.

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ARTICLE I. DEFINITIONS AND INTERPRETIVE PROVISIONS

1.1 DEFINITIONS

As used in this Grant Agreement, unless a different definition is specified, or the context clearly indicates otherwise, the following terms and conditions have the meanings assigned below:

"Amendment" means a written agreement, signed by the Parties, which documents changes to the Grant Agreement.

"Contract" or "Grant Agreement" means the agreement entered into by the Parties, including the Signature Document, these Uniform Terms and Conditions, along with any attachments and amendments that may be issued by the System Agency.

"Deliverables" means the goods, services, and work product, including all reports and project documentation, required to be provided by Grantee to the System Agency.

"DSHS" means the Department of State Health Services.

"Effective Date" means the date on which the Grant Agreement takes effect.

"Federal Fiscal Year" means the period beginning October 1 and ending September 30 each year, which is the annual accounting period for the United States government.

"GAAP" means Generally Accepted Accounting Principles.

"GASB" means the Governmental Accounting Standards Board.

"Grantee" means the Party receiving funds under this Grant Agreement. May also be referred to as "subrecipient" or "contractor" in this document.

"HHSC" means the Texas Health and Human Services Commission.

"Health and Human Services" or "HHS" includes HHSC and DSHS.

"Intellectual Property Rights" means the worldwide proprietary rights or interests, including patent, copyright, trade secret, and trademark rights, as such right may be evidenced by or embodied in:

i. any idea, design, concept, personality right, method, process, technique, apparatus, invention, discovery, or improvement;
ii. any work of authorship, including any compilation, computer code, website or web page design, literary work, pictorial work, or graphic work;
iii. any trademark, service mark, trade dress, trade name, branding, or other indicia of source or origin;
iv. domain name registrations; and
v. any other proprietary or similar rights. The Intellectual Property Rights of a Party include all worldwide proprietary rights or interests that the Party may have acquired by assignment, by exclusive license, or by license with the right to grant sublicenses.

"Parties" means the System Agency and Grantee, collectively.

"Party" means either the System Agency or Grantee, individually.

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"Project" means specific activities of the Grantee that are supported by funds provided under this Grant Agreement.

"Signature Document" means the document executed by all Parties for this Grant Agreement.

"Solicitation," "Funding Announcement" or "Request for Applications (RFA)" means the document (including all exhibits, attachments, and published addenda), issued by the System Agency under which applications for grant funds were requested, which is incorporated by reference in the Grant Agreement for all purposes in its entirety.

"Solicitation Response" or "Application" means Grantee's full and complete Solicitation response (including any attachments and addenda), which is incorporated by reference in the Grant Agreement for all purposes in its entirety.

"State Fiscal Year" means the period beginning September 1 and ending August 31 each year, which is the annual accounting period for the State of Texas.

"State of Texas *Textravel*" means the Texas Comptroller of Public Accounts' state travel rules, policies, and guidelines.

"Statement of Work" means the description of activities Grantee must perform to complete the Project, as specified in the Grant Agreement and as may be amended.

"System Agency" means HHSC or DSHS, as applicable.

"Work Product" means any and all works, including work papers, notes, materials, approaches, designs, specifications, systems, innovations, improvements, inventions, software, programs, source code, documentation, training materials, audio or audiovisual recordings, methodologies, concepts, studies, reports, whether finished or unfinished, and whether or not included in the deliverables, that are developed, produced, generated or provided by Grantee in connection with Grantee's performance of its duties under the Grant Agreement or through use of any funding provided under this Grant Agreement.

"Texas Grant Management Standards" or "TxGMS" means uniform grant and contract administration procedures, developed under the authority of Chapter 783 of the Texas Government Code, to promote the efficient use of public funds in local government and in programs requiring cooperation among local, state, and federal agencies. Under this Grant Agreement, TxGMS applies to Grantee except as otherwise provided by applicable law or directed by System Agency. Additionally, except as otherwise provided by applicable law, in the event of a conflict between TxGMS and applicable federal or state law, federal law prevails over state law and state law prevails over TxGMS.

1.2 INTERPRETIVE PROVISIONS

A. The meanings of defined terms include the singular and plural forms.
B. The words "hereof," "herein," "hereunder," and similar words refer to this Grant Agreement as a whole and not to any particular provision, section, attachment, or schedule of this Grant Agreement unless otherwise specified.
C. The term "including" is not limiting and means "including without limitation" and, unless otherwise expressly provided in this Grant Agreement, (i) references to contracts

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(including this Grant Agreement) and other contractual instruments shall be deemed to include all subsequent Amendments and other modifications, but only to the extent that such Amendments and other modifications are not prohibited by the terms of this Grant Agreement, and (ii) references to any statute or regulation are to be construed as including all statutory and regulatory provisions consolidating, amending, replacing, supplementing, or interpreting the statute or regulation.

D. Any references to agreements, contracts, statutes, or administrative rules or regulations in the Grant Agreement are references to these documents as amended, modified, or supplemented during the term of the Grant Agreement.
E. The captions and headings of this Grant Agreement are for convenience of reference only and do not affect the interpretation of this Grant Agreement.
F. All attachments, including those incorporated by reference, and any Amendments are considered part of the terms of this Grant Agreement.
G. This Grant Agreement may use several different limitations, regulations, or policies to regulate the same or similar matters. All such limitations, regulations, and policies are cumulative.
H. Unless otherwise expressly provided, reference to any action of the System Agency or by the System Agency by way of consent, approval, or waiver will be deemed modified by the phrase "in its sole discretion."
I. Time is of the essence in this Grant Agreement.
J. Prior to execution of the Grant Agreement, Grantee must notify System Agency's designated contact in writing of any ambiguity, conflict, discrepancy, omission, or other error. If Grantee fails to notify the System Agency designated contact of any ambiguity, conflict, discrepancy, omission or other error in the Grant Agreement prior to Grantee's execution of the Grant Agreement, Grantee:
    i. Shall have waived any claim of error or ambiguity in the Grant Agreement; and
    ii. Shall not contest the interpretation by the System Agency of such provision(s).

No grantee will be entitled to additional reimbursement, relief, or time by reason of any ambiguity, conflict, discrepancy, exclusionary specification, omission, or other error or its later correction.

ARTICLE II. PAYMENT PROVISIONS

2.1 PROMPT PAYMENT

Payment shall be made in accordance with Chapter 2251 of the Texas Government Code, commonly known as the Texas Prompt Payment Act. Chapter 2251 of the Texas Government Code shall govern remittance of payment and remedies for late payment and non-payment.

2.2 TAXES

Grantee represents and warrants that it shall pay all taxes or similar amounts resulting from the Grant Agreement, including, but not limited to, any federal, State, or local income, sales or excise taxes of Grantee or its employees. System Agency shall not be liable for any taxes resulting from the Grant Agreement.

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2.3 Ancillary and Travel Expenses

A. Except as otherwise provided in the Grant Agreement, no ancillary expenses incurred by the Grantee in connection with its provision of the services or deliverables will be reimbursed by the System Agency. Ancillary expenses include, but are not limited to, costs associated with transportation, delivery, and insurance for each deliverable.

B. Except as otherwise provided in the Grant Agreement, when the reimbursement of travel expenses is authorized by the Grant Agreement, all such expenses will be reimbursed in accordance with the rates set by the Texas Comptroller's *Textravel* guidelines, which can currently be accessed at: https://fmx.cpa.texas.gov/fmx/travel/textravel/.

2.4 Billing

Unless otherwise provided in the Grant Agreement, Grantee shall bill the System Agency in accordance with the Grant Agreement. Unless otherwise specified in the Grant Agreement, Grantee shall submit requests for reimbursement or payment monthly by the last business day of the month following the month in which expenses were incurred or services provided. Grantee shall maintain all documentation that substantiates invoices and make the documentation available to the System Agency upon request.

2.5 Use of Funds

Grantee shall expend funds under this Grant Agreement only for approved services and for reasonable and allowable expenses directly related to those services.

2.6 Use for Match Prohibited

Grantee shall not use funds provided under this Grant Agreement for matching purposes in securing other funding without the written approval of the System Agency.

2.7 Program Income

Program income refers to gross income directly generated by a supporting activity during the period of performance. Unless otherwise required under the Grant Agreement, Grantee shall use Program Income, as provided in TxGMS, to further the Project, and Grantee shall spend the Program Income on the Project. Grantee shall identify and report Program Income in accordance with the Grant Agreement, applicable law, and any programmatic guidance. Grantee shall expend Program Income during the Grant Agreement term, when earned, and may not carry Program Income forward to any succeeding term. Grantee shall refund Program Income to the System Agency if the Program Income is not expended in the term in which it is earned. The System Agency may base future funding levels, in part, upon Grantee's proficiency in identifying, billing, collecting, and reporting Program Income, and in using Program Income for the purposes and under the conditions specified in this Grant Agreement.

2.8 Nonsupplanting

Grant funds must be used to supplement existing, new or corresponding programming and related activities. Grant funds may not be used to supplant (replace) existing funds that have been appropriated, allocated, or disbursed for the same purpose. System Agency may conduct Grant monitoring or audits may be conducted to review, among other things, Grantee's compliance with this provision.

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2.9 Indirect Cost Rates

The System Agency may acknowledge an indirect cost rate for Grantees that is utilized for all applicable Grant Agreements. For subrecipients receiving federal funds, indirect cost rates will be determined in accordance with applicable law including, but not limited to, 2 CFR 200.414(f). For recipients receiving state funds, indirect costs will be determined in accordance with applicable law including, but not limited to, TxGMS. Grantees funded with blended federal and state funding will be subject to both state and federal requirements when determining indirect costs. In the event of a conflict between TxGMS and applicable federal law or regulation, the provisions of federal law or regulation will apply. Grantee will provide any necessary financial documents to determine the indirect cost rate in accordance with the Uniform Grant Guidance (UGG) and TxGMS.

ARTICLE III. STATE AND FEDERAL FUNDING

3.1 Excess Obligations Prohibited

This Grant Agreement is subject to termination or cancellation, without penalty to System Agency, either in whole or in part, subject to the availability and actual receipt by System Agency of state or federal funds. System Agency is a state agency whose authority and appropriations are subject to actions of the Texas Legislature. If System Agency becomes subject to a legislative change, revocation of statutory authority, or lack of appropriated funds that would render either System Agency's or Grantee's delivery or performance under the Grant Agreement impossible or unnecessary, the Grant Agreement will be terminated or cancelled and be deemed null and void. In the event of a termination or cancellation under this Section, System Agency will not be liable to Grantee for any damages that are caused or associated with such termination or cancellation, and System Agency will not be required to give prior notice. Additionally, System Agency will not be liable to Grantee for any remaining unpaid funds under this Grant Agreement at time of termination.

3.2 No Debt Against the State

This Grant Agreement will not be construed as creating any debt by or on behalf of the State of Texas.

3.3 Debts and Delinquencies

Grantee agrees that any payments due under the Grant Agreement shall be directly applied towards eliminating any debt or delinquency it has to the State of Texas including, but not limited to, delinquent taxes, delinquent student loan payments, and delinquent child support during the entirety of the Grant Agreement term.

3.4 Refunds and Overpayments

A. At its sole discretion, the System Agency may (i) withhold all or part of any payments to Grantee to offset overpayments, unallowable or ineligible costs made to the Grantee, or if any required financial status report(s) is not submitted by the due date(s); or (ii) require Grantee to promptly refund or credit - within thirty (30) calendar days of written notice – to System Agency any funds erroneously paid by System Agency which are not expressly authorized under the Grant Agreement.

B. "Overpayments" as used in this Section include payments (i) made by the System

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Agency that exceed the maximum allowable rates; (ii) that are not allowed under applicable laws, rules, or regulations; or (iii) that are otherwise inconsistent with this Grant Agreement, including any unapproved expenditures. Grantee understands and agrees that it shall be liable to the System Agency for any costs disallowed pursuant to financial and compliance audit(s) of funds received under this Grant Agreement. Grantee further understands and agrees that reimbursement of such disallowed costs shall be paid by Grantee from funds which were not provided or otherwise made available to Grantee under this Grant Agreement.

ARTICLE IV. ALLOWABLE COSTS AND AUDIT REQUIREMENTS

4.1 Allowable Costs

A. Allowable Costs are restricted to costs that are authorized under Texas Uniform Grant Management Standards (TxGMS) and applicable state and federal rules and laws. This Grant Agreement is subject to all applicable requirements of TxGMS, including the criteria for Allowable Costs. Additional federal requirements apply if this Grant Agreement is funded, in whole or in part, with federal funds.

B. System Agency will reimburse Grantee for actual, allowable, and allocable costs incurred by Grantee in performing the Project, provided the costs are sufficiently documented. Grantee must have incurred a cost prior to claiming reimbursement and within the applicable term to be eligible for reimbursement under this Grant Agreement. At its sole discretion, the System Agency will determine whether costs submitted by Grantee are allowable and eligible for reimbursement. The System Agency may take repayment (recoup) from remaining funds available under this Grant Agreement in amounts necessary to fulfill Grantee's repayment obligations. Grantee and all payments received by Grantee under this Grant Agreement are subject to applicable cost principles, audit requirements, and administrative requirements including applicable provisions under 2 CFR 200, 48 CFR Part 31, and TxGMS.

C. OMB Circulars will be applied with the modifications prescribed by TxGMS with effect given to whichever provision imposes the more stringent requirement in the event of a conflict.

4.2 Audits and Financial Statements

A. Audits

i. Grantee understands and agrees that Grantee is subject to any and all applicable audit requirements found in state or federal law or regulation or added by this Grant Agreement

ii. HHS Single Audit Unit will notify Grantee to complete the Single Audit Determination Form. If Grantee fails to complete the form within thirty (30) calendar days after receipt of notice, Grantee maybe subject to sanctions and remedies for non-compliance.

iii. If Grantee, within Grantee's fiscal year, expends at least SEVEN HUNDRED FIFTY THOUSAND DOLLARS ($750,000) in federal funds awarded, Grantee shall have a single audit or program-specific audit in accordance with 2 CFR 200. The federal threshold amount includes federal funds passed through by way of state agency awards.

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iv. If Grantee, within Grantee's fiscal year, expends at least SEVEN HUNDRED FIFTY THOUSAND DOLLARS ($750,000) in state funds awarded, Grantee shall have a single audit or program-specific audit in accordance with TxGMS. The audit must be conducted by an independent certified public accountant and in accordance with 2 CFR 200, Government Auditing Standards, and TxGMS.

v. For-profit Grantees whose expenditures meet or exceed the federal or state expenditure thresholds stated above shall follow the guidelines in 2 CFR 200 or TxGMS, as applicable, for their program-specific audits.

vi. Each Grantee required to obtain a single audit must competitively re-procure single audit services once every six years. Grantee shall procure audit services in compliance with this section, state procurement procedures, as well as with applicable provisions of 2 CFR 200 and TxGMS.

B. Financial Statements.

Each Grantee that does not meet the expenditure threshold for a single audit or program-specific audit, must provide financial statements for the audit period.

4.3 Submission of Audits and Financial Statements

A. Audits.

Due the earlier of 30 days after receipt of the independent certified public accountant's report or nine months after the end of the fiscal year, Grantee shall submit one electronic copy of the single audit or program-specific audit to the System Agency via:

i. HHS portal at https://hhsportal.hhs.state.tx.us/heartwebextr/hhscSau or,

ii. Email to: single_audit_report@hhsc.state.tx.us.

B. Financial Statements.

Due no later than nine months after the Grantee's fiscal year-end, Grantees not required to submit an audit, shall submit one electronic copy of their financial statements via:

i. HHS portal at https://hhsportal.hhs.state.tx.us/heartwebextr/hhscSau; or,

ii. Email to: single_audit_report@hhsc.state.tx.us.

ARTICLE V. WARRANTY, AFFIRMATIONS, ASSURANCES AND CERTIFICATIONS

5.1 Warranty

Grantee warrants that all work under this Grant Agreement shall be completed in a manner consistent with standards under the terms of this Grant Agreement, in the applicable trade, profession, or industry; shall conform to or exceed the specifications set forth in the Grant Agreement; and all deliverables shall be fit for ordinary use, of good quality, and with no material defects. If System Agency, in its sole discretion, determines Grantee has failed to complete work timely or to perform satisfactorily under conditions required by this Grant Agreement, the System Agency may require Grantee, at its sole expense, to:

i. Repair or replace all defective or damaged work;

ii. Refund any payment Grantee received from System Agency for all defective or damaged work and, in conjunction therewith, require Grantee to accept the return of such work; and,

iii. Take necessary action to ensure that Grantee's future performance and work conform to the Grant Agreement requirements.

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5.2 General Affirmations

Grantee certifies that, to the extent affirmations are incorporated into the Grant Agreement, the Grantee has reviewed the affirmations and that Grantee is in compliance with all requirements.

5.3 Federal Assurances

Grantee further certifies that, to the extent federal assurances are incorporated into the Grant Agreement, the Grantee has reviewed the federal assurances and that Grantee is in compliance with all requirements.

5.4 Federal Certifications

Grantee further certifies that, to the extent federal certifications are incorporated into the Grant Agreement, the Grantee has reviewed the federal certifications and that Grantee is in compliance with all requirements. In addition, Grantee certifies that it is in compliance with all applicable federal laws, rules, and regulations, as they may pertain to this Grant Agreement.

5.5 State Assurances

Except to the extent of any conflict under applicable law or requirements or guidelines of any federal awarding agency from which funding for this Grant Agreement originated, the Grantee must comply with the applicable state assurances included within the TxGMS which are incorporated here by reference.

ARTICLE VI. INTELLECTUAL PROPERTY

6.1 Ownership of Work Product

A. All right, title, and interest in the Work Product, including all Intellectual Property Rights therein, is exclusively owned by System Agency. Grantee and Grantee's employees will have no rights in or ownership of the Work Product or any other property of System Agency.
B. Any and all Work Product that is copyrightable under United States copyright law is deemed to be "work made for hire" owned by System Agency, as provided by Title 17 of the United States Code. To the extent that Work Product does not qualify as a "work made for hire" under applicable federal law, Grantee hereby irrevocably assigns and transfers to System Agency, its successors and assigns, the entire right, title, and interest in and to the Work Product, including any and all Intellectual Property Rights embodied therein or associated therewith, and in and to all works based upon, derived from, or incorporating the Work Product, and in and to all income, royalties, damages, claims and payments now or hereafter due or payable with respect thereto, and in and to all causes of action, either in law or in equity for past, present or future infringement based on the copyrights, and in and to all rights corresponding to the foregoing.
C. Grantee agrees to execute all papers and to perform such other acts as System Agency may deem necessary to secure for System Agency or its designee the rights herein assigned.
D. In the event that Grantee has any rights in and to the Work Product that cannot be assigned to System Agency, Grantee hereby grants to System Agency an exclusive, worldwide, royalty-free, transferable, irrevocable, and perpetual license, with the right to

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sublicense, to reproduce, distribute, modify, create derivative works of, publicly perform and publicly display, make, have made, use, sell and offer for sale the Work Product and any products developed by practicing such rights.

E. The foregoing does not apply to Incorporated Pre-existing Works or Third Party IP that are incorporated in the Work Product by Grantee. Grantee shall provide System Agency access during normal business hours to all Grantee materials, premises, and computer files containing the Work Product.

6.2 Grantee's Pre-Existing Works

A. To the extent that Grantee incorporates into the Work Product any works of Grantee that were created by Grantee or that Grantee acquired rights in prior to the Effective Date of this Grant Agreement ("**Incorporated Pre-existing Works**"), Grantee retains ownership of such Incorporated Pre-existing Works.

B. Grantee hereby grants to System Agency an irrevocable, perpetual, non-exclusive, royalty-free, transferable, worldwide right and license, with the right to sublicense, to use, reproduce, modify, copy, create derivative works of, publish, publicly perform and display, sell, offer to sell, make and have made, the Incorporated Pre-existing Works, in any medium, with or without the associated Work Product.

C. Grantee represents, warrants, and covenants to System Agency that Grantee has all necessary right and authority to grant the foregoing license in the Incorporated Pre-existing Works to System Agency.

6.3 Third Party IP

A. To the extent that any Third Party IP is included or incorporated in the Work Product by Grantee, Grantee hereby grants to System Agency, or shall obtain from the applicable third party for System Agency's benefit, the irrevocable, perpetual, non-exclusive, worldwide, royalty-free right and license, for System Agency's internal business or governmental purposes only, to use, reproduce, display, perform, distribute copies of, and prepare derivative works based upon such Third Party IP and any derivative works thereof embodied in or delivered to System Agency in conjunction with the Work Product, and to authorize others to do any or all of the foregoing.

B. Grantee shall obtain System Agency's advance written approval prior to incorporating any Third Party IP into the Work Product, and Grantee shall notify System Agency on delivery of the Work Product if such materials include any Third Party IP.

C. Grantee shall provide System Agency all supporting documentation demonstrating Grantee's compliance with this Section 6.3, including without limitation documentation indicating a third party's written approval for Grantee to use any Third Party IP that may be incorporated in the Work Product.

6.4 Agreements with Employees and Subcontractors

Grantee shall have written, binding agreements with its employees and subcontractors that include provisions sufficient to give effect to and enable Grantee's compliance with Grantee's obligations under this Article VI, Intellectual Property.

6.5 Delivery upon Termination or Expiration

No later than the first calendar day after the termination or expiration of the Grant Agreement or upon System Agency's request, Grantee shall deliver to System Agency all completed, or

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partially completed, Work Product, including any Incorporated Pre-existing Works, and any and all versions thereof. Grantee's failure to timely deliver such Work Product is a material breach of the Grant Agreement. Grantee will not retain any copies of the Work Product or any documentation or other products or results of Grantee's activities under the Grant Agreement without the prior written consent of System Agency.

6.6 Survival

The provisions and obligations of this Article survive any termination or expiration of the Grant Agreement.

6.7 System Agency Data

A. As between the Parties, all data and information acquired, accessed, or made available to Grantee by, through, or on behalf of System Agency or System Agency contractors, including all electronic data generated, processed, transmitted, or stored by Grantee in the course of providing data processing services in connection with Grantee's performance hereunder (the "System Agency Data"), is owned solely by System Agency.
B. Grantee has no right or license to use, analyze, aggregate, transmit, create derivatives of, copy, disclose, or process the System Agency Data except as required for Grantee to fulfill its obligations under the Grant Agreement or as authorized in advance in writing by System Agency.
C. For the avoidance of doubt, Grantee is expressly prohibited from using, and from permitting any third party to use, System Agency Data for marketing, research, or other non-governmental or commercial purposes, without the prior written consent of System Agency.
D. Grantee shall make System Agency Data available to System Agency, including to System Agency's designated vendors, as directed in writing by System Agency. The foregoing shall be at no cost to System Agency.
E. Furthermore, the proprietary nature of Grantee's systems that process, store, collect, and/or transmit the System Agency Data shall not excuse Grantee's performance of its obligations hereunder.

ARTICLE VII. PROPERTY

7.1 Use of State Property

A. Grantee is prohibited from using State Property for any purpose other than performing Services authorized under the Grant Agreement.
B. State Property includes, but is not limited to, System Agency's office space, identification badges, System Agency information technology equipment and networks (*e.g.,* laptops, portable printers, cell phones, iPads or tablets, external hard drives, data storage devices, any System Agency-issued software, and the System Agency Virtual Private Network (VPN client)), and any other resources of System Agency.
C. Grantee shall not remove State Property from the continental United States. In addition, Grantee may not use any computing device to access System Agency's network or e-mail while outside of the continental United States.
D. Grantee shall not perform any maintenance services on State Property unless the Grant Agreement expressly authorizes such Services.

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E. During the time that State Property is in the possession of Grantee, Grantee shall be responsible for:
   i. all repair and replacement charges incurred by State Agency that are associated with loss of State Property or damage beyond normal wear and tear, and
   ii. all charges attributable to Grantee's use of State Property that exceeds the Grant Agreement scope. Grantee shall fully reimburse such charges to System Agency within ten (10) calendar days of Grantee's receipt of System Agency's notice of amount due. Use of State Property for a purpose not authorized by the Grant Agreement shall constitute breach of contract and may result in termination of the Grant Agreement and the pursuit of other remedies available to System Agency under contract, at law, or in equity.

7.2 Damage to State Property

A. In the event of loss, destruction, or damage to any System Agency or State of Texas owned, leased, or occupied property or equipment by Grantee or Grantee's employees, agents, Subcontractors, or suppliers, Grantee shall be liable to System Agency and the State of Texas for the full cost of repair, reconstruction, or replacement of the lost, destroyed, or damaged property.
B. Grantee shall notify System Agency of the loss, destruction, or damage of equipment or property within one (1) business day. Grantee shall reimburse System Agency and the State of Texas for such property damage within ten (10) calendar days after Grantee's receipt of System Agency's notice of amount due.

7.3 Property Rights upon Termination or Expiration of Contract

In the event the Grant Agreement is terminated for any reason or expires, State Property remains the property of the System Agency and must be returned to the System Agency by the earlier of the end date of the Grant Agreement or upon System Agency's request.

7.4 Equipment and Property

A. The Grantee must ensure equipment with a per-unit cost of $5,000 or greater purchased with grant funds under this award is used solely for the purpose of this Grant or is properly pro-rated for use under this Grant. Grantee must have control systems to prevent loss, damage, or theft of property funded under this Grant. Grantee shall maintain equipment management and inventory procedures for equipment, whether acquired in part or whole with grant funds, until disposition occurs.
B. When equipment acquired by Grantee under this Grant Agreement is no longer needed for the original project or for other activities currently supported by System Agency, the Grantee must properly dispose of the equipment pursuant to 2 CFR and/or TxGMS, as applicable. Upon termination of this Grant Agreement, use and disposal of equipment by the Grantee shall conform with TxGMS requirements.
C. Grantee shall initiate the purchase of all equipment approved in writing by the System Agency in accordance with the schedule approved by System Agency, as applicable. Failure to timely initiate the purchase of equipment may result in the loss of availability of funds for the purchase of equipment. Requests to purchase previously approved equipment after the first quarter in the Grant Agreement must be submitted to the assigned System Agency contract manager.
D. Controlled Assets include firearms, regardless of the acquisition cost, and the following

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assets with an acquisition cost of $500 or more, but less than $5,000: desktop and laptop computers (including notebooks, tablets and similar devices), non-portable printers and copiers, emergency management equipment, communication devices and systems, medical and laboratory equipment, and media equipment. Controlled Assets are considered supplies.

E. System Agency funds must not be used to purchase buildings or real property without prior written approval from System Agency. Any costs related to the initial acquisition of the buildings or real property are not allowable without written pre-approval.

ARTICLE VIII. RECORD RETENTION, AUDIT, AND CONFIDENTIALITY

8.1 Record Maintenance and Retention

A. Grantee shall keep and maintain under GAAP or GASB, as applicable, full, true, and complete records necessary to fully disclose to the System Agency, the Texas State Auditor's Office, the United States Government, and their authorized representatives sufficient information to determine compliance with the terms and conditions of this Grant Agreement and all state and federal rules, regulations, and statutes.

B. Grantee shall maintain and retain legible copies of this Grant Agreement and all records relating to the performance of the Grant Agreement, including supporting fiscal documents adequate to ensure that claims for grant funds are in accordance with applicable State of Texas requirements. These records shall be maintained and retained by the Grantee for a minimum of seven (7) years after the Grant Agreement expiration date or seven (7) years after all audits, claims, litigation or disputes involving the Grant Agreement are resolved, whichever is later.

8.2 Agency's Right to Audit

A. Grantee shall make available at reasonable times and upon reasonable notice, and for reasonable periods, work papers, reports, books, records, supporting documents kept current by Grantee pertaining to the Grant Agreement for purposes of inspecting, monitoring, auditing, or evaluating by System Agency and the State of Texas.

B. In addition to any right of access arising by operation of law, Grantee and any of Grantee's affiliate or subsidiary organizations, or Subcontractors shall permit the System Agency or any of its duly authorized representatives, as well as duly authorized federal, state or local authorities, unrestricted access to and the right to examine any site where business is conducted or services are performed, and all records, which includes but is not limited to financial, client and patient records, books, papers or documents related to this Grant Agreement. If the Grant Agreement includes federal funds, federal agencies that shall have a right of access to records as described in this section include: the federal agency providing the funds, the Comptroller General of the United States, the General Accounting Office, the Office of the Inspector General, and any of their authorized representatives. In addition, agencies of the State of Texas that shall have a right of access to records as described in this section include: the System Agency, HHS's contracted examiners, the State Auditor's Office, the Office of the Texas Attorney General, and any successor agencies. Each of these entities may be a duly authorized authority.

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C. If deemed necessary by the System Agency or any duly authorized authority, for the purpose of investigation or hearing, Grantee shall produce original documents related to this Grant Agreement.
D. The System Agency and any duly authorized authority shall have the right to audit billings both before and after payment, and all documentation that substantiates the billings.
E. Grantee shall include this provision concerning the right of access to, and examination of, sites and information related to this Grant Agreement in any Subcontract it awards.

8.3 Response/Compliance with Audit or Inspection Findings

A. Grantee must act to ensure its and its Subcontractors' compliance with all corrections necessary to address any finding of noncompliance with any law, regulation, audit requirement, or generally accepted accounting principle, or any other deficiency identified in any audit, review, or inspection of the Grant Agreement and the services and Deliverables provided. Any such correction will be at Grantee's or its Subcontractor's sole expense. Whether Grantee's action corrects the noncompliance shall be solely the decision of the System Agency.
B. As part of the services, Grantee must provide to HHS upon request a copy of those portions of Grantee's and its Subcontractors' internal audit reports relating to the services and Deliverables provided to the State under the Grant Agreement.

8.4 State Auditor's Right to Audit

The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the Grant Agreement or indirectly through a subcontract under the Grant Agreement. The acceptance of funds directly under the Grant Agreement or indirectly through a subcontract under the Grant 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. Under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

8.5 Confidentiality

Grantee shall maintain as confidential and shall not disclose to third parties without System Agency's prior written consent, any System Agency information including but not limited to System Agency's business activities, practices, systems, conditions and services. This section will survive termination or expiration of this Grant Agreement. This requirement must be included in all subcontracts awarded by Grantee.

ARTICLE IX. GRANT REMEDIES, TERMINATION AND PROHIBITED ACTIVITIES

9.1 Remedies

A. To ensure Grantee's full performance of the Grant Agreement and compliance with applicable law, System Agency reserves the right to hold Grantee accountable for breach of contract or substandard performance and may take remedial or corrective actions,

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including, but not limited to the following:

i. temporarily withholding cash disbursements or reimbursements pending correction of the deficiency;
ii. disallowing or denying use of funds for the activity or action deemed not to be in compliance;
iii. disallowing claims for reimbursement that may require a partial or whole return of previous payments or reimbursements;
iv. suspending all or part of the Grant Agreement;
v. requiring the Grantee to take specific actions in order to remain in compliance with the Grant Agreement;
vi. recouping payments made by the System Agency to the Grantee found to be in error;
vii. suspending, limiting, or placing conditions on the Grantee's continued performance of the Project;
viii. prohibiting the Grantee from receiving additional funds for other grant programs administered by the System Agency until satisfactory compliance resolution is obtained;
ix. withholding release of new grant agreements; and
x. imposing any other remedies, sanctions or penalties authorized under this Grant Agreement or permitted by federal or state statute, law, regulation or rule.

B. Unless expressly authorized by System Agency, Grantee may not be entitled to reimbursement for expenses incurred while the Grant Agreement is suspended.

C. No action taken by System Agency in exercising remedies or imposing sanctions will constitute or operate as a waiver of any other rights or remedies available to System Agency under the Grant Agreement or pursuant to law. Additionally, no action taken by System Agency in exercising remedies or imposing sanctions will constitute or operate as an acceptance, waiver, or cure of Grantee's breach. Unless expressly authorized by System Agency, Grantee may not be entitled to reimbursement for expenses incurred while the Grant Agreement is suspended or after termination.

9.2 TERMINATION FOR CONVENIENCE

The System Agency may terminate the Grant Agreement, in whole or in part, at any time when, in its sole discretion, the System Agency determines that termination is in the best interests of the State of Texas. The termination will be effective on the date specified in the System Agency's notice of termination.

9.3 TERMINATION FOR CAUSE

A. Except as otherwise provided by the U.S. Bankruptcy Code, or any successor law, the System Agency may terminate the Grant Agreement, in whole or in part, upon either of the following conditions:

i. Material Breach

The System Agency may terminate the Grant Agreement, in whole or in part, if the System Agency determines, in its sole discretion, that Grantee has materially breached the Grant Agreement or has failed to adhere to any laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, whether or not such violation prevents or substantially impairs performance of Grantee's duties under the Grant Agreement. Grantee's misrepresentation in any aspect including, but not limited to, of Grantee's Solicitation Application, if any, or Grantee's

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addition to the SAM exclusion list (identification in SAM as an excluded entity) may also constitute a material breach of the Grant Agreement.

ii. **Failure to Maintain Financial Viability**
The System Agency may terminate the Grant Agreement if the System Agency, in its sole discretion, determines that Grantee no longer maintains the financial viability required to complete the services and deliverables, or otherwise fully perform its responsibilities under the Grant Agreement.

B. System Agency will specify the effective date of such termination in the notice to Grantee. If no effective date is specified, the Grant Agreement will terminate on the date of the notification.

9.4 Grantee Responsibility for System Agency's Termination Costs

If the System Agency terminates the Grant Agreement for cause, the Grantee shall be responsible to the System Agency for all costs incurred by the System Agency and the State of Texas to replace the Grantee. These costs include, but are not limited to, the costs of procuring a substitute grantee and the cost of any claim or litigation attributable to Grantee's failure to perform any work in accordance with the terms of the Grant Agreement.

9.5 Inherently Religious Activities

Grantee may not use grant funding to engage in inherently religious activities, such as proselytizing, scripture study, or worship. Grantees may engage in inherently religious activities; however, these activities must be separate in time or location from the grant-funded program. Moreover, grantees must not compel program beneficiaries to participate in inherently religious activities. These requirements apply to all grantees, not just faith-based organizations.

9.6 Political Activities

Grant funds cannot be used for the following activities:

A. Grantees and their relevant sub-grantees or subcontractors are prohibited from using grant funds directly or indirectly for political purposes, including lobbying, advocating for legislation, campaigning for, endorsing, contributing to, or otherwise supporting political candidates or parties, and voter registration campaigns. Grantees may use private, or non-System Agency money or contributions for political purposes but may not charge to, or be reimbursed from, System Agency contracts or grants for the costs of such activities.

B. Grant-funded employees may not use official authority or influence to achieve any political purpose and grant funds cannot be used for the salary, benefits, or any other compensation of an elected official.

C. Grant funds may not be used to employ, in any capacity, a person who is required by Chapter 305 of the Texas Government Code to register as a lobbyist. Additionally, grant funds cannot be used to pay membership dues to an organization that partially or wholly pays the salary of a person who is required by Chapter 305 of the Texas Government Code to register as a lobbyist.

D. As applicable, Grantee will comply with 31 USC § 1352, relating to the limitation on use of appropriated funds to influence certain Federal contracting and financial transactions.

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ARTICLE X. INDEMNITY

10.1 General Indemnity

A. GRANTEE SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS AND SYSTEM AGENCY, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEYS' FEES, AND EXPENSES ARISING OUT OF OR RESULTING FROM ANY ACTS OR OMISSIONS OF GRANTEE OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THE GRANT AGREEMENT AND ANY PURCHASE ORDERS ISSUED UNDER THE GRANT AGREEMENT.

B. THIS PARAGRAPH IS NOT INTENDED TO AND WILL NOT BE CONSTRUED TO REQUIRE GRANTEE TO INDEMNIFY OR HOLD HARMLESS THE STATE OR THE SYSTEM AGENCY FOR ANY CLAIMS OR LIABILITIES RESULTING FROM THE NEGLIGENT ACTS OF OMISSIONS OF THE SYSTEM AGENCY OR ITS EMPLOYEES.

C. For the avoidance of doubt, System Agency shall not indemnify Grantee or any other entity under the Grant Agreement.

10.2 Intellectual Property

GRANTEE SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE SYSTEM AGENCY AND THE STATE OF TEXAS FROM AND AGAINST ANY AND ALL CLAIMS, VIOLATIONS, MISAPPROPRIATIONS, OR INFRINGEMENT OF ANY PATENT, TRADEMARK, COPYRIGHT, TRADE SECRET, OR OTHER INTELLECTUAL PROPERTY RIGHTS AND/OR OTHER INTANGIBLE PROPERTY, PUBLICITY OR PRIVACY RIGHTS, AND/OR IN CONNECTION WITH OR ARISING FROM:

i. THE PERFORMANCE OR ACTIONS OF GRANTEE PURSUANT TO THIS GRANT AGREEMENT;

ii. ANY DELIVERABLE, WORK PRODUCT, CONFIGURED SERVICE OR OTHER SERVICE PROVIDED HEREUNDER; AND/OR

iii. SYSTEM AGENCY'S AND/OR GRANTEE'S USE OF OR ACQUISITION OF ANY REQUESTED SERVICES OR OTHER ITEMS PROVIDED TO SYSTEM AGENCY BY GRANTEE OR OTHERWISE TO WHICH SYSTEM AGENCY HAS ACCESS AS A RESULT OF GRANTEE'S PERFORMANCE UNDER THE GRANT AGREEMENT.

10.3 Additional Indemnity Provisions

A. GRANTEE AND SYSTEM AGENCY AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY INDEMNITY CLAIM. GRANTEE SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE, INCLUDING ATTORNEYS' FEES.

B. THE DEFENSE SHALL BE COORDINATED BY THE GRANTEE WITH THE

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OFFICE OF THE TEXAS ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND GRANTEE MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE TEXAS ATTORNEY GENERAL.

C. GRANTEE SHALL REIMBURSE SYSTEM AGENCY AND THE STATE OF TEXAS FOR ANY CLAIMS, DAMAGES, COSTS, EXPENSES OR OTHER AMOUNTS, INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES AND COURT COSTS, ARISING FROM ANY SUCH CLAIM. IF THE SYSTEM AGENCY DETERMINES THAT A CONFLICT EXISTS BETWEEN ITS INTERESTS AND THOSE OF GRANTEE OR IF SYSTEM AGENCY IS REQUIRED BY APPLICABLE LAW TO SELECT SEPARATE COUNSEL, SYSTEM AGENCY WILL BE PERMITTED TO SELECT SEPARATE COUNSEL AND GRANTEE SHALL PAY ALL REASONABLE COSTS OF SYSTEM AGENCY'S COUNSEL.

ARTICLE XI. GENERAL PROVISIONS

11.1 AMENDMENTS

Except as otherwise expressly provided, the Grant Agreement may only be amended by a written Amendment executed by both Parties.

11.2 NO QUANTITY GUARANTEES

The System Agency makes no guarantee of volume or usage of work under this Grant Agreement. All work requested may be on an irregular and as needed basis throughout the Grant Agreement term.

11.3 CHILD ABUSE REPORTING REQUIREMENTS

A. Grantees shall comply with child abuse and neglect reporting requirements in Texas Family Code Chapter 261. This section is in addition to and does not supersede any other legal obligation of the Grantee to report child abuse.

B. Grantee shall develop, implement and enforce a written policy that includes at a minimum the System Agency's Child Abuse Screening, Documenting, and Reporting Policy for Grantees/Providers and train all staff on reporting requirements.

C. Grantee shall use the Texas Abuse Hotline Website located at https://www.txabusehotline.org/Login/Default.aspx as required by the System Agency. Grantee shall retain reporting documentation on site and make it available for inspection by the System Agency.

11.4 CERTIFICATION OF MEETING OR EXCEEDING TOBACCO-FREE WORKPLACE POLICY MINIMUM STANDARDS

A. Grantee certifies that it has adopted and enforces a Tobacco-Free Workplace Policy that meets or exceeds all of the following minimum standards of:

i. Prohibiting the use of all forms of tobacco products, including but not limited to cigarettes, cigars, pipes, water pipes (hookah), bidis, kreteks, electronic cigarettes, smokeless tobacco, snuff and chewing tobacco;

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ii. Designating the property to which this Policy applies as a "designated area," which must at least comprise all buildings and structures where activities funded under this Grant Agreement are taking place, as well as Grantee owned, leased, or controlled sidewalks, parking lots, walkways, and attached parking structures immediately adjacent to this designated area;
iii. Applying to all employees and visitors in this designated area; and
iv. Providing for or referring its employees to tobacco use cessation services.

B. If Grantee cannot meet these minimum standards, it must obtain a waiver from the System Agency.

11.5 Insurance and Bonds

Unless otherwise specified in this Contract, Grantee shall acquire and maintain, for the duration of this Contract, insurance coverage necessary to ensure proper fulfillment of this Contract and potential liabilities thereunder with financially sound and reputable insurers licensed by the Texas Department of Insurance, in the type and amount customarily carried within the industry as determined by the System Agency. Grantee shall provide evidence of insurance as required under this Contract, including a schedule of coverage or underwriter's schedules establishing to the satisfaction of the System Agency the nature and extent of coverage granted by each such policy, upon request by the System Agency. In the event that any policy is determined by the System Agency to be deficient to comply with the terms of this Contract, Grantee shall secure such additional policies or coverage as the System Agency may reasonably request or that are required by law or regulation. If coverage expires during the term of this Contract, Grantee must produce renewal certificates for each type of coverage. In addition, if required by System Agency, Grantee must obtain and have on file a blanket fidelity bond that indemnifies System Agency against the loss or theft of any grant funds, including applicable matching funds. The fidelity bond must cover the entirety of the grant term and any subsequent renewals. The failure of Grantee to comply with these requirements may subject Grantee to remedial or corrective actions detailed in section 10.1, General Indemnity, above.

These and all other insurance requirements under the Grant apply to both Grantee and its Subcontractors, if any. Grantee is responsible for ensuring its Subcontractors' compliance with all requirements.

11.6 Limitation on Authority

A. Grantee shall not have any authority to act for or on behalf of the System Agency or the State of Texas except as expressly provided for in the Grant Agreement; no other authority, power, or use is granted or implied. Grantee may not incur any debt, obligation, expense, or liability of any kind on behalf of System Agency or the State of Texas.
B. Grantee may not rely upon implied authority and is not granted authority under the Grant Agreement to:
i. Make public policy on behalf of the System Agency;
ii. Promulgate, amend, or disregard administrative regulations or program policy decisions made by State and federal agencies responsible for administration of a System Agency program; or
iii. Unilaterally communicate or negotiate with any federal or state agency or the Texas

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Legislature on behalf of the System Agency regarding System Agency programs or the Grant Agreement. However, upon System Agency request and with reasonable notice from System Agency to the Grantee, the Grantee shall assist the System Agency in communications and negotiations regarding the Work under the Grant Agreement with state and federal governments.

11.7 Change in Laws and Compliance with Laws

Grantee shall comply with all laws, regulations, requirements and guidelines applicable to a Grantee providing services and products required by the Grant Agreement to the State of Texas, as these laws, regulations, requirements and guidelines currently exist and as amended throughout the term of the Grant Agreement. Notwithstanding Section 11.1, Amendments, above, System Agency reserves the right, in its sole discretion, to unilaterally amend the Grant Agreement to incorporate any modifications necessary for System Agency's compliance, as an agency of the State of Texas, with all applicable state and federal laws, regulations, requirements and guidelines.

11.8 Subcontractors

Grantee may not subcontract any or all of the Work and/or obligations under the Grant Agreement without prior written approval of the System Agency. Subcontracts, if any, entered into by the Grantee shall be in writing and be subject to the requirements of the Grant Agreement. Should Grantee subcontract any of the services required in the Grant Agreement, Grantee expressly understands and acknowledges System Agency is in no manner liable to any subcontractor(s) of Grantee. In no event shall this provision relieve Grantee of the responsibility for ensuring that the services performed under all subcontracts are rendered in compliance with the Grant Agreement.

11.9 Permitting and Licensure

At Grantee's sole expense, Grantee shall procure and maintain for the duration of this Grant Agreement any state, county, city, or federal license, authorization, insurance, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by Grantee to provide the goods or services required by this Grant Agreement. Grantee shall be responsible for payment of all taxes, assessments, fees, premiums, permits, and licenses required by law. Grantee shall be responsible for payment of any such government obligations not paid by its Subcontractors during performance of this Grant Agreement.

11.10 Independent Contractor

Grantee and Grantee's employees, representatives, agents, Subcontractors, suppliers, and third-party service providers shall serve as independent contractors in providing the services under the Grant Agreement. Neither Grantee nor System Agency is an agent of the other and neither may make any commitments on the other party's behalf. The Grantee is not a "governmental body" solely by virtue of this Grant Agreement or receipt of grant funds under this Grant Agreement. Grantee shall have no claim against System Agency for vacation pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits, or employee benefits of any kind. The Grant Agreement shall not create any joint venture, partnership, agency, or employment relationship between Grantee and System Agency.

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11.11 Governing Law and Venue

The Grant Agreement shall be governed by and construed in accordance with the laws of the State of Texas, without regard to the conflicts of law provisions. The venue of any suit arising under the Grant Agreement is fixed in any court of competent jurisdiction of Travis County, Texas, unless the specific venue is otherwise identified in a statute which directly names or otherwise identifies its applicability to the System Agency.

11.12 Severability

If any provision contained in this Grant Agreement is held to be unenforceable by a court of law or equity, such construction will not affect the legality, validity, or enforceability of any other provision or provisions of this Grant Agreement. It is the intent and agreement of the Parties this Grant Agreement shall be deemed amended by modifying such provision to the extent necessary to render it valid, legal and enforceable while preserving its intent or, if such modification is not possible, by substituting another provision that is valid, legal and enforceable and that achieves the same objective. All other provisions of this Grant Agreement will continue in full force and effect.

11.13 Survivability

Expiration or termination of the Grant Agreement for any reason does not release Grantee from any liability or obligation set forth in the Grant Agreement that is expressly stated to survive any such expiration or termination, that by its nature would be intended to be applicable following any such expiration or termination, or that is necessary to fulfill the essential purpose of the Grant Agreement, including without limitation the provisions regarding return of grant funds, audit requirements, records retention, public information, warranty, indemnification, confidentiality, and rights and remedies upon termination.

11.14 Force Majeure

Neither Grantee nor System Agency shall be liable to the other for any delay in, or failure of performance, of any requirement included in the Grant Agreement caused by force majeure. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been removed provided the non-performing party exercises all reasonable due diligence to perform. Force majeure is defined as acts of God, war, fires, explosions, hurricanes, floods, failure of transportation, or other causes that are beyond the reasonable control of either party and that by exercise of due foresight such party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome.

11.15 No Implied Waiver of Provisions

The failure of the System Agency to object to or to take affirmative action with respect to any conduct of the Grantee which is in violation or breach of the terms of the Grant Agreement shall not be construed as a waiver of the violation or breach, or of any future violation or breach.

11.16 Funding Disclaimers and Labeling

A. Grantee shall not use System Agency's name or refer to System Agency directly or indirectly in any media appearance, public service announcement, or disclosure relating to this Grant Agreement including any promotional material without first obtaining

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written consent from System Agency. The foregoing prohibition includes, without limitation, the placement of banners, pop-up ads, or other advertisements promoting Grantee's or a third party's products, services, workshops, trainings, or other commercial offerings on any website portal or internet-based service or software application hosted or managed by Grantee. This does not limit the Grantee's responsibility to comply with obligations related to the Texas Public Information Act or Texas Open Meetings Act.

B. In general, no publication (including websites, reports, projects, etc.) may convey System Agency's recognition or endorsement of the Grantee's project without prior written approval from System Agency. Publications funded in part or wholly by HHS grant funding must include a statement that "HHS and neither any of its components operate, control, are responsible for, or necessarily endorse, this publication (including, without limitation, its content, technical infrastructure, and policies, and any services or tools provided)" at HHS's request.

11.17 Media Releases

A. Grantee shall not use System Agency's name, logo, or other likeness in any press release, marketing material or other announcement without System Agency's prior written approval. System Agency does not endorse any vendor, commodity, or service. Grantee is not authorized to make or participate in any media releases or public announcements pertaining to this Grant Agreement or the Services to which they relate without System Agency's prior written consent, and then only in accordance with explicit written instruction from System Agency.

B. Grantee may publish, at its sole expense, results of Grantee performance under the Grant Agreement with the System Agency's prior review and approval, which the System Agency may exercise at its sole discretion. Any publication (written, visual, or sound) will acknowledge the support received from the System Agency and any Federal agency, as appropriate.

11.18 Prohibition on Non-Compete Restrictions

Grantee shall not require any employees or Subcontractors to agree to any conditions, such as non-compete clauses or other contractual arrangements, that would limit or restrict such persons or entities from employment or contracting with the State of Texas.

11.19 Sovereign Immunity

Nothing in the Grant Agreement will be construed as a waiver of the System Agency's or the State's sovereign immunity. This Grant Agreement shall not constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to the System Agency or the State of Texas. The failure to enforce, or any delay in the enforcement, of any privileges, rights, defenses, remedies, or immunities available to the System Agency or the State of Texas under the Grant Agreement or under applicable law shall not constitute a waiver of such privileges, rights, defenses, remedies, or immunities or be considered as a basis for estoppel. System Agency does not waive any privileges, rights, defenses, or immunities available to System Agency by entering into the Grant Agreement or by its conduct prior to or subsequent to entering into the Grant Agreement.

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11.20 Entire Contract and Modification

The Grant Agreement constitutes the entire agreement of the Parties and is intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Any additional or conflicting terms in any future document incorporated into the Grant Agreement will be harmonized with this Grant Agreement to the extent possible.

11.21 Counterparts

This Grant Agreement may be executed in any number of counterparts, each of which will be an original, and all such counterparts will together constitute but one and the same Grant Agreement.

11.22 Proper Authority

Each Party represents and warrants that the person executing this Grant Agreement on its behalf has full power and authority to enter into this Grant Agreement.

11.23 E-Verify Program

Grantee certifies that it utilizes and will continue to utilize the U.S. Department of Homeland Security's E-Verify system to determine the eligibility of:

A. all persons employed to perform duties within Texas during the term of the Grant Agreement; and
B. all persons, (including subcontractors) assigned by the Grantee to perform work pursuant to the Grant Agreement within the United States of America.

11.24 Civil Rights

A. Grantee agrees to comply with state and federal anti-discrimination laws, including:
   i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq.);
   ii. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794);
   iii. Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.);
   iv. Age Discrimination Act of 1975 (42 U.S.C. §§6101-6107);
   v. Title IX of the Education Amendments of 1972 (20 U.S.C. §§1681-1688);
   vi. Food and Nutrition Act of 2008 (7 U.S.C. §2011 et seq.); and
   vii. The System Agency's administrative rules, as set forth in the Texas Administrative Code, to the extent applicable to this Grant Agreement.
B. Grantee agrees to comply with all amendments to the above-referenced laws, and all requirements imposed by the regulations issued pursuant to these laws. These laws provide in part that no persons in the United States may, on the grounds of race, color, national origin, sex, age, disability, political beliefs, or religion, be excluded from participation in or denied any aid, care, service or other benefits provided by Federal or State funding, or otherwise be subjected to discrimination.
C. Grantee agrees to comply with Title VI of the Civil Rights Act of 1964, and its implementing regulations at 45 C.F.R. Part 80 or 7 C.F.R. Part 15, prohibiting a contractor from adopting and implementing policies and procedures that exclude or have the effect of excluding or limiting the participation of clients in its programs, benefits, or activities on the basis of national origin. State and federal civil rights laws require contractors to provide alternative methods for ensuring access to services for applicants and recipients who cannot express themselves fluently in English. Grantee agrees to take

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reasonable steps to provide services and information, both orally and in writing, in appropriate languages other than English, in order to ensure that persons with limited English proficiency are effectively informed and can have meaningful access to programs, benefits, and activities.

D. Grantee agrees to post applicable civil rights posters in areas open to the public informing clients of their civil rights and including contact information for the HHS Civil Rights Office. The posters are available on the HHS website at: https://hhs.texas.gov/about-hhs/your-rights/civil-rights-office/civil-rights-posters.

E. Grantee agrees to comply with Executive Order 13279, and its implementing regulations at 45 C.F.R. Part 87 or 7 C.F.R. Part 16. These provide in part that any organization that participates in programs funded by direct financial assistance from the United States Department of Agriculture or the United States Department of Health and Human Services shall not discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief.

F. Upon request, Grantee shall provide HHSC's Civil Rights Office with copies of the Grantee's civil rights policies and procedures.

G. Grantee must notify HHSC's Civil Rights Office of any complaints of discrimination received relating to its performance under this Grant Agreement. This notice must be delivered no more than ten (10) calendar days after receipt of a complaint. Notice provided pursuant to this section must be directed to:

HHSC Civil Rights Office
701 W. 51st Street, Mail CodeW206
Austin, Texas 78751
Phone Toll Free: (888) 388-6332
Phone: (512) 438-4313
Fax: (512) 438-5885
Email: HHSCivilRightsOffice@hhsc.state.tx.us.

11.25 Enterprise Information Management Standards

Grantee shall conform to HHS standards for data management as described by the policies of the HHS Chief Data and Analytics Officer. These include, but are not limited to, standards for documentation and communication of data models, metadata, and other data definition methods that are required by HHS for ongoing data governance, strategic portfolio analysis, interoperability planning, and valuation of HHS System data assets.

11.26 Disclosure of Litigation

A. The Grantee must disclose in writing to the contract manager assigned to this Grant Agreement any material civil or criminal litigation or indictment either threatened or pending involving the Grantee. "Threatened litigation" as used herein shall include governmental investigations and civil investigative demands. "Litigation" as used herein shall include administrative enforcement actions brought by governmental agencies. The Grantee must also disclose any material litigation threatened or pending involving Subcontractors, consultants, and/or lobbyists. For purposes of this section, "material" refers, but is not limited, to any action or pending action that a reasonable person knowledgeable in the applicable industry would consider relevant to the Work under the Grant Agreement or any development such a person would want to be aware of in order to stay fully apprised of the total mix of information relevant to the Work, together with

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any litigation threatened or pending that may result in a substantial change in the Grantee's financial condition.

B. This is a continuing disclosure requirement; any litigation commencing after Grant Agreement Award must be disclosed in a written statement to the assigned contract manager within seven calendar days of its occurrence.

11.27 No Third Party Beneficiaries

The Grant Agreement is made solely and specifically among and for the benefit of the Parties named herein and their respective successors and assigns, and no other person shall have any right, interest, or claims hereunder or be entitled to any benefits pursuant to or on account of the Grant Agreement as a third-party beneficiary or otherwise.

11.28 Binding Effect

The Grant Agreement shall inure to the benefit of, be binding upon, and be enforceable against each Party and their respective permitted successors, assigns, transferees, and delegates.

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HEALTH AND HUMAN SERVICES
Contract Number HHS00109400019
Attachment D CONTRACT AFFIRMATIONS

For purposes of these Contract Affirmations, HHS includes both the Health and Human Services Commission (HHSC) and the Department of State Health Services (DSHS). System Agency refers to HHSC, DSHS, or both, that will be a party to this Contract. These Contract Affirmations apply to all Contractors and Grantees (referred to as "Contractor") regardless of their business form (e.g., individual, partnership, corporation).

By entering into this Contract, Contractor affirms, without exception, understands, and agrees to comply with the following items through the life of the Contract:

1. Contractor represents and warrants that these Contract Affirmations apply to Contractor and all of Contractor's principals, officers, directors, shareholders, partners, owners, agents, employees, subcontractors, independent contractors, and any other representatives who may provide services under, who have a financial interest in, or otherwise are interested in this Contract and any related Solicitation.

2. Complete and Accurate Information

Contractor represents and warrants that all statements and information provided to HHS are current, complete, and accurate. This includes all statements and information in this Contract and any related Solicitation Response.

3. Public Information Act

Contractor understands that HHS will comply with the Texas Public Information Act (Chapter 552 of the Texas Government Code) as interpreted by judicial rulings and opinions of the Attorney General of the State of Texas. Information, documentation, and other material prepared and submitted in connection with this Contract or any related Solicitation may be subject to public disclosure pursuant to the Texas Public Information Act. In accordance with Section 2252.907 of the Texas Government Code, Contractor is required to make any information created or exchanged with the State pursuant to the Contract, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the State.

4. Contracting Information Requirements

Contractor represents and warrants that it will comply with the requirements of Section 552.372(a) of the Texas Government Code. Except as provided by Section 552.374(c) of the Texas Government Code, the requirements of Subchapter J (Additional Provisions Related to Contracting Information), Chapter 552 of the Government Code, may apply to the Contract and the Contractor agrees that the Contract can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that subchapter.

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5. Assignment

A. Contractor shall not assign its rights under the Contract or delegate the performance of its duties under the Contract without prior written approval from System Agency. Any attempted assignment in violation of this provision is void and without effect.

B. Contractor understands and agrees the System Agency may in one or more transactions assign, pledge, or transfer the Contract. Upon receipt of System Agency's notice of assignment, pledge, or transfer, Contractor shall cooperate with System Agency in giving effect to such assignment, pledge, or transfer, at no cost to System Agency or to the recipient entity.

6. Terms and Conditions

Contractor accepts the Solicitation terms and conditions unless specifically noted by exceptions advanced in the form and manner directed in the Solicitation, if any, under which this Contract was awarded. Contractor agrees that all exceptions to the Solicitation, as well as terms and conditions advanced by Contractor that differ in any manner from HHS' terms and conditions, if any, are rejected unless expressly accepted by System Agency in writing.

7. HHS Right to Use

Contractor agrees that HHS has the right to use, produce, and distribute copies of and to disclose to HHS employees, agents, and contractors and other governmental entities all or part of this Contract or any related Solicitation Response as HHS deems necessary to complete the procurement process or comply with state or federal laws.

8. Release from Liability

Contractor generally releases from liability and waives all claims against any party providing information about the Contractor at the request of System Agency.

9. Dealings with Public Servants

Contractor has not given, has not offered to give, and does not intend to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this Contract or any related Solicitation, or related Solicitation Response.

10. Financial Participation Prohibited

Under Section 2155.004, Texas Government Code (relating to financial participation in preparing solicitations), Contractor certifies that the individual or business entity named in this Contract and any related Solicitation Response is not ineligible to receive this Contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.

11. Prior Disaster Relief Contract Violation

Under Sections 2155.006 and 2261.053 of the Texas Government Code (relating to convictions and penalties regarding Hurricane Rita, Hurricane Katrina, and other disasters), the Contractor certifies that the individual or business entity named in this Contract and any related Solicitation Response is not ineligible to receive this Contract

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and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.

12. Child Support Obligation

Under Section 231.006(d) of the Texas Family Code regarding child support, Contractor certifies that the individual or business entity named in this Contract and any related Solicitation Response is not ineligible to receive the specified payment and acknowledges that the Contract may be terminated and payment may be withheld if this certification is inaccurate.

13. Suspension and Debarment

Contractor certifies that it and its principals are not suspended or debarred from doing business with the state or federal government as listed on the *State of Texas Debarred Vendor List* maintained by the Texas Comptroller of Public Accounts and the *System for Award Management (SAM*) maintained by the General Services Administration. This certification is made pursuant to the regulations implementing Executive Order 12549 and Executive Order 12689, Debarment and Suspension, 2 C.F.R. Part 376, and any relevant regulations promulgated by the Department or Agency funding this project. This provision shall be included in its entirety in Contractor's subcontracts, if any, if payment in whole or in part is from federal funds.

14. Excluded Parties

Contractor certifies that it is not listed in the prohibited vendors list authorized by Executive Order 13224, *"Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism,"* published by the United States Department of the Treasury, Office of Foreign Assets Control.'

15. Foreign Terrorist Organizations

Contractor represents and warrants that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization, as prohibited by Section 2252.152 of the Texas Government Code.

16. Executive Head of a State Agency

In accordance with Section 669.003 of the Texas Government Code, relating to contracting with the executive head of a state agency, Contractor certifies that it is not (1) the executive head of an HHS agency, (2) a person who at any time during the four years before the date of this Contract was the executive head of an HHS agency, or (3) a person who employs a current or former executive head of an HHS agency.

17. Human Trafficking Prohibition

Under Section 2155.0061 of the Texas Government Code, Contractor certifies that the individual or business entity named in this Contract is not ineligible to receive this Contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.

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18. Franchise Tax Status

Contractor represents and warrants that it is not currently delinquent in the payment of any franchise taxes owed the State of Texas under Chapter 171 of the Texas Tax Code.

19. Debts and Delinquencies

Contractor agrees that any payments due under this Contract shall be applied towards any debt or delinquency that is owed to the State of Texas.

20. Lobbying Prohibition

Contractor represents and warrants that payments to Contractor and Contractor's receipt of appropriated or other funds under this Contract or any related Solicitation are not prohibited by Sections 556.005, 556.0055, or 556.008 of the Texas Government Code (relating to use of appropriated money or state funds to employ or pay lobbyists, lobbying expenses, or influence legislation).

21. Buy Texas

Contractor agrees to comply with Section 2155.4441 of the Texas Government Code, requiring the purchase of products and materials produced in the State of Texas in performing service contracts.

22. Disaster Recovery Plan

Contractor agrees that upon request of System Agency, Contractor shall provide copies of its most recent business continuity and disaster recovery plans.

23. Computer Equipment Recycling Program

If this Contract is for the purchase or lease of computer equipment, then Contractor certifies that it is in compliance with Subchapter Y, Chapter 361 of the Texas Health and Safety Code related to the Computer Equipment Recycling Program and the Texas Commission on Environmental Quality rules in 30 TAC Chapter 328.

24. Television Equipment Recycling Program

If this Contract is for the purchase or lease of covered television equipment, then Contractor certifies that it is compliance with Subchapter Z, Chapter 361 of the Texas Health and Safety Code related to the Television Equipment Recycling Program.

25. Cybersecurity Training

A. Contractor represents and warrants that it will comply with the requirements of Section 2054.5192 of the Texas Government Code relating to cybersecurity training and required verification of completion of the training program.

B. Contractor represents and warrants that if Contractor or Subcontractors, officers, or employees of Contractor have access to any state computer system or database, the Contractor, Subcontractors, officers, and employees of Contractor shall complete cybersecurity training pursuant to and in accordance with Government Code, Section 2054.5192.

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26. Restricted Employment for Certain State Personnel

Contractor acknowledges that, pursuant to Section 572.069 of the Texas Government Code, a former state officer or employee of a state agency who during the period of state service or employment participated on behalf of a state agency in a procurement or contract negotiation involving Contractor may not accept employment from Contractor before the second anniversary of the date the Contract is signed or the procurement is terminated or withdrawn.

27. No Conflicts of Interest

A. Contractor represents and warrants that it has no actual or potential conflicts of interest in providing the requested goods or services to System Agency under this Contract or any related Solicitation and that Contractor's provision of the requested goods and/or services under this Contract and any related Solicitation will not constitute an actual or potential conflict of interest or reasonably create an appearance of impropriety.

B. Contractor agrees that, if after execution of the Contract, Contractor discovers or is made aware of a Conflict of Interest, Contractor will immediately and fully disclose such interest in writing to System Agency. In addition, Contractor will promptly and fully disclose any relationship that might be perceived or represented as a conflict after its discovery by Contractor or by System Agency as a potential conflict. System Agency reserves the right to make a final determination regarding the existence of Conflicts of Interest, and Contractor agrees to abide by System Agency's decision.

28. Fraud, Waste, and Abuse

Contractor understands that HHS does not tolerate any type of fraud, waste, or abuse. Violations of law, agency policies, or standards of ethical conduct will be investigated, and appropriate actions will be taken. Pursuant to Texas Government Code, Section 321.022, if the administrative head of a department or entity that is subject to audit by the state auditor has reasonable cause to believe that money received from the state by the department or entity or by a client or contractor of the department or entity may have been lost, misappropriated, or misused, or that other fraudulent or unlawful conduct has occurred in relation to the operation of the department or entity, the administrative head shall report the reason and basis for the belief to the Texas State Auditor's Office (SAO). All employees or contractors who have reasonable cause to believe that fraud, waste, or abuse has occurred (including misconduct by any HHS employee, Grantee officer, agent, employee, or subcontractor that would constitute fraud, waste, or abuse) are required to immediately report the questioned activity to the Health and Human Services Commission's Office of Inspector General. Contractor agrees to comply with all applicable laws, rules, regulations, and System Agency policies regarding fraud, waste, and abuse including, but not limited to, HHS Circular C-027.

A report to the SAO must be made through one of the following avenues:

- SAO Toll Free Hotline: 1-800-TX-AUDIT
- SAO website: http://sao.fraud.state.tx.us/

All reports made to the OIG must be made through one of the following avenues:

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- OIG Toll Free Hotline 1-800-436-6184
- OIG Website: ReportTexasFraud.com
- Internal Affairs Email: InternalAffairsReferral@hhsc.state.tx.us
- OIG Hotline Email: OIGFraudHotline@hhsc.state.tx.us.
- OIG Mailing Address: Office of Inspector General
  Attn: Fraud Hotline
  MC 1300
  P.O. Box 85200
  Austin, Texas 78708-5200

29. Antitrust

The undersigned affirms under penalty of perjury of the laws of the State of Texas that:

A. in connection with this Contract and any related Solicitation Response, neither I nor any representative of the Contractor has violated any provision of the Texas Free Enterprise and Antitrust Act, Tex. Bus. & Comm. Code Chapter 15;

B. in connection with this Contract and any related Solicitation Response, neither I nor any representative of the Contractor has violated any federal antitrust law; and

C. neither I nor any representative of the Contractor has directly or indirectly communicated any of the contents of this Contract and any related Solicitation Response to a competitor of the Contractor or any other company, corporation, firm, partnership or individual engaged in the same line of business as the Contractor.

30. Legal and Regulatory Actions

Contractor represents and warrants that it is not aware of and has received no notice of any court or governmental agency proceeding, investigation, or other action pending or threatened against Contractor or any of the individuals or entities included in numbered paragraph 1 of these Contract Affirmations within the five (5) calendar years immediately preceding execution of this Contract or the submission of any related Solicitation Response that would or could impair Contractor's performance under this Contract, relate to the contracted or similar goods or services, or otherwise be relevant to System Agency's consideration of entering into this Contract. If Contractor is unable to make the preceding representation and warranty, then Contractor instead represents and warrants that it has provided to System Agency a complete, detailed disclosure of any such court or governmental agency proceeding, investigation, or other action that would or could impair Contractor's performance under this Contract, relate to the contracted or similar goods or services, or otherwise be relevant to System Agency's consideration of entering into this Contract. In addition, Contractor acknowledges this is a continuing disclosure requirement. Contractor represents and warrants that Contractor shall notify System Agency in writing within five (5) business days of any changes to the representations or warranties in this clause and understands that failure to so timely update System Agency shall constitute breach of contract and may result in immediate contract termination.

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31. No Felony Criminal Convictions

Contractor represents that neither Contractor nor any of its employees, agents, or representatives, including any subcontractors and employees, agents, or representative of such subcontractors, have been convicted of a felony criminal offense or that if such a conviction has occurred Contractor has fully advised System Agency in writing of the facts and circumstances surrounding the convictions.

32. Unfair Business Practices

Contractor represents and warrants that it has not been the subject of allegations of Deceptive Trade Practices violations under Chapter 17 of the Texas Business and Commerce Code, or allegations of any unfair business practice in any administrative hearing or court suit and that Contractor has not been found to be liable for such practices in such proceedings. Contractor certifies that it has no officers who have served as officers of other entities who have been the subject of allegations of Deceptive Trade Practices violations or allegations of any unfair business practices in an administrative hearing or court suit and that such officers have not been found to be liable for such practices in such proceedings**.**

33. Entities that Boycott Israel

Contractor represents and warrants that (1) it does not, and shall not for the duration of the Contract, boycott Israel or (2) the verification required by Section 2271.002 of the Texas Government Code does not apply to the Contract. If circumstances relevant to this provision change during the course of the Contract, Contractor shall promptly notify System Agency.

34. E-Verify

Contractor certifies that for contracts for services, Contractor shall utilize the U.S. Department of Homeland Security's E-Verify system during the term of this Contract to determine the eligibility of:

1. all persons employed by Contractor to perform duties within Texas; and
2. all persons, including subcontractors, assigned by Contractor to perform work pursuant to this Contract within the United States of America.

35. Former Agency Employees – Certain Contracts

If this Contract is an employment contract, a professional services contract under Chapter 2254 of the Texas Government Code, or a consulting services contract under Chapter 2254 of the Texas Government Code, in accordance with Section 2252.901 of the Texas Government Code, Contractor represents and warrants that neither Contractor nor any of Contractor's employees including, but not limited to, those authorized to provide services under the Contract, were former employees of an HHS Agency during the twelve (12) month period immediately prior to the date of the execution of the Contract.

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36. Disclosure of Prior State Employment – Consulting Services

If this Contract is for consulting services,

A. In accordance with Section 2254.033 of the Texas Government Code, a Contractor providing consulting services who has been employed by, or employs an individual who has been employed by, System Agency or another State of Texas agency at any time during the two years preceding the submission of Contractor's offer to provide services must disclose the following information in its offer to provide services. Contractor hereby certifies that this information was provided and remains true, correct, and complete:

1. Name of individual(s) (Contractor or employee(s));
2. Status;
3. The nature of the previous employment with HHSC or the other State of Texas agency;
4. The date the employment was terminated and the reason for the termination; and
5. The annual rate of compensation for the employment at the time of its termination.

B. If no information was provided in response to Section A above, Contractor certifies that neither Contractor nor any individual employed by Contractor was employed by System Agency or any other State of Texas agency at any time during the two years preceding the submission of Contractor's offer to provide services.

37. Abortion Funding Limitation

Contractor understands, acknowledges, and agrees that, pursuant to Article IX of the General Appropriations Act (the Act), to the extent allowed by federal and state law, money appropriated by the Texas Legislature may not be distributed to any individual or entity that, during the period for which funds are appropriated under the Act:

1. performs an abortion procedure that is not reimbursable under the state's Medicaid program;
2. is commonly owned, managed, or controlled by an entity that performs an abortion procedure that is not reimbursable under the state's Medicaid program; or
3. is a franchise or affiliate of an entity that performs an abortion procedure that is not reimbursable under the state's Medicaid program.

The provision does not apply to a hospital licensed under Chapter 241, Health and Safety Code, or an office exempt under Section 245.004(2), Health and Safety Code. Contractor represents and warrants that it is not ineligible, nor will it be ineligible during the term of this Contract, to receive appropriated funding pursuant to Article IX.

38. Funding Eligibility

Contractor understands, acknowledges, and agrees that, pursuant to Chapter 2272 (eff. Sept. 1, 2021, Ch. 2273) of the Texas Government Code, except as exempted under that Chapter, HHSC cannot contract with an abortion provider or an affiliate of an abortion provider. Contractor certifies that it is not ineligible to contract with HHSC under the terms of Chapter 2272 (eff. Sept. 1, 2021, Ch. 2273) of the Texas Government Code.

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39. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment (2 CFR 200.216)

Contractor certifies that the individual or business entity named in this Response or Contract is not ineligible to receive the specified Contract or funding pursuant to 2 CFR 200.216.

40. COVID-19 Vaccine Passports

Pursuant to Texas Health and Safety Code, Section 161.0085(c), Contractor certifies that it does not require its customers to provide any documentation certifying the customer's COVID-19 vaccination or post-transmission recovery on entry to, to gain access to, or to receive service from the Contractor's business. Contractor acknowledges that such a vaccine or recovery requirement would make Contractor ineligible for a state-funded contract.

41. Entities that Boycott Energy Companies

In accordance with Senate Bill 13, Acts 2021, 87th Leg., R.S., pursuant to Section 2274.002 of the Texas Government Code (relating to prohibition on contracts with companies boycotting certain energy companies), Contractor represents and warrants that: (1) it does not, and will not for the duration of the Contract, boycott energy companies or (2) the verification required by Section 2274.002 of the Texas Government Code does not apply to the Contract. If circumstances relevant to this provision change during the course of the Contract, Contractor shall promptly notify System Agency.

42. Entities that Discriminate Against Firearm and Ammunition Industries

In accordance with Senate Bill 19, Acts 2021, 87th Leg., R.S., pursuant to Section 2274.002 of the Texas Government Code (relating to prohibition on contracts with companies that discriminate against firearm and ammunition industries), Contractor verifies that: (1) it does not, and will not for the duration of the Contract, have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association or (2) the verification required by Section 2274.002 of the Texas Government Code does not apply to the Contract. If circumstances relevant to this provision change during the course of the Contract, Contractor shall promptly notify System Agency.

43. Security Controls for State Agency Data

In accordance with Senate Bill 475, Acts 2021, 87th Leg., R.S., pursuant to Texas Government Code, Section 2054.138, Contractor understands, acknowledges, and agrees that if, pursuant to this Contract, Contractor is or will be authorized to access, transmit, use, or store data for System Agency, Contractor is required to meet the security controls the System Agency determines are proportionate with System Agency's risk under the Contract based on the sensitivity of System Agency's data and that Contractor must periodically provide to System Agency evidence that Contractor meets the security controls required under the Contract.

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44. Cloud Computing State Risk and Authorization Management Program

In accordance with Senate Bill 475, Acts 2021, 87th Leg., R.S., pursuant to Texas Government Code, Section 2054.0593, Contractor acknowledges and agrees that, if providing cloud computing services for System Agency, Contractor must comply with the requirements of the state risk and authorization management program and that System Agency may not enter or renew a contract with Contractor to purchase cloud computing services for the agency that are subject to the state risk and authorization management program unless Contractor demonstrates compliance with program requirements. If providing cloud computing services for System Agency that are subject to the state risk and authorization management program, Contractor certifies it will maintain program compliance and certification throughout the term of the Contract.

45. Office of Inspector General Investigative Findings Expert Review

In accordance with Senate Bill 799, Acts 2021, 87th Leg., R.S., if Texas Government Code, Section 531.102(m-1)(2) is applicable to this Contract, Contractor affirms that it possesses the necessary occupational licenses and experience.

46. Contract for Professional Services of Physicians, Optometrists, and Registered Nurses

In accordance with Senate Bill 799, Acts 2021, 87th Leg., R.S., if Texas Government Code, Section 2254.008(a)(2) is applicable to this Contract, Contractor affirms that it possesses the necessary occupational licenses and experience.

47. Foreign-Owned Companies in Connection with Critical Infrastructure

If Texas Government Code, Section 2274.0102(a)(1) (relating to prohibition on contracts with certain foreign-owned companies in connection with critical infrastructure) is applicable to this Contract, pursuant to Government Code Section 2274.0102, Contractor certifies that neither it nor its parent company, nor any affiliate of Contractor or its parent company, is: (1) majority owned or controlled by citizens or governmental entities of China, Iran, North Korea, Russia, or any other country designated by the Governor under Government Code Section 2274.0103, or (2) headquartered in any of those countries.

48. Critical Infrastructure Subcontracts

For purposes of this Paragraph, the designated countries are China, Iran, North Korea, Russia, and any countries lawfully designated by the Governor as a threat to critical infrastructure. Pursuant to Section 113.002 of the Business and Commerce Code, Contractor shall not enter into a subcontract that will provide direct or remote access to or control of critical infrastructure, as defined by Section 113.001 of the Texas Business and Commerce Code, in this state, other than access specifically allowed for product warranty and support purposes to any subcontractor unless (i) neither the subcontractor nor its parent company, nor any affiliate of the subcontractor or its parent company, is majority owned or controlled by citizens or governmental entities of a designated country; and (ii) neither the subcontractor nor its parent company, nor any affiliate of the subcontractor or its parent company, is headquartered in a designated country. Contractor will notify the System Agency before entering into any subcontract that will provide direct or remote

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access to or control of critical infrastructure, as defined by Section 113.001 of the Texas Business & Commerce Code, in this state.

49. Enforcement of Certain Federal Firearms Laws Prohibited

In accordance with House Bill 957, Acts 2021, 87th Leg., R.S., if Texas Government Code, Section 2.101 is applicable to Contractor, Contractor certifies that it is not ineligible to receive state grant funds pursuant to Texas Government Code, Section 2.103.

50. Prohibition on Abortions

Contractor understands, acknowledges, and agrees that, pursuant to Article II of the General Appropriations Act, (1) no funds shall be used to pay the direct or indirect costs (including marketing, overhead, rent, phones, and utilities) of abortion procedures provided by contractors of HHSC; and (2) no funds appropriated for Medicaid Family Planning, Healthy Texas Women Program, or the Family Planning Program shall be distributed to individuals or entities that perform elective abortion procedures or that contract with or provide funds to individuals or entities for the performance of elective abortion procedures. Contractor represents and warrants that it is not ineligible, nor will it be ineligible during the term of this Contract, to receive appropriated funding pursuant to Article II.

51. False Representation

Contractor understands, acknowledges, and agrees that any false representation or any failure to comply with a representation, warranty, or certification made by Contractor is subject to all civil and criminal consequences provided at law or in equity including, but not limited to, immediate termination of this Contract.

52. False Statements

Contractor represents and warrants that all statements and information prepared and submitted by Contractor in this Contract and any related Solicitation Response are current, complete, true, and accurate. Contractor acknowledges any false statement or material misrepresentation made by Contractor during the performance of this Contract or any related Solicitation is a material breach of contract and may void this Contract. Further, Contractor understands, acknowledges, and agrees that any false representation or any failure to comply with a representation, warranty, or certification made by Contractor is subject to all civil and criminal consequences provided at law or in equity including, but not limited to, immediate termination of this Contract.

53. Permits and License

Contractor represents and warrants that it will comply with all applicable laws and maintain all permits and licenses required by applicable city, county, state, and federal rules, regulations, statutes, codes, and other laws that pertain to this Contract.

54. Drug-Free Workplace

Contractor represents and warrants that it shall comply with the applicable provisions of the Drug-Free Work Place Act of 1988 (41 U.S.C. §701 et seq.) and maintain a drug-free work environment.

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55. Equal Employment Opportunity

Contractor represents and warrants its compliance with all applicable duly enacted state and federal laws governing equal employment opportunities.

56. Federal Occupational Safety and Health Law

Contractor represents and warrants that all articles and services shall meet or exceed the safety standards established and promulgated under the Federal Occupational Safety and Health Act of 1970, as amended (29 U.S.C. Chapter 15).

57. Signature Authority

Contractor represents and warrants that the individual signing this Contract Affirmations document is authorized to sign on behalf of Contractor and to bind the Contractor.

Signature Page Follows

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Authorized representative on behalf of Contractor must complete and sign the following:

Ruben Becerra

Legal Name of Contractor

N/A

Assumed Business Name of Contractor, if applicable (d/b/a or 'doing business as')

Hays County

Texas County(s) for Assumed Business Name (d/b/a or 'doing business as')
Attach Assumed Name Certificate(s) filed with the Texas Secretary of State and Assumed Name Certificate(s), if any, for each Texas County Where Assumed Name Certificate(s) has been filed.

DocuSigned by:
Ruben Becerra
C96E4E0BDEF0410...

Signature of Authorized Representative

October 19, 2021

Date Signed

Ruben Becerra

Printed Name of Authorized Representative First, Middle Name or Initial, and Last Name

County Judge

Title of Authorized Representative

712 S. Stagecoach Trail
Ste. 300

Physical Street Address

San Marcos, TX 78666

City, State, Zip Code

N/A

Mailing Address, if different

N/A

City, State, Zip Code

512-393-2205

Phone Number

N/A

Fax Number

judge.becera@co.hays.tx.us

Email Address

097494884

DUNS Number

74-6002241

Federal Employer Identification Number

17460022415

Texas Payee ID No. – 11 digits

N/A

Texas Franchise Tax Number

74-6002241

Texas Secretary of State Filing Number

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HHS DATA USE AGREEMENT

This Data Use Agreement ("DUA"), effective as of the date the Base Contract into which it is incorporated is signed ("Effective Date"), is entered into by and between a Texas Health and Human Services Enterprise agency ("HHS"), and the Contractor identified in the Base Contract, a political subdivision of the State of Texas ("CONTRACTOR").

ARTICLE 1.
PURPOSE; APPLICABILITY; ORDER OF PRECEDENCE

The purpose of this DUA is to facilitate creation, receipt, maintenance, use, disclosure or access to Confidential Information with CONTRACTOR, and describe CONTRACTOR's rights and obligations with respect to the Confidential Information. ***45 CFR 164.504(e)(1)-(3)***. This DUA also describes HHS's remedies in the event of CONTRACTOR's noncompliance with its obligations under this DUA. This DUA applies to both Business Associates and contractors who are not Business Associates who create, receive, maintain, use, disclose or have access to Confidential Information on behalf of HHS, its programs or clients as described in the Base Contract.

As of the Effective Date of this DUA, if any provision of the Base Contract, including any General Provisions or Uniform Terms and Conditions, conflicts with this DUA, this DUA controls.

ARTICLE 2.
DEFINITIONS

For the purposes of this DUA, capitalized, underlined terms have the meanings set forth in the following: Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (42 U.S.C. §1320d, *et seq*.) and regulations thereunder in 45 CFR Parts 160 and 164, including all amendments, regulations and guidance issued thereafter; The Social Security Act, including Section 1137 (42 U.S.C. §§ 1320b-7), Title XVI of the Act; The Privacy Act of 1974, as amended by the Computer Matching and Privacy Protection Act of 1988, 5 U.S.C. § 552a and regulations and guidance thereunder; Internal Revenue Code, Title 26 of the United States Code and regulations and publications adopted under that code, including IRS Publication 1075; OMB Memorandum 07-18; Texas Business and Commerce Code Ch. 521; Texas Government Code, Ch. 552, and Texas Government Code §2054.1125. In addition, the following terms in this DUA are defined as follows:

"Authorized Purpose" means the specific purpose or purposes described in the Statement of Work of the Base Contract for CONTRACTOR to fulfill its obligations under the Base Contract, or any other purpose expressly authorized by HHS in writing in advance.

"Authorized User" means a Person:

(1) Who is authorized to create, receive, maintain, have access to, process, view, handle, examine, interpret, or analyze Confidential Information pursuant to this DUA;

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(2) For whom CONTRACTOR warrants and represents has a demonstrable need to create, receive, maintain, use, disclose or have access to the Confidential Information; and

(3) Who has agreed in writing to be bound by the disclosure and use limitations pertaining to the Confidential Information as required by this DUA.

"Confidential Information" means any communication or record (whether oral, written, electronically stored or transmitted, or in any other form) provided to or made available to CONTRACTOR, or that CONTRACTOR may, for an Authorized Purpose, create, receive, maintain, use, disclose or have access to, that consists of or includes any or all of the following:

(1) Client Information;

(2) Protected Health Information in any form including without limitation, Electronic Protected Health Information or Unsecured Protected Health Information (herein "PHI");

(3) Sensitive Personal Information defined by Texas Business and Commerce Code Ch. 521;

(4) Federal Tax Information;

(5) Individually Identifiable Health Information as related to HIPAA, Texas HIPAA and Personal Identifying Information under the Texas Identity Theft Enforcement and Protection Act;

(6) Social Security Administration Data, including, without limitation, Medicaid information;

(7) All privileged work product;

(8) All information designated as confidential under the constitution and laws of the State of Texas and of the United States, including the Texas Health & Safety Code and the Texas Public Information Act, Texas Government Code, Chapter 552.

"Legally Authorized Representative" of the Individual, as defined by Texas law, including as provided in 45 CFR 435.923 (Medicaid); 45 CFR 164.502(g)(1) (HIPAA); Tex. Occ. Code § 151.002(6); Tex. H. & S. Code §166.164; and Estates Code Ch. 752.

ARTICLE 3.
CONTRACTOR'S DUTIES REGARDING CONFIDENTIAL INFORMATION

3.01 Obligations of CONTRACTOR

CONTRACTOR agrees that:

(A) CONTRACTOR will exercise reasonable care and no less than the same degree of care CONTRACTOR uses to protect its own confidential, proprietary and trade secret information to prevent any portion of the Confidential Information from being used in

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a manner that is not expressly an Authorized Purpose under this DUA or as Required by Law. ***45 CFR 164.502(b)(1); 45 CFR 164.514(d)***

(B) Except as Required by Law, CONTRACTOR will not disclose or allow access to any portion of the Confidential Information to any Person or other entity, other than Authorized User's Workforce or Subcontractors (as defined in ***45 C.F.R. 160.103***) of CONTRACTOR who have completed training in confidentiality, privacy, security and the importance of promptly reporting any Event or Breach to CONTRACTOR's management, to carry out CONTRACTOR's obligations in connection with the Authorized Purpose.

HHS, at its election, may assist CONTRACTOR in training and education on specific or unique HHS processes, systems and/or requirements. CONTRACTOR will produce evidence of completed training to HHS upon request. ***45 C.F.R. 164.308(a)(5)(i); Texas Health & Safety Code §181.101***

All of CONTRACTOR's Authorized Users, Workforce and Subcontractors with access to a state computer system or database will complete a cybersecurity training program certified under Texas Government Code Section 2054.519 by the Texas Department of Information Resources or offered under Texas Government Code Sec. 2054.519(f).

(C) CONTRACTOR will establish, implement and maintain appropriate sanctions against any member of its Workforce or Subcontractor who fails to comply with this DUA, the Base Contract or applicable law. CONTRACTOR will maintain evidence of sanctions and produce it to HHS upon request.***45 C.F.R. 164.308(a)(1)(ii)(C); 164.530(e); 164.410(b); 164.530(b)(1)***

(D) CONTRACTOR will not, except as otherwise permitted by this DUA, disclose or provide access to any Confidential Information on the basis that such act is Required by Law without notifying either HHS or CONTRACTOR's own legal counsel to determine whether CONTRACTOR should object to the disclosure or access and seek appropriate relief. CONTRACTOR will maintain an accounting of all such requests for disclosure and responses and provide such accounting to HHS within 48 hours of HHS' request. ***45 CFR 164.504(e)(2)(ii)(A)***

(E) CONTRACTOR will not attempt to re-identify or further identify Confidential Information or De-identified Information, or attempt to contact any Individuals whose records are contained in the Confidential Information, except for an Authorized Purpose, without express written authorization from HHS or as expressly permitted by the Base Contract. ***45 CFR 164.502(d)(2)(i) and (ii)*** CONTRACTOR will not engage in prohibited marketing or sale of Confidential Information. ***45 CFR 164.501, 164.508(a)(3) and (4); Texas Health & Safety Code Ch. 181.002***

(F) CONTRACTOR will not permit, or enter into any agreement with a Subcontractor to, create, receive, maintain, use, disclose, have access to or transmit Confidential Information to carry out CONTRACTOR's obligations in connection with the Authorized Purpose on behalf of CONTRACTOR, unless Subcontractor agrees to comply

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with all applicable laws, rules and regulations. ***45 CFR 164.502(e)(1)(ii); 164.504(e)(1)(i) and (2).***

(G) CONTRACTOR is directly responsible for compliance with, and enforcement of, all conditions for creation, maintenance, use, disclosure, transmission and Destruction of Confidential Information and the acts or omissions of Subcontractors as may be reasonably necessary to prevent unauthorized use. ***45 CFR 164.504(e)(5); 42 CFR 431.300, et seq.***

(H) If CONTRACTOR maintains PHI in a Designated Record Set which is Confidential Information and subject to this Agreement, CONTRACTOR will make PHI available to HHS in a Designated Record Set upon request. CONTRACTOR will provide PHI to an Individual, or Legally Authorized Representative of the Individual who is requesting PHI in compliance with the requirements of the HIPAA Privacy Regulations. CONTRACTOR will release PHI in accordance with the HIPAA Privacy Regulations upon receipt of a valid written authorization. CONTRACTOR will make other Confidential Information in CONTRACTOR's possession available pursuant to the requirements of HIPAA or other applicable law upon a determination of a Breach of Unsecured PHI as defined in HIPAA. CONTRACTOR will maintain an accounting of all such disclosures and provide it to HHS within 48 hours of HHS' request. ***45 CFR 164.524and 164.504(e)(2)(ii)(E).***

(I) If PHI is subject to this Agreement, CONTRACTOR will make PHI as required by HIPAA available to HHS for review subsequent to CONTRACTOR's incorporation of any amendments requested pursuant to HIPAA. ***45 CFR 164.504(e)(2)(ii)(E) and (F).***

(J) If PHI is subject to this Agreement, CONTRACTOR will document and make available to HHS the PHI required to provide access, an accounting of disclosures or amendment in compliance with the requirements of the HIPAA Privacy Regulations. ***45 CFR 164.504(e)(2)(ii)(G) and 164.528.***

(K) If CONTRACTOR receives a request for access, amendment or accounting of PHI from an individual with a right of access to information subject to this DUA, it will respond to such request in compliance with the HIPAA Privacy Regulations. CONTRACTOR will maintain an accounting of all responses to requests for access to or amendment of PHI and provide it to HHS within 48 hours of HHS' request***. 45 CFR 164.504(e)(2).***

(L) CONTRACTOR will provide, and will cause its Subcontractors and agents to provide, to HHS periodic written certifications of compliance with controls and provisions relating to information privacy, security and breach notification, including without limitation information related to data transfers and the handling and disposal of Confidential Information. ***45 CFR 164.308; 164.530(c); 1 TAC 202.***

(M) Except as otherwise limited by this DUA, the Base Contract, or law applicable to the Confidential Information, CONTRACTOR may use PHI for the proper management and administration of CONTRACTOR or to carry out CONTRACTOR's

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legal responsibilities. Except as otherwise limited by this DUA, the Base Contract, or law applicable to the Confidential Information, CONTRACTOR may disclose PHI for the proper management and administration of CONTRACTOR, or to carry out CONTRACTOR's legal responsibilities, if: ***45 CFR 164.504(e)(4)(A).***

(1) Disclosure is Required by Law, provided that CONTRACTOR complies with Section 3.01(D); or

(2) CONTRACTOR obtains reasonable assurances from the person or entity to which the information is disclosed that the person or entity will:

(a) Maintain the confidentiality of the Confidential Information in accordance with this DUA;

(b) Use or further disclose the information only as Required by Law or for the Authorized Purpose for which it was disclosed to the Person; and

(c) Notify CONTRACTOR in accordance with Section 4.01 of any Event or Breach of Confidential Information of which the Person discovers or should have discovered with the exercise of reasonable diligence. ***45 CFR 164.504(e)(4)(ii)(B).***

(N) Except as otherwise limited by this DUA, CONTRACTOR will, if required by law and requested by HHS, use commercially reasonable efforts to use PHI to provide data aggregation services to HHS, as that term is defined in the HIPAA, 45 C.F.R. §164.501 and permitted by HIPAA. ***45 CFR 164.504(e)(2)(i)(B)***

(O) CONTRACTOR will, on the termination or expiration of this DUA or the Base Contract, at its expense, send to HHS or Destroy, at HHS's election and to the extent reasonably feasible and permissible by law, all Confidential Information received from HHS or created or maintained by CONTRACTOR or any of CONTRACTOR's agents or Subcontractors on HHS's behalf if that data contains Confidential Information. CONTRACTOR will certify in writing to HHS that all the Confidential Information that has been created, received, maintained, used by or disclosed to CONTRACTOR, has been Destroyed or sent to HHS, and that CONTRACTOR and its agents and Subcontractors have retained no copies thereof. Notwithstanding the foregoing, HHS acknowledges and agrees that CONTRACTOR is not obligated to send to HHSC and/or Destroy any Confidential Information if federal law, state law, the Texas State Library and Archives Commission records retention schedule, and/or a litigation hold notice prohibit such delivery or Destruction. If such delivery or Destruction is not reasonably feasible, or is impermissible by law, CONTRACTOR will immediately notify HHS of the reasons such delivery or Destruction is not feasible, and agree to extend indefinitely the protections of this DUA to the Confidential Information and limit its further uses and disclosures to the purposes that make the return delivery or Destruction of the Confidential Information not feasible for as long as CONTRACTOR maintains such Confidential Information. ***45 CFR 164.504(e)(2)(ii)(J)***

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(P) CONTRACTOR will create, maintain, use, disclose, transmit or Destroy Confidential Information in a secure fashion that protects against any reasonably anticipated threats or hazards to the security or integrity of such information or unauthorized uses. ***45 CFR 164.306; 164.530(c)***

(Q) If CONTRACTOR accesses, transmits, stores, and/or maintains Confidential Information, CONTRACTOR will complete and return to HHS at infosecurity@hhsc.state.tx.us the HHS information security and privacy initial inquiry (SPI) at Attachment 1 . The SPI identifies basic privacy and security controls with which CONTRACTOR must comply to protect HHS Confidential Information. CONTRACTOR will comply with periodic security controls compliance assessment and monitoring by HHS as required by state and federal law, based on the type of Confidential Information CONTRACTOR creates, receives, maintains, uses, discloses or has access to and the Authorized Purpose and level of risk. CONTRACTOR's security controls will be based on the National Institute of Standards and Technology (NIST) Special Publication 800-53. CONTRACTOR will update its security controls assessment whenever there are significant changes in security controls for HHS Confidential Information and will provide the updated document to HHS. HHS also reserves the right to request updates as needed to satisfy state and federal monitoring requirements. ***45 CFR 164.306.***

(R) CONTRACTOR will establish, implement and maintain reasonable procedural, administrative, physical and technical safeguards to preserve and maintain the confidentiality, integrity, and availability of the Confidential Information, and with respect to PHI, as described in the HIPAA Privacy and Security Regulations, or other applicable laws or regulations relating to Confidential Information, to prevent any unauthorized use or disclosure of Confidential Information as long as CONTRACTOR has such Confidential Information in its actual or constructive possession. ***45 CFR 164.308 (administrative safeguards); 164.310 (physical safeguards); 164.312 (technical safeguards); 164.530(c)(privacy safeguards).***

(S) CONTRACTOR will designate and identify, a Person or Persons, as Privacy Official ***45 CFR 164.530(a)(1)*** and Information Security Official, each of whom is authorized to act on behalf of CONTRACTOR and is responsible for the development and implementation of the privacy and security requirements in this DUA. CONTRACTOR will provide name and current address, phone number and e-mail address for such designated officials to HHS upon execution of this DUA and prior to any change. If such persons fail to develop and implement the requirements of the DUA, CONTRACTOR will replace them upon HHS request. ***45 CFR 164.308(a)(2).***

(T) CONTRACTOR represents and warrants that its Authorized Users each have a demonstrated need to know and have access to Confidential Information solely to the minimum extent necessary to accomplish the Authorized Purpose pursuant to this DUA and the Base Contract, and further, that each has agreed in writing to be bound by the disclosure and use limitations pertaining to the Confidential Information contained in this DUA. ***45 CFR 164.502; 164.514(d).***

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(U) CONTRACTOR and its Subcontractors will maintain an updated, complete, accurate and numbered list of Authorized Users, their signatures, titles and the date they agreed to be bound by the terms of this DUA, at all times and supply it to HHS, as directed, upon request.

(V) CONTRACTOR will implement, update as necessary, and document reasonable and appropriate policies and procedures for privacy, security and Breach of Confidential Information and an incident response plan for an Event or Breach, to comply with the privacy, security and breach notice requirements of this DUA prior to conducting work under the Statement of Work. ***45 CFR 164.308; 164.316; 164.514(d); 164.530(i)(1).***

(W) CONTRACTOR will produce copies of its information security and privacy policies and procedures and records relating to the use or disclosure of Confidential Information received from, created by, or received, used or disclosed by CONTRACTOR for an Authorized Purpose for HHS's review and approval within 30 days of execution of this DUA and upon request by HHS the following business day or other agreed upon time frame. ***45 CFR 164.308; 164.514(d).***

(X) CONTRACTOR will make available to HHS any information HHS requires to fulfill HHS's obligations to provide access to, or copies of, PHI in accordance with HIPAA and other applicable laws and regulations relating to Confidential Information. CONTRACTOR will provide such information in a time and manner reasonably agreed upon or as designated by the Secretary of the U.S. Department of Health and Human Services, or other federal or state law. ***45 CFR 164.504(e)(2)(i)(I).***

(Y) CONTRACTOR will only conduct secure transmissions of Confidential Information whether in paper, oral or electronic form, in accordance with applicable rules, regulations and laws. A secure transmission of electronic Confidential Information *in motion* includes, but is not limited to, Secure File Transfer Protocol (SFTP) or Encryption at an appropriate level. If required by rule, regulation or law, HHS Confidential Information *at rest* requires Encryption unless there is other adequate administrative, technical, and physical security. All electronic data transfer and communications of Confidential Information will be through secure systems. Proof of system, media or device security and/or Encryption must be produced to HHS no later than 48 hours after HHS's written request in response to a compliance investigation, audit or the Discovery of an Event or Breach. Otherwise, requested production of such proof will be made as agreed upon by the parties. De-identification of HHS Confidential Information is a means of security. With respect to de-identification of PHI, "secure" means de-identified according to HIPAA Privacy standards and regulatory guidance. ***45 CFR 164.312; 164.530(d).***

(Z) For each type of Confidential Information CONTRACTOR creates, receives, maintains, uses, discloses, has access to or transmits in the performance of the Statement of Work, CONTRACTOR will comply with the following laws rules and regulations, only to the extent applicable and required by law:

- Title 1, Part 10, Chapter 202, Subchapter B, Texas Administrative Code;

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- The Privacy Act of 1974;
- OMB Memorandum 07-16;
- The Federal Information Security Management Act of 2002 (FISMA);
- The Health Insurance Portability and Accountability Act of 1996 (HIPAA) as defined in the DUA;
- Internal Revenue Publication 1075 – Tax Information Security Guidelines for Federal, State and Local Agencies;
- National Institute of Standards and Technology (NIST) Special Publication 800-66 Revision 1 – An Introductory Resource Guide for Implementing the Health Insurance Portability and Accountability Act (HIPAA) Security Rule;
- NIST Special Publications 800-53 and 800-53A – Recommended Security Controls for Federal Information Systems and Organizations, as currently revised;
- NIST Special Publication 800-47 – Security Guide for Interconnecting Information Technology Systems;
- NIST Special Publication 800-88, Guidelines for Media Sanitization;
- NIST Special Publication 800-111, Guide to Storage of Encryption Technologies for End User Devices containing PHI; and

Any other State or Federal law, regulation, or administrative rule relating to the specific HHS program area that CONTRACTOR supports on behalf of HHS.

(AA) Notwithstanding anything to the contrary herein, CONTRACTOR will treat any Personal Identifying Information it creates, receives, maintains, uses, transmits, destroys and/or discloses in accordance with Texas Business and Commerce Code, Chapter 521 and other applicable regulatory standards identified in Section 3.01(Z), and Individually Identifiable Health Information CONTRACTOR creates, receives, maintains, uses, transmits, destroys and/or discloses in accordance with HIPAA and other applicable regulatory standards identified in Section 3.01(Z).

ARTICLE 4.
BREACH NOTICE, REPORTING AND CORRECTION REQUIREMENTS

4.01 Breach or Event Notification to HHS. 45 CFR 164.400-414.

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(A) CONTRACTOR will cooperate fully with HHS in investigating, mitigating to the extent practicable and issuing notifications directed by HHS, for any Event or Breach of Confidential Information to the extent and in the manner determined by HHS.

(B) CONTRACTOR'S obligation begins at the Discovery of an Event or Breach and continues as long as related activity continues, until all effects of the Event are mitigated to HHS's reasonable satisfaction (the "incident response period"). ***45 CFR 164.404.***

(C) Breach Notice:

(1) Initial Notice.

(a) For federal information, including without limitation, Federal Tax Information, Social Security Administration Data, and Medicaid Client Information, within the first, consecutive clock hour of Discovery, and for all other types of Confidential Information not more than 24 hours after Discovery, or in a timeframe otherwise approved by HHS in writing, initially report to HHS's Privacy and Security Officers via email at: privacy@HHSC.state.tx.us and to the HHS division responsible for this DUA; and IRS Publication 1075; Privacy Act of 1974, as amended by the Computer Matching and Privacy Protection Act of 1988, 5 U.S.C. § 552a; OMB Memorandum 07-16 as cited in HHSC-CMS Contracts for information exchange.

(b) Report all information reasonably available to CONTRACTOR about the Event or Breach of the privacy or security of Confidential Information. ***45 CFR 164.410.***

(c) Name, and provide contact information to HHS for, CONTRACTOR's single point of contact who will communicate with HHS both on and off business hours during the incident response period.

(2) Formal Notice. No later than two business days after the Initial Notice above, provide formal notification to privacy@HHSC.state.tx.us and to the HHS division responsible for this DUA, including all reasonably available information about the Event or Breach, and CONTRACTOR's investigation, including without limitation and to the extent available***: For (a) - (m) below: 45 CFR 164.400-414.***

(a) The date the Event or Breach occurred;

(b) The date of CONTRACTOR's and, if applicable, Subcontractor's Discovery;

(c) A brief description of the Event or Breach; including how it occurred and who is responsible (or hypotheses, if not yet determined);

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(d) A brief description of CONTRACTOR's investigation and the status of the investigation;

(e) A description of the types and amount of Confidential Information involved;

(f) Identification of and number of all Individuals reasonably believed to be affected, including first and last name of the Individual and if applicable the, Legally Authorized Representative, last known address, age, telephone number, and email address if it is a preferred contact method, to the extent known or can be reasonably determined by CONTRACTOR at that time;

(g) CONTRACTOR's initial risk assessment of the Event or Breach demonstrating whether individual or other notices are required by applicable law or this DUA for HHS approval, including an analysis of whether there is a low probability of compromise of the Confidential Information or whether any legal exceptions to notification apply;

(h) CONTRACTOR's recommendation for HHS's approval as to the steps Individuals and/or CONTRACTOR on behalf of Individuals, should take to protect the Individuals from potential harm, including without limitation CONTRACTOR's provision of notifications, credit protection, claims monitoring, and any specific protections for a Legally Authorized Representative to take on behalf of an Individual with special capacity or circumstances;

(i) The steps CONTRACTOR has taken to mitigate the harm or potential harm caused (including without limitation the provision of sufficient resources to mitigate);

(j) The steps CONTRACTOR has taken, or will take, to prevent or reduce the likelihood of recurrence of a similar Event or Breach;

(k) Identify, describe or estimate the Persons, Workforce, Subcontractor, or Individuals and any law enforcement that may be involved in the Event or Breach;

(l) A reasonable schedule for CONTRACTOR to provide regular updates during normal business hours to the foregoing in the future for response to the Event or Breach, but no less than every three (3) business days or as otherwise directed by HHS, including information about risk estimations, reporting, notification, if any, mitigation, corrective action, root cause analysis and when such activities are expected to be completed; and

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(m) Any reasonably available, pertinent information, documents or reports related to an Event or Breach that HHS requests following Discovery.

4.02 Investigation, Response and Mitigation. 45 CFR 164.308, 310 and 312; 164.530

(A) CONTRACTOR will immediately conduct a full and complete investigation, respond to the Event or Breach, commit necessary and appropriate staff and resources to expeditiously respond, and report as required to and by HHS for incident response purposes and for purposes of HHS's compliance with report and notification requirements, to the reasonable satisfaction of HHS.

(B) CONTRACTOR will complete or participate in a risk assessment as directed by HHS following an Event or Breach, and provide the final assessment, corrective actions and mitigations to HHS for review and approval.

(C) CONTRACTOR will fully cooperate with HHS to respond to inquiries and/or proceedings by state and federal authorities, Persons and/or Individuals about the Event or Breach.

(D) CONTRACTOR will fully cooperate with HHS's efforts to seek appropriate injunctive relief or otherwise prevent or curtail such Event or Breach, or to recover or protect any Confidential Information, including complying with reasonable corrective action or measures, as specified by HHS in a Corrective Action Plan if directed by HHS under the Base Contract.

4.03 Breach Notification to Individuals and Reporting to Authorities. Tex. Bus. & Comm. Code §521.053; 45 CFR 164.404 (Individuals), 164.406 (Media); 164.408 (Authorities)

(A) HHS may direct CONTRACTOR to provide Breach notification to Individuals, regulators or third-parties, as specified by HHS following a Breach.

(B) CONTRACTOR shall give HHS an opportunity to review and provide feedback to CONTRACTOR and to confirm that CONTRACTOR's notice meets all regulatory requirements regarding the time, manner and content of any notification to Individuals, regulators or third-parties, or any notice required by other state or federal authorities, including without limitation, notifications required by Texas Business and Commerce Code, Chapter 521.053(b) and HIPAA. HHS shall have ten (10) business days to provide said feedback to CONTRACTOR. Notice letters will be in CONTRACTOR's name and on CONTRACTOR's letterhead, unless otherwise directed by HHS, and will contain contact information, including the name and title of CONTRACTOR's representative, an email address and a toll-free telephone number, if required by applicable law, rule, or regulation, for the Individual to obtain additional information.

(C) CONTRACTOR will provide HHS with copies of distributed and approved communications.

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(D) CONTRACTOR will have the burden of demonstrating to the reasonable satisfaction of HHS that any notification required by HHS was timely made. If there are delays outside of CONTRACTOR's control, CONTRACTOR will provide written documentation of the reasons for the delay.

(E) If HHS delegates notice requirements to CONTRACTOR, HHS shall, in the time and manner reasonably requested by CONTRACTOR, cooperate and assist with CONTRACTOR's information requests in order to make such notifications and reports.

ARTICLE 5.
STATEMENT OF WORK

"Statement of Work" means the services and deliverables to be performed or provided by CONTRACTOR, or on behalf of CONTRACTOR by its Subcontractors or agents for HHS that are described in detail in the Base Contract. The Statement of Work, including any future amendments thereto, is incorporated by reference in this DUA as if set out word-for-word herein.

ARTICLE 6.
GENERAL PROVISIONS

6.01 Oversight of Confidential Information

CONTRACTOR acknowledges and agrees that HHS is entitled to oversee and monitor CONTRACTOR's access to and creation, receipt, maintenance, use, disclosure of the Confidential Information to confirm that CONTRACTOR is in compliance with this DUA.

6.02 HHS Commitment and Obligations

HHS will not request CONTRACTOR to create, maintain, transmit, use or disclose PHI in any manner that would not be permissible under applicable law if done by HHS.

6.03 HHS Right to Inspection

At any time upon reasonable notice to CONTRACTOR, or if HHS determines that CONTRACTOR has violated this DUA, HHS, directly or through its agent, will have the right to inspect the facilities, systems, books and records of CONTRACTOR to monitor compliance with this DUA. For purposes of this subsection, HHS's agent(s) include, without limitation, the HHS Office of the Inspector General or the Office of the Attorney General of Texas, outside consultants or legal counsel or other designee.

6.04 Term; Termination of DUA; Survival

This DUA will be effective on the date on which CONTRACTOR executes the DUA, and will terminate upon termination of the Base Contract and as set forth herein. If the Base Contract is extended or amended, this DUA shall be extended or amended concurrent with such extension or amendment.

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(A) HHS may immediately terminate this DUA and Base Contract upon a material violation of this DUA.

(B) Termination or Expiration of this DUA will not relieve CONTRACTOR of its obligation to return or Destroy the Confidential Information as set forth in this DUA and to continue to safeguard the Confidential Information until such time as determined by HHS.

(C) If HHS determines that CONTRACTOR has violated a material term of this DUA; HHS may in its sole discretion:

(1) Exercise any of its rights including but not limited to reports, access and inspection under this DUA and/or the Base Contract; or

(2) Require CONTRACTOR to submit to a Corrective Action Plan, including a plan for monitoring and plan for reporting, as HHS may determine necessary to maintain compliance with this DUA; or

(3) Provide CONTRACTOR with a reasonable period to cure the violation as determined by HHS; or

(4) Terminate the DUA and Base Contract immediately, and seek relief in a court of competent jurisdiction in Texas.

Before exercising any of these options, HHS will provide written notice to CONTRACTOR describing the violation, the requested corrective action CONTRACTOR may take to cure the alleged violation, and the action HHS intends to take if the alleged violated is not timely cured by CONTRACTOR.

(D) If neither termination nor cure is feasible, HHS shall report the violation to the Secretary of the U.S. Department of Health and Human Services.

(E) The duties of CONTRACTOR or its Subcontractor under this DUA survive the expiration or termination of this DUA until all the Confidential Information is Destroyed or returned to HHS, as required by this DUA.

6.05 Governing Law, Venue and Litigation

(A) The validity, construction and performance of this DUA and the legal relations among the Parties to this DUA will be governed by and construed in accordance with the laws of the State of Texas.

(B) The Parties agree that the courts of Texas, will be the exclusive venue for any litigation, special proceeding or other proceeding as between the parties that may be brought, or arise out of, or in connection with, or by reason of this DUA.

6.06 Injunctive Relief

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(A) CONTRACTOR acknowledges and agrees that HHS may suffer irreparable injury if CONTRACTOR or its Subcontractor fails to comply with any of the terms of this DUA with respect to the Confidential Information or a provision of HIPAA or other laws or regulations applicable to Confidential Information.

(B) CONTRACTOR further agrees that monetary damages may be inadequate to compensate HHS for CONTRACTOR's or its Subcontractor's failure to comply. Accordingly, CONTRACTOR agrees that HHS will, in addition to any other remedies available to it at law or in equity, be entitled to seek injunctive relief without posting a bond and without the necessity of demonstrating actual damages, to enforce the terms of this DUA.

6.07 Responsibility.

To the extent permitted by the Texas Constitution, laws and rules, and without waiving any immunities or defenses available to CONTRACTOR as a governmental entity, CONTRACTOR shall be solely responsible for its own acts and omissions and the acts and omissions of its employees, directors, officers, Subcontractors and agents. HHS shall be solely responsible for its own acts and omissions.

6.08 Insurance

(A) As a governmental entity, and in accordance with the limits of the Texas Tort Claims Act, Chapter 101 of the Texas Civil Practice and Remedies Code, CONTRACTOR either maintains commercial insurance or self-insures with policy limits in an amount sufficient to cover CONTRACTOR's liability arising under this DUA. CONTRACTOR will request that HHS be named as an additional insured. HHSC reserves the right to consider alternative means for CONTRACTOR to satisfy CONTRACTOR's financial responsibility under this DUA. Nothing herein shall relieve CONTRACTOR of its financial obligations set forth in this DUA if CONTRACTOR fails to maintain insurance.

(B) CONTRACTOR will provide HHS with written proof that required insurance coverage is in effect, at the request of HHS.

6.08 Fees and Costs

Except as otherwise specified in this DUA or the Base Contract, if any legal action or other proceeding is brought for the enforcement of this DUA, or because of an alleged dispute, contract violation, Event, Breach, default, misrepresentation, or injunctive action, in connection with any of the provisions of this DUA, each party will bear their own legal expenses and the other cost incurred in that action or proceeding.

6.09 Entirety of the Contract

This DUA is incorporated by reference into the Base Contract as an amendment thereto and, together with the Base Contract, constitutes the entire agreement between the parties. No change, waiver, or discharge of obligations arising under those documents will be valid unless in writing and executed by the party against whom such change, waiver, or discharge is sought to be

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enforced. If any provision of the Base Contract, including any General Provisions or Uniform Terms and Conditions, conflicts with this DUA, this DUA controls.

6.10 Automatic Amendment and Interpretation

If there is (i) a change in any law, regulation or rule, state or federal, applicable to HIPPA and/or Confidential Information, or (ii) any change in the judicial or administrative interpretation of any such law, regulation or rule,, upon the effective date of such change, this DUA shall be deemed to have been automatically amended, interpreted and read so that the obligations imposed on HHS and/or CONTRACTOR remain in compliance with such changes. Any ambiguity in this DUA will be resolved in favor of a meaning that permits HHS and CONTRACTOR to comply with HIPAA or any other law applicable to Confidential Information.

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Attachment F

OMB Number: 4040-0007
Expiration Date: 02/28/2022

ASSURANCES - NON-CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0040), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

NOTE: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C.§§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U. S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee- 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

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9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally-assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

19. Will comply with the requirements of Section 106(g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended (22 U.S.C. 7104) which prohibits grant award recipients or a sub-recipient from (1) Engaging in severe forms of trafficking in persons during the period of time that the award is in effect (2) Procuring a commercial sex act during the period of time that the award is in effect or (3) Using forced labor in the performance of the award or subawards under the award.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
DocuSigned by: Ruben Becerra C96E4E0BDEF0410...	County Judge
APPLICANT ORGANIZATION	DATE SUBMITTED
Hays County	October 19, 2021

Standard Form 424B (Rev. 7-97) Back

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CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

* APPLICANT'S ORGANIZATION

Hays County

* PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE

Prefix: | * First Name: Ruben | Middle Name:

* Last Name: Becerra | Suffix:

* Title: County Judge

* SIGNATURE: DocuSigned by: Ruben Becerra C96E4E0BDEF0410... | * DATE: October 19, 202

DocuSign Envelope ID: 87720C03-3A2C-44D2-833E-CFEF1F908C49

Fiscal Federal Funding Accountability and Transparency Act (FFATA) CERTIFICATION

The certifications enumerated below represent material facts upon which DSHS relies when reporting information to the federal government required under federal law. If the Department later determines that the Contractor knowingly rendered an erroneous certification, DSHS may pursue all available remedies in accordance with Texas and U.S. law. Signor further agrees that it will provide immediate written notice to DSHS if at any time Signor learns that any of the certifications provided for below were erroneous when submitted or have since become erroneous by reason of changed circumstances. ***If the Signor cannot certify all of the statements contained in this section, Signor must provide written notice to DSHS detailing which of the below statements it cannot certify and why.***

Legal Name of Contractor:	**FFATA Contact # 1 Name, Email and Phone Number:**
Hays County	Marisol Villarreal-Alonzo marisol.alonzo@co.hays.tx.us 512-393-2283
Primary Address of Contractor:	**FFATA Contact #2 Name, Email and Phone Number:**
712 S. Stagecoach Trail Ste. 1071 San Marcos, TX	Vickie G. Dorsett vickie.dorsett@co.hays.tx.us 512-393-2275
ZIP Code: 9-digits Required www.usps.com 78666-6247	**DUNS Number: 9-digits Required www.sam.gov** 097494884
State of Texas Comptroller Vendor Identification Number (VIN) 14 Digits 17460022415002	

Printed Name of Authorized Representative	**Signature of Authorized Representative**
Ruben Becerra	DocuSigned by: Ruben Becerra C96E4E0BDEF0410...
Title of Authorized Representative	**Date**
County Judge	October 19, 2021

DocuSign Envelope ID: 87720C03-3A2C-44D2-833E-CFEF1F908C49

Fiscal Federal Funding Accountability and Transparency Act (FFATA) CERTIFICATION

As the duly authorized representative (Signor) of the Contractor, I hereby certify that the statements made by me in this certification form are true, complete and correct to the best of my knowledge.

Did your organization have a gross income, from all sources, of less than $300,000 in your previous tax year? ☐ Yes ☒ No

If your answer is "Yes", skip questions "A", "B", and "C" and finish the certification.
If your answer is "No", answer questions "A" and "B".

A. Certification Regarding % of Annual Gross from Federal Awards.

Did your organization receive 80% or more of its annual gross revenue from federal awards during the preceding fiscal year? ☐ Yes ☒ No

B. Certification Regarding Amount of Annual Gross from Federal Awards.

Did your organization receive $25 million or more in annual gross revenues from federal awards in the preceding fiscal year? ☐ Yes ☒ No

If your answer is "Yes" to both question "A" and "B", you must answer question "C".
If your answer is "No" to either question "A" or "B", skip question "C" and finish the certification.

C. Certification Regarding Public Access to Compensation Information.

Does the public have access to information about the compensation of the senior executives in your business or organization (including parent organization, all branches, and all affiliates worldwide) through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986? ☒ Yes ☐ No

If your answer is "Yes" to this question, where can this information be accessed?

https://hayscountytx.com/

If your answer is "No" to this question, you must provide the names and total compensation of the top five highly compensated officers below.

Provide compensation information here:

See above

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Certificate Of Completion

Envelope Id: 87720C033A2C44D2833ECFEF1F908C49
Status: Completed
Subject: Please DocuSign: HHS001096400019;Hays Co; Base; Signature Packet.pdf
Source Envelope:
Document Pages: 70
Signatures: 6
Certificate Pages: 5
Initials: 0
AutoNav: Enabled
EnvelopeId Stamping: Enabled
Time Zone: (UTC-06:00) Central Time (US & Canada)

Envelope Originator:
CMS Internal Routing Mailbox
11493 Sunset Hills Road
#100
Reston, VA 20190
CMS.InternalRouting@dshs.texas.gov
IP Address: 160.42.85.9

Record Tracking

Status: Original
10/19/2021 10:31:05 AM
Holder: CMS Internal Routing Mailbox
CMS.InternalRouting@dshs.texas.gov
Location: DocuSign

Signer Events	Signature	Timestamp
Ruben Becerra judge.becerra@co.hays.tx.us Hays County Judge Hays County Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 10/19/2021 11:54:41 AM ID: 6ecd52e3-984c-4056-a99b-e6565a68599b	DocuSigned by: Ruben Becerra C96E4E0BDEF0410... Signature Adoption: Pre-selected Style Using IP Address: 147.26.130.152	Sent: 10/19/2021 10:35:45 AM Viewed: 10/19/2021 11:54:41 AM Signed: 10/19/2021 12:34:57 PM
Susana Garcia Susana.Garcia@dshs.texas.gov CTCM, Unit Director DSHS Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 10/19/2021 1:01:15 PM ID: b50b6d2c-f903-42ed-89b3-63934305a834	**Completed** Using IP Address: 160.42.85.12	Sent: 10/19/2021 12:34:59 PM Resent: 10/19/2021 1:03:36 PM Viewed: 10/19/2021 1:03:59 PM Signed: 10/19/2021 1:06:18 PM
Patty Melchior Patty.Melchior@dshs.texas.gov Director, DSHS CMS Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 10/19/2021 1:13:20 PM ID: c972e337-cc29-449b-8a27-a67c03d68251	**Completed** Using IP Address: 167.137.1.9	Sent: 10/19/2021 1:06:20 PM Viewed: 10/19/2021 1:13:20 PM Signed: 10/19/2021 1:13:31 PM
Imelda Garcia ImeldaM.Garcia@dshs.texas.gov Associate Commissioner Texas Health and Human Services Commission Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 7/6/2021 8:08:45 AM ID: 1a6909aa-b026-45a9-be9f-4240c2e32ff9	DocuSigned by: Imelda Garcia 87AFD32AD0D24A9... Signature Adoption: Pre-selected Style Using IP Address: 160.42.85.12	Sent: 10/19/2021 1:13:34 PM Viewed: 10/19/2021 1:15:42 PM Signed: 10/19/2021 1:15:50 PM

In Person Signer Events	Signature	Timestamp

Editor Delivery Events	Status	Timestamp

Agent Delivery Events	Status	Timestamp

Intermediary Delivery Events	Status	Timestamp

Certified Delivery Events	Status	Timestamp

Carbon Copy Events	Status	Timestamp
Tammy Crumley tammy.crumley@co.hays.tx.us Director County Wide Operations Hays County Local Health Department Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	COPIED	Sent: 10/19/2021 10:35:44 AM
CMS Internal Routing Mailbox CMS.InternalRouting@dshs.texas.gov DSHS Contract Management Section Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	COPIED	Sent: 10/19/2021 1:15:53 PM Resent: 10/19/2021 1:15:56 PM
Lacy Alexander lacy.alexander@dshs.texas.gov Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	COPIED	Sent: 10/19/2021 1:15:53 PM Viewed: 10/19/2021 1:30:51 PM

Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	10/19/2021 10:35:44 AM
Certified Delivered	Security Checked	10/19/2021 1:15:42 PM
Signing Complete	Security Checked	10/19/2021 1:15:50 PM
Completed	Security Checked	10/19/2021 1:15:53 PM

Payment Events	Status	Timestamps

Electronic Record and Signature Disclosure

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

From time to time, DSHS Contract Management Section (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through the DocuSign system. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to this Electronic Record and Signature Disclosure (ERSD), please confirm your agreement by selecting the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

Getting paper copies

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. You will have the ability to download and print documents we send to you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a $0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact DSHS Contract Management Section:

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:
To contact us by email send messages to: alison.joffrion@hhsc.state.tx.us

To advise DSHS Contract Management Section of your new email address

To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at alison.joffrion@hhsc.state.tx.us and in the body of such request you must state: your previous email address, your new email address. We do not require any other information from you to change your email address.

If you created a DocuSign account, you may update it with your new email address through your account preferences.

To request paper copies from DSHS Contract Management Section

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an email to alison.joffrion@hhsc.state.tx.us and in the body of such request you must state your email address, full name, mailing address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with DSHS Contract Management Section

To inform us that you no longer wish to receive future notices and disclosures in electronic format you may:

i. decline to sign a document from within your signing session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;

ii. send us an email to alison.joffrion@hhsc.state.tx.us and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

The minimum system requirements for using the DocuSign system may change over time. The current system requirements are found here: https://support.docusign.com/guides/signer-guide-signing-system-requirements.

Acknowledging your access and consent to receive and sign documents electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

By selecting the check-box next to 'I agree to use electronic records and signatures', you confirm that:

- You can access and read this Electronic Record and Signature Disclosure; and
- You can print on paper this Electronic Record and Signature Disclosure, or save or send this Electronic Record and Disclosure to a location where you can print it, for future reference and access; and
- Until or unless you notify DSHS Contract Management Section as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by DSHS Contract Management Section during the course of your relationship with DSHS Contract Management Section.

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Authorize the purchase of items from BJ's Tees for $1,793.96 for the continuing education safety program for the Transportation Department.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
CONSENT	November 2, 2021	$1,793.96

LINE ITEM NUMBER

020-710-00.5391

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** MARISOL VILLARREAL-ALONZO

REQUESTED BY	SPONSOR	CO-SPONSOR
Jerry Borcherding	BECERRA	JONES

SUMMARY

The Transportation Department would like to purchase these items as incentives for safety-related awareness practiced throughout the year as a part of the continuing education safety program.

BJ's Tees, LLC
2206A Old Ranch Rd 12
San Marcos, TX 78666 US
bjs.tees.llc@gmail.com
www.sanmarcostees.com

ADDRESS
Hays County Safety Awards
Tim Vandevorde
1307 Uhland Road
San Marcos, TX 78666

Estimate 2196

DATE 10/18/2021

ACTIVITY	DESCRIPTION	QTY	RATE	AMOUNT
Description	Hays County Safety Awards - 2021	1	0.00	0.00
Embroidery	JM-123 Navy Blue 6-panel 2/placement embellished Caps with Yellow Gold	108	12.55	1,355.40
Screen Print	XL #1553B M.L. Khishigo Safety Orange 1/cb Safety Vests	4	48.50	194.00
Screen Print	2XL #1553B M.L. Khishigo Safety Orange 1/cb Safety Vests	4	51.50	206.00
Freight	Freight/Inbound	1	38.56	38.56

TOTAL **$1,793.96**

Accepted By

Accepted Date

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Authorize the execution of an Interlocal Agreement with the Texas A&M AgriLife Extension Service for the Feral Hog Abatement Program in the amount of $7,500 and amend the budget accordingly.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
CONSENT	November 2, 2021	$1,250.00

LINE ITEM NUMBER

001-899-99-109]

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: YES **AUDITOR REVIEW:** MARISOL VILLARREAL-ALONZO

REQUESTED BY	SPONSOR	CO-SPONSOR
T. Crumley	JONES	N/A

SUMMARY

The County Feral Hog Abatement Grant is designed to encourage counties across the State of Texas to make a concentrated and coordinated effort to reduce the feral hog population and the damage caused by these animals throughout the year. Hays County will participate in a co-managed regional feral hog abatement effort with cooperating counties including Caldwell and Guadalupe. The County will work with Texas State University-The Meadows Center for Water and Environment to provide professional services associated with this grant. The grant submission was approved on August 24th, 2021.

There is a $1,250.00 match request to account for the bounty program.

Grant Period: 10/1/2021-8/31/2022
Total Project Cost: $7,500.00
Match: $1,250.00

Budget Amendment:
Increase Intergovernmental Revenue .4301 - ($6,250)
Decrease County Wide Contingencies 001-645-00.5399 - ($1,250)
Increase Supplies .5201 - $650
Increase Eqpt Maint .5411 - $600
Increase Contract Services .5448- $6,250

Attachments:
Interlocal_Agreement - Extension - A&M_Hays County - Feral Hog Abatement 2022

DocuSign Envelope ID: FBC42DD8-A380-409E-9663-02FAA8FB1D6B

INTERLOCAL AGREEMENT
by and between
HAYS COUNTY
and
TEXAS A&M AGRILIFE EXTENSION SERVICE

This Interlocal Agreement (hereafter termed "Agreement") is made pursuant to Chapter 791, Texas Government Code, *Interlocal Cooperation Contract*, and is entered into by and between the **Hays County** (hereafter referred to as "COUNTY"), a county within the State of Texas and **Texas A&M AgriLife Extension Service** (hereafter referred to as "AGRILIFE EXTENSION"), a member of The Texas A&M University System, an agency of the State of Texas. COUNTY and AGRILIFE EXTENSION may be referred to herein individually as "Party" or collectively as the "Parties".

SECTION 1
PURPOSE

1.01 In accordance with S.B. No. 1, 87th Regular Legislative Session, 2021, (General Appropriations Act for the 2022-23 Biennium) Article III, page 227, rider 6, funds were appropriated to AGRILIFE EXTENSION for the Feral Hog Abatement Program (the "Program") to implement feral hog abatement technologies. As part of the Program, AGRILIFE EXTENSION shall use a portion of the appropriated funds to fund grants for county feral hog eradication projects in Texas.

1.02 AGRILIFE EXTENSION requested grant applications in support of the Program from Texas counties setting forth the County's proposed feral hog abatement eradication project (the "Project"). COUNTY has proposed to complete the Project as set out in the COUNTY's Application including a Description of Activities (collectively "Application") attached hereto as Attachment A and fully incorporated herein by reference.

1.03 AGRILIFE EXTENSION desires to have COUNTY complete the Project to accomplish the goals of responding and complying with the Program. Accordingly, AGRILIFE EXTENSION and COUNTY enter into this Agreement as follows:

SECTION 2
TERM

2.01 *Fixed Term*: This Agreement commences on October 1, 2021 and will terminate on August 31, 2022, unless cancelled according to section 2.02 of this Agreement.

2.02 *Cancellation*: This Agreement may be cancelled prior to the expiration of the Fixed Term or any Extension Term by either Party, upon thirty (30) calendar days written notice to the other Party, sent to the address indicated in Section 5.01 of this Agreement.

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SECTION 3
COUNTY OBLIGATIONS

3.01 *Performance*: COUNTY shall implement the feral hog abatement technologies as set out in the Application.

3.02 *Subcontractors:* Any delegation by the COUNTY to a subcontractor regarding any duties and responsibilities imposed by this Agreement must be approved in advance by AGRILIFE EXTENSION and shall not relieve the COUNTY of its responsibilities to AGRILIFE EXTENSION for its performance.

3.03 *Progress Reports*: COUNTY shall submit to AGRILIFE EXTENSION quarterly progress reports reflecting progress of work completed on the Project as well as financial progress.

3.04 *Final Report*: COUNTY will submit to AGRILIFE EXTENSION a written report on accomplishments achieved as a result of the Project, which shall include information on the number of feral hogs abated and the methods used for such abatements no later than August 1, 2022.

3.05 *Records:* COUNTY must keep a separate bookkeeping account with a complete record of all expenditures relating to the Project. Project records shall be maintained by COUNTY for seven (7) years after the completion of the Project, or as otherwise agreed upon with AGRILIFE EXTENSION. AGRILIFE EXTENSION and the Texas State Auditor's Office ("State Auditor") reserve the right to examine all books, documents, records, and accounts relating to the Project at any time throughout the duration of the Agreement and for three years immediately following completion of the Project. If any litigation, claim, negotiation, audit or other action is initiated prior to the expiration of the retention period, then the records must be retained until authorized by AGRILIFE EXTENSION. AGRILIFE EXTENSION and the State Auditor shall have access to the physical locations related to Project activities.

3.06 *Audit:* If the COUNTY has a financial audit performed during the time the COUNTY is receiving funds from AGRILIFE EXTENSION for the Project, upon request, AGRILIFE EXTENSION shall have access to information about the audit, including the audit transmittal letter, management letter, and any schedules in which the COUNTY's funds are included.

3.07 *Compliance:* At all times during the term of this Agreement, COUNTY must comply with *Texas Government Code*, Chapter 783, Uniform Grant and Contract Management, and the Uniform Grant Management Standards (UGMS) and 2 CFR Part 200.

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SECTION 4
COMPENSATION

4.01 *Fee*: This is a cost reimbursable Agreement. AGRILIFE EXTENSION agrees to pay COUNTY up to **$7,500** for performance of the Project. Payment shall be cost reimbursable based on actual costs incurred by COUNTY in accordance with the Application but will not exceed $7,500 total. Payment shall be made within thirty (30) days after receipt of invoice in accordance with Chapter 2251, *Texas Government Code*.

4.02 *Invoices*: COUNTY may submit cost reimbursable invoices to AGRILIFE EXTENSION quarterly, but in no event shall invoice be submitted any later than August 31, 2022. The invoice(s) must include sufficient detail and relevant supporting documentation. Backup detail may include, but is not limited to, documentation of personnel expenses, or copies of invoices. The combined amount of the invoices submitted by COUNTY may not exceed $7,500. All invoices shall be submitted to the following address:

Texas A&M AgriLife Extension Services
Attn: Gina D. Chairez-Blochlinger
P.O. Box 690170
San Antonio, TX 78249
(a copy may be sent by Email to: Gina.D.Chairez@usda.gov)

4.03 *Payment Schedule:* Up to 90% of the total grant award may be reimbursed provided the work for which payment is requested has been completed and proper documentation has been submitted. The remaining 10% will only be disbursed once all reporting requirements have been met, including, but not limited to, the final performance report.

4.04 *Eligible Expenses:* Generally, expenses that are necessary and reasonable for proper and efficient performance and administration of the Project are eligible. Examples of eligible expenditures include:

1. Personnel costs, including salary and benefits related to temporary or event staff; grant funds may not be used to pay for existing employees in the performance of their day-to-day duties.
2. Direct operating expenses that directly relate to Project activities; this may include facility rental or other workshop related expenses (note: meals, food, or beverages of any kind are not considered an eligible expense).
3. Supplies that cost less than $5,000, such as office supplies, printing services, and materials needed to accomplish the proposed Project.
4. Vendor contracts (i.e. agreements made with a third-party to perform a portion of the Project services).
5. Controlled assets, which are defined as certain items valued $500.00 - $4,999.99 which must also be inventoried, see: https://fmx.cpa.texas.gov/fmx/pubs/spaproc/appendices/appa/index.php.
6. If grant funds are proposed by COUNTY to be used to fund bounty efforts, COUNTY must have a written policy implemented to prevent the intentional

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breeding and raising of feral hogs for the purpose of meeting bounty requirements. **In addition, bounty-related grant fund reimbursement is limited to 50% of the bounty paid and a maximum of $5.00 per feral hog.**

4.05 *Ineligible Expenses:* Expenses prohibited by state or federal law or determined to be ineligible by Program guidelines will not be reimbursed. Examples of these ineligible expenditures include, but are not limited to the following:

1. Alcoholic beverages;
2. Entertainment;
3. Contributions, charitable or political;
4. Expenses falling outside of the contract period;
5. Items not listed in the project budget or an approved amendment;
6. Expenses that are not adequately documented;
7. Travel, including but not limited to mileage reimbursement, meals and lodging; and
8. Meals, food or beverage costs of any kind, including those associated with an educational workshop.

4.06 *Non-expended grant funds:* If COUNTY fails to incur cost reimbursable expenses in the amount specified in Paragraph 4.01 during the term of this Agreement and properly invoice for same in accordance with the terms hereof, COUNTY shall not be entitled to such unspent funds. Any unspent funds will remain with AGRILIFE EXTENSION.

SECTION 5
MISCELLANEOUS

5.01 *Notices*: Fee payment or notices required under this Agreement may be sent by United States Postal Service regular surface mail, certified mail, registered mail, overnight delivery, or hand delivery. Written notice delivery is deemed made when the notice is deposited into a USPS mail receptacle, or deposited with an overnight carrier, or hand delivered. Either Party can change the notice address by sending to the other Party written indication of the new address. Notices should be addressed as follows:

COUNTY: Hays County
Attn: Ruben Becerra, County Judge
111 E. San Antonio St., Ste. 300
San Marcos, TX 78666

AGRILIFE EXTENSION: Texas A&M AgriLife Extension Service
ATTN: Michael Bodenchuk, State Director

By U.S. mail: P.O. Box 690170
San Antonio, TX 78269

By courier: 5730 Northwest Parkway
San Antonio, TX 78249

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5.02 *Force Majeure*: Any and all duties, obligations, and covenants of this Agreement will be suspended during time of natural disaster, war, acts of terrorism, or other "Acts of God", which prevent a Party from fulfilling any and all duties, obligations, and/or covenants of this Agreement. If a Party is prevented from fulfilling a duty, obligation, and/or covenant of this Agreement, due to Force Majeure, the Party prevented from fulfilling will notify the other Party in writing, sent pursuant to Section 5.01 Agreement, within fourteen (14) calendar business days of the Force Majeure event.

5.03 *Parties Relationship*: Nothing in the Agreement should be construed as creating a partnership, joint venture, agency relationship, or any other relationship other than, between COUNTY and AGRILIFE EXTENSION.

5.04 *Applicable Law*: This Agreement is construed under and in accordance with the laws of the State of Texas.

5.05 *Cumulative Rights*: All rights, options, and remedies contained in this Agreement and held by COUNTY and AGRILIFE EXTENSION are cumulative and the exercising of one will not exclude exercising another. COUNTY and AGRILIFE EXTENSION each have the right to pursue any remedy or relief which may be provided by law, in equity, or by the stipulations of this Lease.

5.06 *Non-waiver*: A waiver by either COUNTY or AGRILIFE EXTENSION, or both, of any obligation, duty, or covenant of this Agreement will not constitute a waiver of any other breach of any obligation, duty, or covenant of this Agreement.

5.07 *Counterparts*: This Agreement can be executed in multiple counterparts, each of which is declared an original.

5.08 *Severability*: If any clause of provision of this Agreement is illegal, invalid or unenforceable under present or future law, COUNTY and AGRILIFE EXTENSION intend that the remaining clauses or provisions of this Agreement will not be affected and will remain in full force and effect.

5.09 *Entire Agreement*: This Agreement contains the final and entire agreement between COUNTY and AGRILIFE EXTENSION, and will not be amended, explained, or superseded by any oral or written communications; unless done so in a subsequent, written, and mutually agreed upon amendment.

5.10 *Successors and Assigns*: All the obligations, duties, covenants, and rights contained in this Agreement and performable by COUNTY will be applicable and binding upon respective successors and assigns, including any successor by merger or consolidation; however, nothing in this provision shall be construed to be consent of Assignment of this Agreement.

5.11 *Nondiscrimination*: COUNTY and AGRILIFE EXTENSION, and their agents or employees, are prohibited from discriminating on the basis of race, color, sex, age,

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religion, national origin, or handicap, in the performance of the terms, conditions, covenants and obligations of this Agreement.

5.12 *Dispute Resolution*: Any dispute between COUNTY and AGRILIFE EXTENSION regarding this Agreement will be governed by Texas Government Code, Chapter 2009, *Alternative Dispute Resolution for Use by Governmental Bodies*, and any applicable Model Rules promulgated by the Office of the Attorney General, the State of Texas. Any notice of dispute tendered by COUNTY should be to Ralph Stevens, Director of Procurement, AGRILIFE EXTENSION.

AGREED and EXECUTED on the dates indicated below, by COUNTY's and AGRILIFE EXTENSION's duly authorized representatives.

HAYS COUNTY

By: _____
Name: Ruben Becerra
Title: County Judge
Date: _____

TEXAS A&M AGRILIFE EXTENSION SERVICE

By: DocuSigned by: Jeffrey Hyde 322EA14332EC4DF... _____
Name: Dr. Jeff Hyde
Title: Director
Date: October 21, 2021 | 1:12 PM CDT

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Attachment A

Application must be received by: **Friday, August 20, 2021**. Late or incomplete applications will not be considered.

County Information

County Name: **Hays County**

Mailing Address: **111 E. San Antonio St., Ste. 300**
Street Address

San Marcos | **TX** | **78666**
City | *State* | *Zip Code*

Physical Address: **111 E. San Antonio St., Ste. 300**
Street Address

San Marcos | **TX** | **78666**
City | *State* | *Zip Code*

Contact Personnel

(1) Name of Primary Program Contact *(This person can answer day-to-day questions about the project.)*

Full Name: **Nick** (*First*) **Dornak** (*Last*) ☒ Mr. ☐ Dr. ☐ Ms. ☐ Other ____

Position Title: **Director of Watershed Services, Meadows Center for Water and the Environment**

Email Address: **nickdornak@txstate.edu**

Phone: **(512) 245 - 6697** Ext. Alt #:**(512) 213 - 7389**

(2) Name of Authorized Official *(This person is authorized to enter into legal agreements on behalf of the organization. This person's name will appear on the grant agreement for signature.)*

Full Name: **Ruben** (*First*) **Becerra** (*Last*) ☒ Mr. ☐ Dr. ☐ Ms. ☐ Other **Judge**

Position Title: **County Judge**

Email Address: **judge.becerra@co.hays.tx.us**

Phone: **(512) 393 - 2205** Ext. Alt #:( ) -

Program Information

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Previous Participation

- Has your County previously participated in the feral hog abatement grants? ☒ **Yes** ☐ **No**
- If yes, what years? **__2012, 2013, 2018, 2019, 2020, 2021_____**
- Has your County previously received a grant through any TDA or Texas A&M AgriLife Extension Service feral hog abatement program? ☒ **Yes*** ☐ **No**
- If yes, what years? **___2013, 2018, 2019, 2020, 2021_____**

Quantifiable Information and Description of Activities

Please provide a narrative describing the feral hog abatement program and your use of the funds. Include as much detail as necessary for the reviewers to evaluate your proposal against the evaluation criteria. Include budget, past final reports and bounty pool commitments as appropriate.

Hays County is requesting a Texas A&M AgriLife Extension Service, Wildlife Services (WS) program County Feral Hog Abatement Grant (grant) in the amount of $7,500.

Grant funds will be used to continue to develop stakeholder engagement programs and to purchase supplies and equipment toward the goal of reducing the damage and extent of feral hog (*Sus scrofa*) activity in Hays County, Texas. **This effort will be strengthened and enhanced by Hays County's participation in The Central Texas Feral Hog Task Force, a co-managed, regional feral hog abatement effort with cooperating counties including, Guadalupe and Caldwell.** The grant will enable Hays County to take advantage of a regional communication network and share resources with partner counties while also implementing specific mitigation efforts designed for the cultural and land use priorities that make Hays County unique.

Hays County and its partners are not alone in suffering millions of dollars in damages to property and natural resources from feral hog activity. What sets Hays County and our partners apart, however, are the tools and experience each county possesses in grant management, stakeholder engagement and watershed protection that will serve to ensure grant funds achieve program goals. Four watershed protection plans (WPP) are currently being implemented in the three-county region: Cypress Creek WPP and Upper San Marcos River WPP (Hays); Plum Creek WPP (Hays-Caldwell); Geronimo-Alligator Creek WPP (Caldwell). Historic and ongoing impacts to water quality from feral hogs in these watersheds have been well documented. A 12-month Bacterial Source Tracking (BST) study completed for Plum Creek in 2018 demonstrated that non-avian wildlife was the most dominant source of *E. coli* throughout the watershed (**Figure 1**). Feral hogs are highly suspected to be the driver of wildlife *E. coli* in Plum Creek as well as Geronimo and Alligator Creeks in Guadalupe County due to their active population, biology and behavioral patterns that keep them close to the cool, vegetated riparian areas along streams. More information on the Plum Creek Watershed Protection Plan can be found at http://plumcreek.tamu.edu/.

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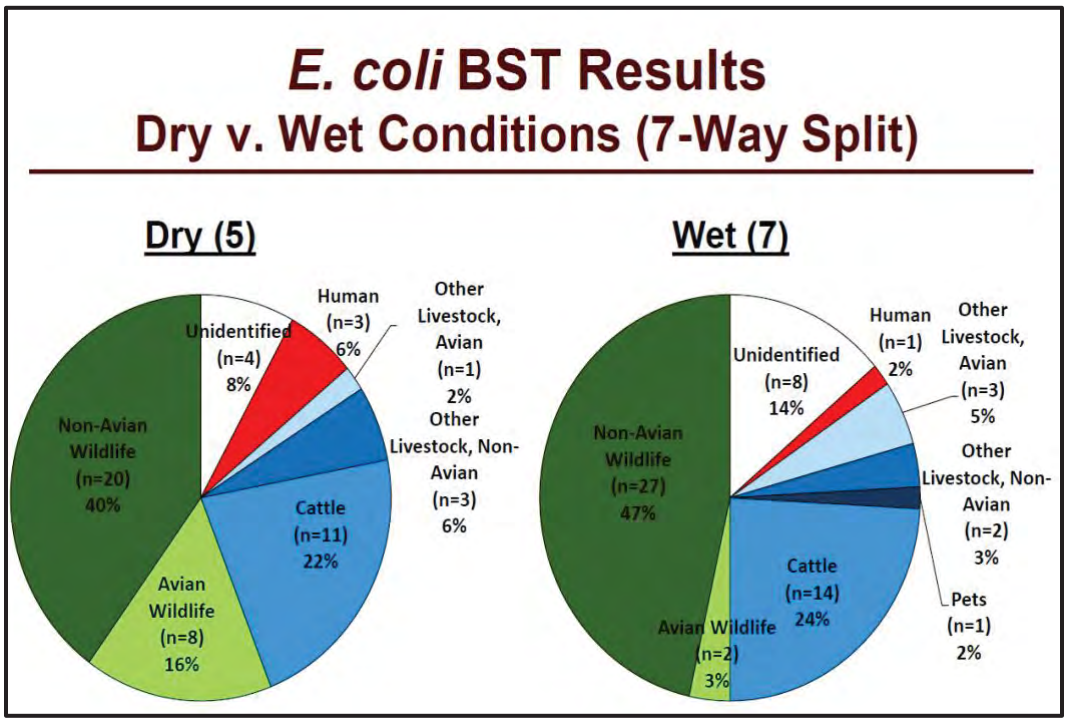

Figure 1. Results of 12-month Plum Creek Watershed, Bacterial Source Tracking Study (Wet versus Dry Conditions) completed by the Plum Creek Watershed Partnership, Guadalupe-Blanco River Authority and the Texas A&M Soil and Aquatic Microbiologic Laboratory.

Each partner county in the has successfully participated in feral hog management activities, most notable being Caldwell County's Feral Hog Task Force established in 2013, whose ongoing outreach, education and direct abatement efforts have led to the documented removal of over 15,000 feral hogs in Caldwell County and the Plum Creek Watershed.

The continued development of The Central Texas Feral Hog Task Force, a regional feral hog abatement program for Caldwell, Guadalupe and Hays County through this grant program will ensure the following deliverables: (1) a *continuation of multifaceted feral hog management programs for partner counties;* (2) a centralized website, www.feralhogtaskforce.com, for sharing information about feral hog programs, tracking progress and announcing upcoming opportunities throughout the region with links to existing resources as well as dedicated pages for each partner county; (3) development and allocation of shared resources for participating counties including: *a county-level damage assessment*, miscellaneous program forms (ex. landowner surveys, bounty participation forms, etc.); (4) equipment sharing cooperatives (ex. remote operated traps); (5) cost-sharing incentive programs (ex. trapping supplies); (6) coordinated educational programming including webinars AND one county-based workshop for each partner county; and (7) a dynamic social media campaign to enhance program success and expand program reach. Partner counties may also participate in bounty programs and aerial hunting contracts.

Public-private partnerships will serve as a catalyst for greater program impact by leveraging grant funds to expand projects and incentivize stakeholder ownership in the feral hog abatement effort.

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Hays County and our cooperating partners, Guadalupe Co. and Caldwell Co., will work with county staff, AgriLife, Texas State University – Meadows Center for Water and the Environment, the Plum Creek Watershed Partnership, local business, NGOs and others to coordinate efforts and deliver feral hog abatement programs with a goal of the documented removal of 6,000 feral hogs throughout the region during the project period.

Work Plan

ACTIVITY	ACTIVITY COMPLETED BY	TIMELINE	
		START DATE	END DATE
Grant administration	Hays County	9/01/2021	7/31/2022
General Project Management	Interlocal Contract with Texas State University – Meadows Center for Water and the Environment (Meadows)	9/01/2021	7/31/2022
Website maintenance and networking	Meadows	9/01/2021	7/31/2022
Two (2) landowner outreach events	Plum Creek Watershed Partnership and Meadows will coordinate one (1) Hays Co. Feral Hog Abatement Workshop. Plum Creek Watershed Partnership will develop one 1-hour subject specific webinar. *(assisted by Meadows)*	9/01/2021	7/31/2022
Hays County Feral Hog Removal Tracking including a County Level Damage and Control Assessment	Meadows and Plum Creek Watershed Partnership (surveys)	9/01/2021	7/31/2022
Remote-operated feral hog trap sharing cooperative	Central Texas Feral Hog Task Force *(assisted by Meadows)*	9/01/2021	7/31/2022
Hays County Feral Hog Bounty Program	Meadows (*assisted by Hays County)*	9/01/2021	7/31/2022
Development of Final Report	Meadows	9/01/2021	7/31/2022

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Project Results

Documentation of harvested feral hogs through voluntary reporting and/or aerial hunting programs will be completed by Meadows. This includes a harvest log.

- Remote-operated feral hog trap sharing cooperative – Estimated number of hogs to be taken = 100
- Hays County Feral Hog Bounty Program – Estimated number of hogs taken = 500
- Voluntary Reporting – Estimated number of hogs to be taken = 200

Total feral hogs estimated to be taken through use of grant funds = 800

Project Oversight

Nick Dornak, Director of Watershed Services - Meadows

Nick Dornak is currently the Director of Watershed Services for Meadows, has served as Coordinator of the Plum Creek Watershed Partnership from 2012 through 2018 and is the founder and administrator of the Caldwell County Feral Hog Task Force, now the Central Texas Feral Hog Task Force, established in 2013. Mr. Dornak has written and/or managed over 30 local, state and federal grants since 2012. An MOA or ICA between each partner county (Hays, Caldwell, and Guadalupe County, respectively) and Meadows ill secure Mr. Dornak's services for the regional feral hog abatement network development and project management.

The Hays County AgriLife Extension

Will assist in coordinating and facilitating the Feral Hog Abatement Workshop and the Hays County Bounty Program.

The Hays County Grant Office

Assist in the application development and coordination. In addition, administrative functions such as coordinating meetings with stakeholders and assisting in any programmatic reporting as needed.

The Hays County Auditor's Office

Oversee financial terms of the grant. Any payments and reimbursements must be approved by the Hays County Judge and/or Hays County Commissioners.

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Project Budget

Category	Amount	Description
Personnel	$0.00	n/a
Equipment	$0.00	n/a
Supplies	$650.00	Updated branding materials, educational materials for workshop, printing and bounty claim supplies.
Contractual	$0.00	n/a
Other	$6,850.00	**$5,000** - ICA with Texas State University Meadows Center for Water and Environment to provide professional services toward: project management; website management, www.feralhogtaskforce.com; manage social media campaign; feral hog removal tracking; assist coordination of remote-operated feral hog trap sharing cooperative (utilize existing Caldwell Co. traps); assist in coordinating relaunch of Hays County Bounty Program; development of final report. Meadows will coordinate with the Plum Creek Watershed Partnership who will lead (1) Hays Co. workshop and (1) one-hour webinar and deliver surveys to obtain County Level damage and Control Assessment **$600** - FY2020 annual service contract with Wireless Traps for existing Hays Co. Remote-Operated Trap **$1,250** – 50% of bounties paid on 500 feral hogs removed from Hays County at $5 per hog. Hays County will cover additional $1,250.
Total	**$7,500.00**	

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TEXAS DEPARTMENT OF AGRICULTURE

COUNTY HOG ABATEMENT MATCHING PROGRAM

FINAL IMPACT EVALUATION

Project Title: ***Implementation of the Caldwell-Hays County Feral Hog Action Plan***

Grantee: Caldwell County

Project Manager: Nick Dornak, 512-213-7389, ccfhtf@gmail.com

PROJECT SUMMARY

The FY2014 Caldwell-Hays County Feral Hog Action Plan (Action Plan) provides directives for a dynamic approach to achieve significant reductions in damage caused by invasive, feral swine in Caldwell County and Hays County, Texas, through (1) operational and technical assistance to landowners, (2) financial incentives, and (3) professional services for direct control of feral hogs to abate impacts on agricultural resources, personal property, native wildlife, riparian habitat and water quality.

The Action Plan has been coordinated and administered by the Caldwell County Feral Hog Task Force (CCFHTF) to demonstrate a short duration (12-month), high intensity, two-county, landowner "cooperative" approach to feral hog management. Due to rapid growth rates demonstrated by feral swine and behavioral tendencies that tend to make individual control options more costly and less effective over time, a diverse and highly intensive program was intended to significantly reduce the feral hog population growth curve in the project area within one year, making long-term management of feral swine a real and feasible option for Caldwell County and Hays County, TX.

While the population of feral hogs in the project area remains unknown, numerous efforts are underway to quantify current and historic harvest rates and to determine the extent of agricultural property damage to the project area as a result of feral hog activities. It should be noted that over 1,100 hogs were confirmed to be harvested throughout the project area from October through December of 2012 as a result of Hog Out Activities; however, feral hog damage and sightings continued to be reported at a consistent and alarming rate throughout the project area in 2013. Motorist collisions with feral hogs in the project area were continuing to rise, putting travelers at risk. Water quality impacts from feral hog activity continue to be felt throughout the Plum Creek watershed.

Due to the variability of land type, population diversity and control measures available it was determined that a variety of programs should be implemented for the proposed Action Plan to have the desired effect on the overall feral hog population and to demonstrate environmental and property damage reductions. A critical component of the Action Plan is an educated and highly energized stakeholder base in the two-county project area as a result of years of outreach and education. This was clearly demonstrated by the broad support this application received in terms of significant financial contributions from 10 project partners, volunteer hours pledged by an additional 6 project partners and 24 total letters of support and/or financial assistance from businesses, agricultural groups, environmental groups, wildlife management associations, cities, counties and individual landowners.

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PROJECT APPROACH / GOALS & OUTCOMES

Professional Trapping Services

Preliminary CHAMP contract harvest goal = 500 feral hogs ($30/hog)

- **Total harvest: *OGM CHAMP contract + OGM (private LOAs)* = 326 feral hogs**
- Harvest via OGM CHAMP contract (grand funds only) = 217 feral hogs ($85.41/hog)
- OGM Reporting (private LOAs) = 109 feral hogs

Ortiz Game Management and Wildlife Development (OGM) conducted intensive feral hog trapping services for participating landowners from December 1, 2013 through March 31, 2013. Two public meetings of the CCFHTF were utilized to inform interested and concerned citizens about the services offered by OGM and to enroll participants. Individuals seeking help privately were also referred to OGM during the contract period. It was anticipated that OGM's efforts would be most beneficial to small acreage and suburban landowners in Hays and Caldwell County where hunting and large-scale landowner trapping are not realistic options; however, most abatement activities performed by OGM throughout the grant term were on rural areas in the Plum Creek and San Marcos River watersheds in Caldwell and Hays County. In total, OGM provided services for 8 primary landowners during the grant term, but efforts were also coordinated with neighboring landowners making the total impact significantly larger. Hunting and trapping operations were conducted on approximately 3,500 acres during the grant term.

Lessons Learned

Landowner exposure to OGM's services and word-of-mouth advertising kept OGM in operation via private LOAs in both counties through August of 2014. While the actual feral hog harvest from professional trapping services did not meet the pre-project anticipated harvest, this component of the Action Plan was very popular among participating landowners and received much media exposure serving to enhance outreach efforts of the CCFHTF. The services provided by feral hog control professionals, like OGM, are broad with benefits including rapid response and the ability to apply controls in a variety of settings from urban to rural. In many cases, cost per hog may be higher than traditional landowner hunting/trapping methods; however, *professionals are not hired to remove "cheap" hogs*, typically responding to the needs of landowners experiencing tremendous damage from feral hogs without the means to effectively address the problem. OGM continues to partner with the CCFHT in a variety of ways including monthly reporting.

County Totals = Caldwell (284) / Hays (42)

Aerial Control Services

Preliminary CHAMP contract harvest goal = 375 feral hogs ($30/hog)

- **Total Harvest: *HToT CHAMP contract + HToT (private LOAs) + TWS* = 736 feral hogs**
- Harvest via HToT CHAMP contract (grant funds only) = 138 ($59.42/hog)
- HToT Reporting (private LOAs) = 378
- Texas Wildlife Services (2 flights) = 220

Existing landowner agreements (LOAs) with Texas Wildlife Services (TWS) cover approximately 40,000 acres of the Plum Creek Watershed in Caldwell County. Plans to recommit landowners with existing agreements and expand into additional lands led to two TWS aerial control operations in the spring of

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2014, which removed 220 feral hogs from the Plum Creek watershed. To enhance the effectiveness of aerial control from TWS, the Action Plan called for aerial operations to be conducted by a local company, Helicopter Tours of Texas (HToT), throughout FY2014. HToT provides rapid response with trained marksmen at a rate of $750/hour which was covered 100% by CHAMP grant funds for participating landowners. HToT conducted 6 operations under the grant contract, removing 138 feral hogs for an average production rate of 12.5 hogs per hour. Flights conducted by HToT per private LOAs and through their sister nonprofit, Operation Dustoff, removed an additional 378 feral hogs from December 2013 through August 2014. Due to the success of aerial operations, increased landowner adoption of this control method and outreach efforts of the CCFHTF to support Operation Dustoff, aerial control operations were regularly conducted in the project area from December 2013 through August 2014.

Lessons Learned

The Action Plan was initially budgeted to provide funding for up to 15 flight hours from HToT which prior to CHAMP operations, held approximately 6,000 acres of LOAs in Caldwell County. HToT now operates on more than 10,000 acres in Caldwell County and supports Operation Dustoff, a nonprofit that provides opportunities for retired military veterans to put their superior marksmen skills to use in aerial feral hog control operations. Due to the success and funding for Operation Dustoff, the CHAMP contract with HToT was reduced to 11 hours with funds being transferred to support additional professional trapping services in Hays County.

The aerial control harvest production rate for contracted flights using CHAMP grant funds was lower than expected. At times HToT has reported harvest rates exceeding 50 hogs per hour; however, this can be affected by numerous variables, including time of year and other feral hog control activities in the project area. The harvest rate reported by TWS during their flights was also down from flights conducted on the same properties in 2010. It should be noted that TWS did report seeing some of the largest sounders of feral hogs that the pilot had ever witnessed, possibly exceeding 80 individuals.

As is the case with OGM, *professionals are not hired to remove "cheap" hogs*. HToT and its support of Operation Dustoff allow for rapid response in high-demand situations. HToT and Operation Dustoff continue to partner with the CCFHT in a variety of ways including monthly reporting.

County Totals = Caldwell (736) / Hays (0)

Feral Hog Round-Ups, Administration and Marketing

Preliminary CHAMP contract harvest goal = 4,000 feral hogs ($5.54/hog)

- **Total Harvest: *Bounty + Jackpot + landowner reporting* = 4,060 feral hogs ($4.66/hog)**
- Bounties paid with CHAMP grant funds = 3,248
- Jackpot competition submissions = 241
- Voluntary landowner reporting = 571

Landowner incentives were anticipated to provide the greatest feral hog yield per dollar spent through implementation of the Action Plan and this was realized in a number of ways. A $5/hog bounty was implemented throughout the project area for eligible landowners, hunters and trappers who completed a Caldwell-Hays Feral Hog Bounty Participation Form. $11,650 was guaranteed to this program per the original application with anticipated landowner participation funds, vendor discounts and donations expecting to contribute an additional $8,350. Marketing and administrative costs for the Action Plan

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were included in this program, as well. After a budget revision, final funding for this program totaled $18,920.

The bounty and jackpot programs were managed by the CCFHTF with all payments supervised by the Caldwell County Auditor. To be eligible to redeem the bounty, participants were required to provide biological evidence in the form of a feral hog tail. Six bounty claim stations throughout the project area staffed trained volunteers or employees to verify and safely dispose of the biological evidence and to collect information from participants on their feral hog harvest including contact information, location, harvest method, etc. Similar information was obtained to support an end-of-year August Jackpot Competition. Paid bounty and jackpot competition programs yielded 3,489 feral hogs over the 12-month grant period. Throughout the year, outreach efforts encouraged landowners to report feral hog data in the form of a survey. Harvest numbers from these surveys along with harvest data from *Log Your Hogs* campaign conducted in April 2014 total 571 feral hogs and are reflected in the above program totals under "voluntary landowner reporting".

Lessons Learned

The CCFHTF approved 150 individuals to participate in the Caldwell-Hays feral hog bounty program. This number is more than triple the number of participants in the 2012 bounty program. The CCFHTF believes that extensive outreach, word-of-mouth, a $3/hog increase in payments, and abundant media coverage all served to increase motivation and reflected participation. That being said, it is anticipated per survey findings, public meeting discussions and in-person conversations that there remains a significant amount of land in the project area not being managed for feral hogs as well as a significant number of individual that are not reporting their harvest numbers due to lack of awareness or lack of motivation. This is particularly apparent in Hays County, where much effort was put into outreach and marketing in the form of workshops, newspaper ads, articles, radio interviews, direct mail, email and even a "Hog Hunters Appreciation Brunch and Raffle" held in Kyle, TX. More study will be required to understand the significant differences in participation rates in Caldwell and Hays County.

County Totals = Caldwell (3,418) / Hays (642)

Landowner Cooperative Trapping Program

Preliminary CHAMP contract harvest goal = 960 feral hogs ($23/hog)

- **Total Harvest not included here as it is dispersed among previously identified bounty and voluntary reporting totals for the above "Feral Hog Round-Ups" program. Feral hogs trapped using Cooperative Trapping Program equipment became the property of the landowner and were therefore eligible for the $5/hog bounty program. An estimate of total feral hogs harvested specifically through this program based on landowner reporting is included below.**

In an effort to increase the current feral hog harvest rate among landowners in the project area, a Landowner Cooperative Trapping Program was expanded. To increase this critical harvest rate, it was determined that greater participation along with either more traps or more effective methods would need to be employed by local hunters, trappers and landowners. This program was designed to enhance all of the above.

Caldwell County purchased its first "Smart Trap" system for this program with funds awarded through the TDA Hog Out County Grant in 2013. The Action Plan called for at least two additional systems to complete the program. The trapping mechanism is designed to be operated from a computer or smartphone with real-time images from the trapping location alerting the user when hogs are in the

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trap. Participants had the ability to trigger the gate at their convenience and when a large number of hogs entered the trap. This reduces the number of "trained" or "trap-shy" feral hogs, with the ultimate goal to catch an entire sounder. Landowners wishing to use one of the available systems were required to fill out a Caldwell-Hays Feral Hog Survey and indicate that they have documented feral hog activity and a desire and ability to use the system. The CCFHTF managed the flow of trapping systems along with volunteers from a local business that pledged their support to help move traps throughout the project area when needed. Trapping systems were made available to participating landowners on a month-to-month basis. Smart traps were utilized by 12 landowners and/or property managers on 12 separate properties over the course of the CHAMP grant project period with an estimated total harvest determined to be 252 feral hogs with 187 trapped in Caldwell County and 65 in Hays County.

Lessons learned

Smart Traps

Many of the hogs captured in Smart Traps were submitted via the bounty program so numbers from the *Landowner Cooperative Trapping Program* are not included in the overall project total to prevent the possibility of over reporting. Further, determining cost per hog through this program is a difficult task. The initial expectation of 960 feral hogs at $23/hog did not consider depreciation and residual capital value on equipment purchases. Assuming 75% residual value in grant-purchased equipment, cost per feral hog harvested in Smart Traps over the project period could be estimated at $18.18/hog.

While the large majority of participating landowners enjoyed the Smart Trap systems and associated technology, the original projected harvest of 960 feral hogs through the *Landowner Cooperative Trapping Program* far exceeded actual harvest numbers. To address this, several new trapping strategies were incorporated throughout the project period based on landowner/CCFHTF/professional collaboration.

1. In some cases, as soon as landowners set up a trap, hogs “disappeared” from their property for an extended period with nothing being viewed on the system’s camera for more than a month. Other times, trap-shy hogs would avoid entering the trap or move in and out so quick that participants were not able to engage the door. To increase the effectiveness of the traps, the CCFHTF modified a first-come-first-served approach to issuing traps to a first-come-first-served IF you can verify current feral hog activity by CCFHTF-issued game cameras or other evidence collected by the participant.
2. It was decided that when single, large boars entered the trap, participants should engage the door and remove the boar as these individuals may tend to keep smaller boars, sows and younger pigs from entering a food plot.

When landowners were “lucky”, however, large numbers of feral hogs entered the trap on the first night. Over 50 hogs were removed from one 350 acre property in 30 days using a 30’ corral smart trap. The largest one-time catch was a 29-hog sounder in northern Caldwell County. At $200 per year in anticipated negative economic impact per hog, that was a $5,800 night. The Smart Traps have proven to be low-maintenance, durable and relatively easy to move. Two traps continue to be operated in Caldwell County and one trap will operate in Hays County.

40’ Drop Net

In addition to the state-of-the-art trapping systems, the Action Plan called for the purchase of a 40' magnetic drop net, which was made available to participating hunters, trappers and landowners through a similar cooperative process managed by the CCFHTF. This program was tested in the field by a landowner with assistance from OGM but there was very little interest in this tool from local landowners

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due to a lack of familiarity of the equipment and labor intensity of the setup process. This program was discontinued and the CCFHTF has decided to sell the drop net and apply proceeds toward future feral hog management efforts.

Participant donations

To encourage participation in CHAMP programs and encourage the utilization of new and different feral hog management strategies, the CCFHTF did not require deposits or fees from local hunters, trappers and landowners with interest in available programs. Rather, participants benefitting from aerial control, professional trapping services, or other *Landowner Cooperative* programs were asked to donate what they could to offset CCFHTF costs and provide funds for future programs. The majority of participants initially stated that they would be happy to donate to the effort; however, only a handful actually contributed. A total of $1,000 in landowner contributions from 5 separate landowners were received by the Task Force over the project period.

PROJECT RESULTS

While overall project harvest numbers fell just below preliminary harvest goals (see Figure 1), the 1-year Caldwell County harvest rate may be unprecedented in terms of large-scale feral hog management (see Figure 2). Based on the highest average feral hog population density study utilized by the Texas A&M AgriLife Extension Service for their 2012 publication, *Feral Hog Population: Growth, Density and Harvest in Texas,* (16.4 hogs/mile^2) and considering a 70% reporting rate established by project surveys, public meeting discussions and personal interviews, it is believed that the 1-year harvest rate for the entire Caldwell County feral hog population may have reached 70% over the project period.

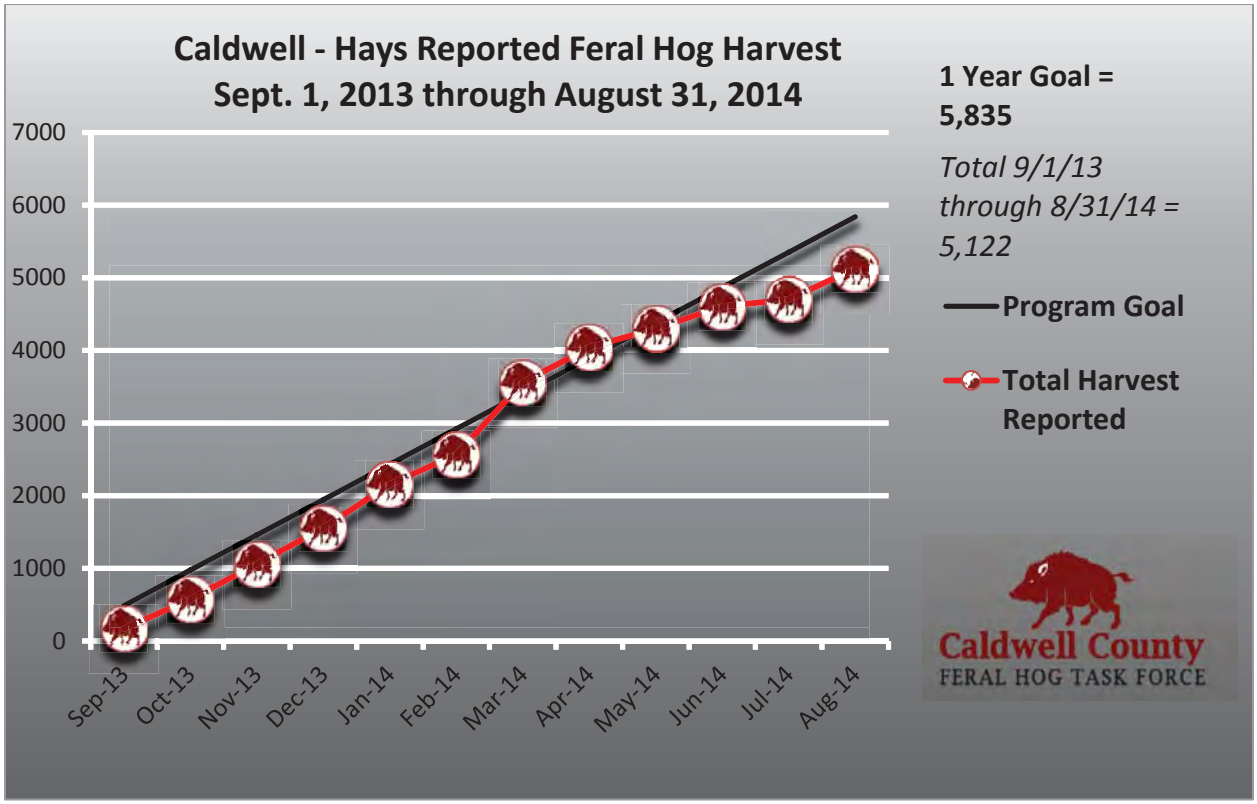

Figure 1. Caldwell-Hays Reported Feral Hog Harvest 9/1/2013 through 8/31/2014

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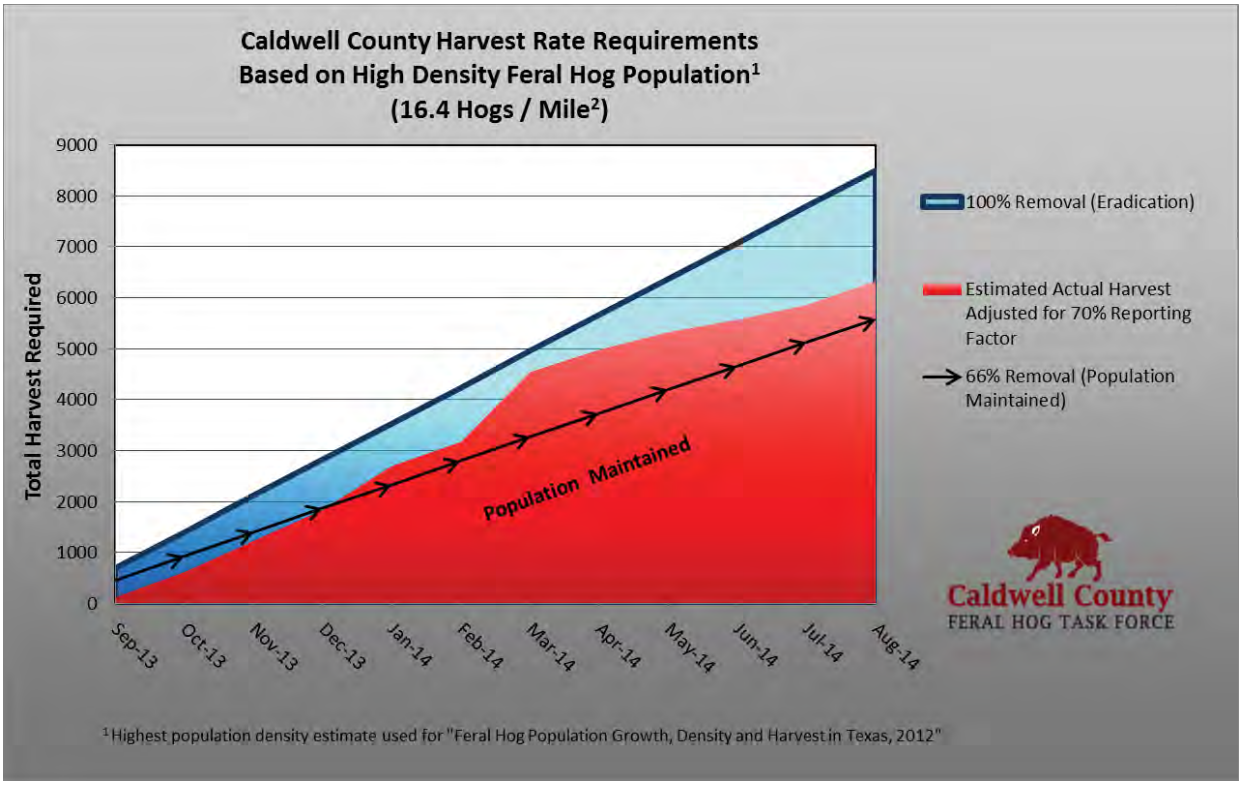

Figure 2. Caldwell County Estimated 1-year Feral Hog Harvest for Population Maintenance/Reduction

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ADDITIONAL INFORMATION

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Caldwell County
FERAL HOG TASK FORCE

DocuSign Envelope ID: FBC42DD8-A380-409E-9663-02FAA8FB1D6B

Caldwell/Hays County
Feral Hog Damage and Control Survey

Please complete the following on the economic impact of feral hogs and control efforts you have utilized **in Caldwell and/or Hays County ONLY**. This survey will assist us in planning future programs to support feral hog control efforts.

1. Please mark all of the areas in which feral hogs had negative impacts on your property **from September 1, 2012 through August 31, 2013**.
   - ☐ Growing or planting commodity crop losses
   - ☐ Growing or planting specialty crop losses
   - ☐ Stored commodities
   - ☐ Pastures
   - ☐ Wetlands
   - ☐ Growing or planting commodity crop losses
   - ☐ Livestock (injury, deaths, diseases)
   - ☐ Fences, water troughs or other improvements
   - ☐ Equipment or vehicles
   - ☐ Personal injuries
   - ☐ Loss of land value
   - ☐ Loss of lease value, food plot/feeder damage
   - ☐ Owner and employee time

2. Please mark all of the control methods you use on your property(s).
   - ☐ Trapped and destroyed
   - ☐ Trapped and moved from premise
   - ☐ Other (snares, aerial gunning)
   - ☐ Trapped & sold
   - ☐ Owner/employee hunting
   - ☐ Lease hunting
   - ☐ Use of dogs

3. Please estimate your total economic losses due to feral hogs during the **previous year** (**9/1/2012 through 8/31/2013**) on all of your property(s). This includes all items marked above in Question 1. $ ☐☐☐☐☐.00

4. What do you expect your losses due to feral hogs to be during the **upcoming year** (**9/1/2013 through 8/31/2013**)? $ ☐☐☐☐☐.00

5. How much income did you make by trapping and selling hogs and/or leasing hog hunting rights last year? $ ☐☐☐☐☐.00

6. Do you feel that you will increase your effectiveness in feral hog control efforts in the coming year (**9/1/2013 through 8/31/2014**) as a result of assistance provided through this program? ☐ Yes ☐ No

7. Have you ever attended a feral hog workshop or received individual assistance from Texas A&M AgriLife Extension? ☐ Yes ☐ No

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8. If you checked yes for Questions 6 and/or 7, rate your knowledge before and after you were provided assistance through this program on the following:

TOPICS	BEFORE	AFTER
a. Feral hog biology	☐ High ☐Moderate ☐ Low	☐ High ☐Moderate ☐ Low
b. Legal control options	☐ High ☐Moderate ☐ Low	☐ High ☐Moderate ☐ Low
c. Efficient trap/bait techniques	☐ High ☐Moderate ☐ Low	☐ High ☐Moderate ☐ Low
d. Types/extent of hog damage	☐ High ☐Moderate ☐ Low	☐ High ☐Moderate ☐ Low

9. Did you participate in the 2012 Hog Out Bounty Program in Caldwell or Hays County? ☐ Yes ☐ No

10. Estimate total number of hogs harvested on your property(s) from January 1 through December 31 of the following years:

2011 _____ 2012 _____ 2013 _____

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Caldwell/Hays County Feral Hog Bounty Program
September 2013 through August 2014

Bounty Participation Form

Program Description: Certified bounty claim stations will issue a $5.00 bounty to participants per each verified feral hog harvested in **Caldwell County or Hays County between 9/1/2013 and 8/31/2014** (subject to fund availability). Biological evidence (feral hog tail) of harvest must be provided by participants. A receipt from a Texas Certified Holding Facility will also serve a proof of harvest. To be eligible to receive the $5 per feral hog bounty, **participants must complete and sign the form below**.

Please complete the following table to the best of your ability.

Participant Information	Name	Email	
	Phone	Mailing Address (*to receive first payment*)	
Primary Property	Landowner Name		
	Landowner Phone #		
	Landowner Email		
	Landowner Mailing Address		
	Physical Address of Property		
	Property ID(s)		
Additional Properties	Additional Landowners 1. 2. 3.	Best Contact 1. 2. 3.	Location 1. 2. 3.

Until verification of the above information can be obtained by the Caldwell County Feral Hog Task Force (typically 1 month), you will be issued bounty payment vouchers by a certified Caldwell/Hays County bounty claim station. Once verification is obtained, a check will be mailed to you at a rate of $5 per feral hog harvested. **Every effort will be made to ensure that subsequent bounty payments to approved participants will be made in cash by a certified Caldwell/Hays County bounty claim station.** All payments subject to availability of funds. The bounty program will end August 31, 2014.

I realize money was raised by the citizens of Caldwell and Hays County for feral hog control in these counties and swear that the feral hogs for which I obtain a bounty came from one of these two Counties.

Signed _____

Date _____

Funding for this project made possible by the Caldwell County Feral Hog Task Force, a grant from the Texas Department of Agriculture and donations made by Hays and Caldwell County citizens, businesses and civic organizations.

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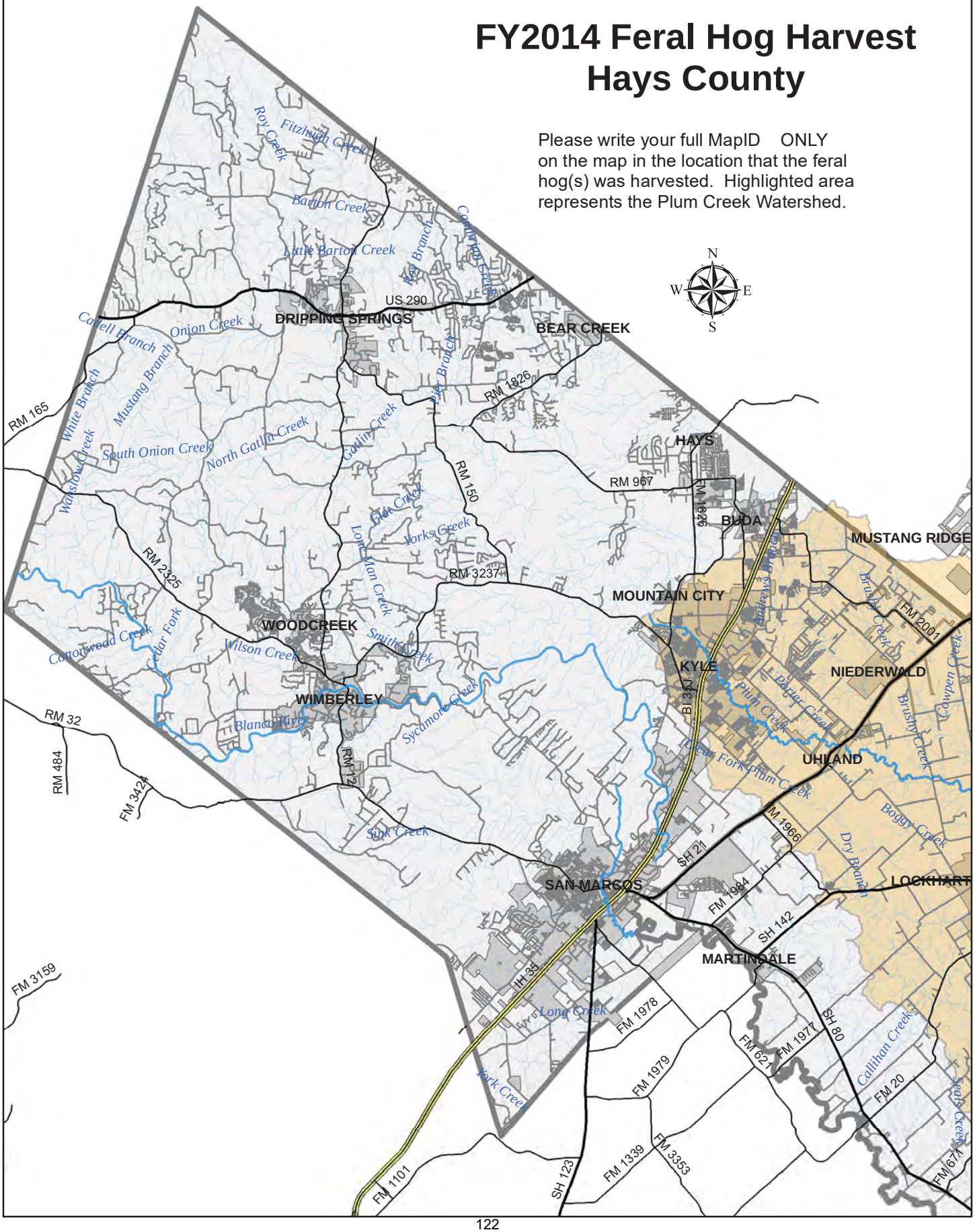
FY2014 Feral Hog Harvest
Hays County

Please write your full MapID ONLY on the map in the location that the feral hog(s) was harvested. Highlighted area represents the Plum Creek Watershed.



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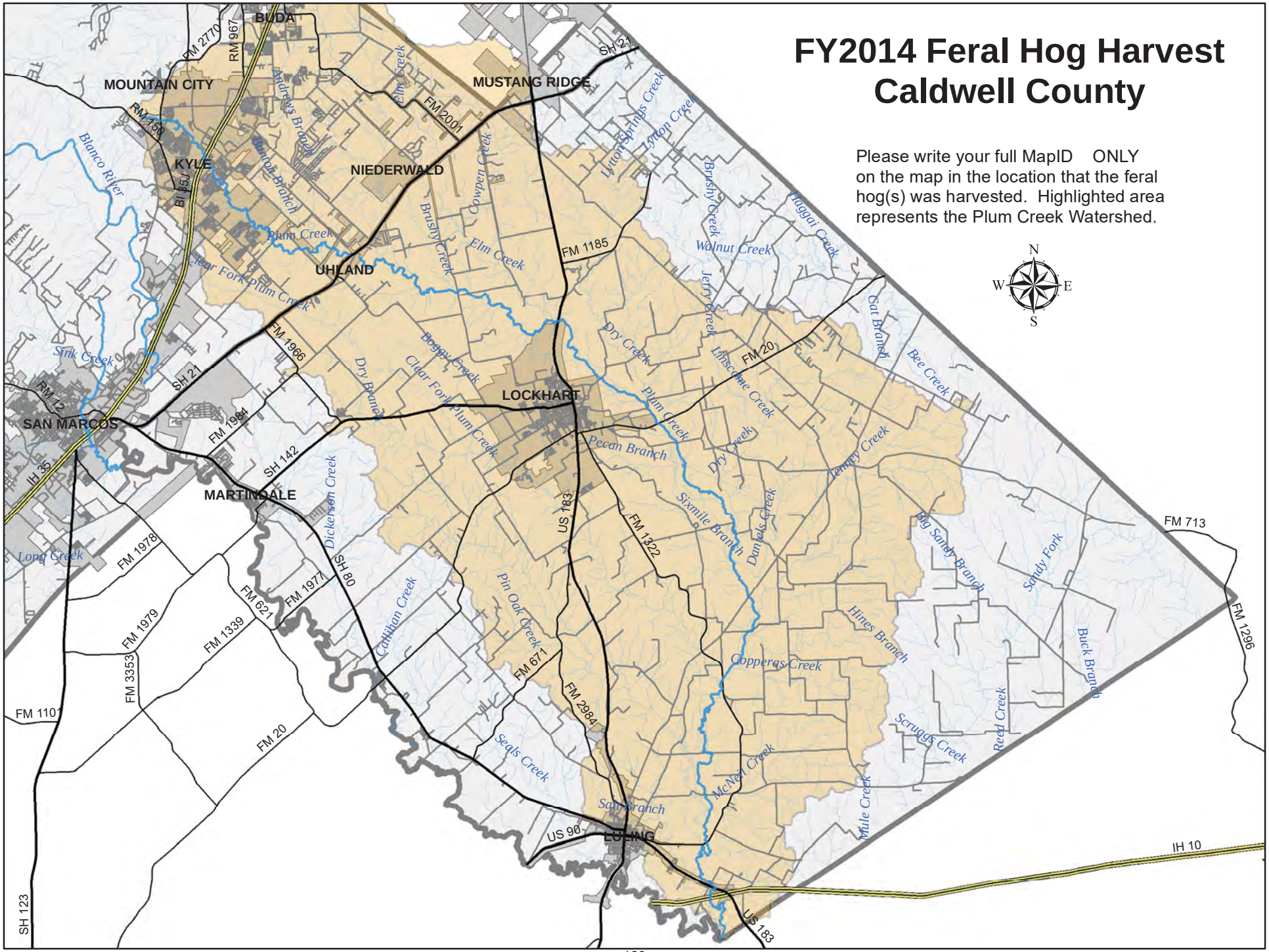

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Caldwell County
FERAL HOG TASK FORCE

Wild Pig Jackpot

Last Chance to turn your tails into CASH!!!

Final 2013-14 Caldwell/Hays Hog Tail Turn-In

Saturday, August 30 from 8am to 11am
Caldwell County Junior Livestock Show Barn
(1403 Blackjack Street, Lockhart)

Approximately $1,000 in cash awarded to the **TOP 2 Teams**!!! (65/35)

Top Overall Individual receives Aerial Ops Training
Donated by ***Helicopter Tours of Texas***

Note to Participants – The Caldwell County Feral Hog Task Force thanks you for the outstanding effort put forth to help us reduce the severe damage caused by feral swine in Hays and Caldwell County. In June, the Task Force voted to suspend the bounty as all budgeted funds for this program (over $12,000) had been expended. As we near the end of our grant cycle, we have some remaining funds that need to be spent by August 30. We could think of no better way to do this, than to reward the folks that have supported this program for the past year with the chance to win a nice pot of cash!!! **If you turned in hog tails after May 1 and did not receive payment, they will be counted toward your entry in the Jackpot along with any others turned in on August 30.**

Want to see the feral hog bounty program to continue in 2014/15?

Turn in your tails on August 30th!!!

See reverse side for additional details, rules and information for making alternative arrangements…

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To ensure continued funding for our bounty program, it is critically important to show significant results from our first year in action. This event is an effort to document the final 2013/14 feral hog harvest for Caldwell and Hays County. The future of this program and the success of the Caldwell County Feral Hog Task Force are in your hands!!!

GUIDELINES and RULES:

1. Jackpot team competition
    a. Teams, team name and team captain may be formed and selected any time prior to tail turn-in (including the morning of)
    b. Teams may consist of 1 to 5 individuals
2. Team captain
    a. Captain will turn in all tails for team on 8/30
    b. Captain must be present on 8/30 and have previously completed a *Hays/Caldwell Bounty Participation Form*
    c. Captain will provide list of team members and associated harvest numbers
    d. Team Captain is responsible for ensuring that all entries submitted on 8/30 meet the requirements for eligibility (see #3 below); however,
        i. Team members (non-captain) ARE NOT required to be in attendance*
        ii. Team members (non-captain) ARE NOT required to complete a *Hays/Caldwell Bounty Participation Form*
3. Eligible entries
    a. Feral hog tails must be submitted in a sealed, zip-lock type bag (preferably frozen)
    b. Receipts from hog buying station are acceptable in lieu of tails
    c. Entries MUST BE from feral hogs harvested in Hays and/or Caldwell County between 9/1/2013 and 8/30/2014

    NOTE: All tails (or receipts from hog buying stations) submitted to a bounty claim station on or after May 1, 2014 WILL BE counted toward the individual and/or team total for purposes of the jackpot. To find out how many entries have been logged under you name, call or email the Task Force.

4. Team Competition Winners
    a. Team with most eligible entries on 8/30 will win 65% of available cash (approx. $650)
    b. Team with 2nd most eligible entries on 8/30 will win 35% of available cash (approx. $350)
5. *Top Individual
    a. Individual *in attendance* with the most eligible entries on 8/30 will win Aerial Ops Training from Helicopter Tours of Texas.

For questions about the Jackpot, to make alternative arragements, and/or to find out how many entries you may already have, please contact the Caldwell County Feral Hog Task Force at: ccfhtf@gmail.com or 512.213.7389. Thank you.

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Texas A&M AgriLife Extension Service
Caldwell County
1403 Blackjack St., Ste. B
Lockhart, TX 78644
(512) 398-3122
(512) 398-3867 FAX

Feral Hog Management Workshop

February 4th, 2014

Luling Foundation; 523 S. Mulberry St. - Luling, Texas

Pre-registration: Required

Cost: $15 pregrestration ($20 at the door)

5 Hours TDA CEU's for Commercial, Non-Commercial & Private Applicators

(2 hours General, 2 hours IPM, 1 hour Laws and Regulations.)

8:00 a.m.	Registration
8:30 a.m.	Welcome; Basic Biology of Feral Swine and Feral Hog Damage in Watersheds – Jared Timmons, Wildlife Extension Associate
9:00 a.m.	Plum Creek Watershed – Nick Dornak, Plum Creek Watershed Coordinator
9:30 a.m.	Population Dynamics of Feral Hogs – Meredith Longoria, TPWD Biologist
10:15 a.m.	Laws and Regulations for Hunting Feral Hogs – Joann Garza-Mayberry TPWD Game Warden
10:45 a.m.	Agricultural Regulations Regarding Feral Hogs – Beau Whisenant, Texas Department of Agriculture
11:15 a.m.	Feral Hog Safety and Disease Concerns/Feral Hog Transportation Regulations – Tommy Barton, DVM, Texas Animal Health Commission
12:00 p.m.	Catered Lunch
1:00 p.m.	Feral Hog Control – John Calentine, USDA Wildlife Services
2:00 p.m.	Feral Hog Trap Demonstration – Jared Timmons, Wildlife Extension Associate
3:00 p.m.	Evaluation
3:15 p.m.	Adjourn

Please **PRE-REGISTER** by 5:00 PM **January 31st** with the Caldwell County Extension Office at 1403 Blackjack St., Ste. B in Lockhart, (512) 398-3122 or at *caldwell@ag.tamu.edu* to ensure an accurate count for the meal and handouts. Individuals with disabilities are encouraged to contact the Extension office two days prior to the event so accommodations can be made. This event is provided through a Clean Water Act Section 319(h) nonpoint source grant from the Texas State Soil and Water Conservation Board and the U.S. Environmental Protection Agency.

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Hays County Feral Hog Workshop

April 28, 2014

Hays County Extension Office

1253 Civic Center Loop

San Marcos, TX 78666

6-8pm

Topics to be Covered

- Basic Ecology and Biology of Feral Hogs
- Feral Hogs and the Brazos River Watersheds
- Regulations for Transporting Feral Hogs and Disease Concerns
- Control Techniques
- Feral Hog Traps
- Feral Hog Population Dynamics
- Feral Hog Hunting Regulations
- Feral Hog Resources

Speaker:

Dan Gaskins
Extension Assistant
Texas A&M Agrilife Extension

This event is provided through a Clean Water Act Section 319(h) nonpoint source grant from the Texas State Soil and Water Conservation Board and the U.S. Environmental Protection Agency.

Cost: Free

2 General CEUs Offered

To pre-register, contact the Hays County Extension Office at (512) 393-2120

Please pre-register by April 23.

Brought to you by:

Soil Water TSSWCB

TEXAS A&M AGRILIFE EXTENSION

If you need special accommodations, please contact the Extension Office no later than seven days before the program so we can consider your request. Educational programs of the Texas A&M AgriLife Extension Service are open to all people without regard to race, color, sex, disability, religion, age, or national origin. The Texas A&M University System, U.S. Department of Agriculture, and the County Commissioners Courts of Texas Cooperating.

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Hays County and Caldwell County

Saturday
April 5th
9am to 11am

Hog Hunters
Appreciation Brunch

Hays County Pct. 2
5458 FM 2770
Kyle, Texas 78640

Raffle tickets
$5 each

Door Prizes!

Call 512.213.7389 to RSVP

FREE and OPEN to the PUBLIC!

Prizes awarded to the top participants in each county!

Caldwell County
FERAL HOG TASK FORCE

TURN IN THOSE TAILS!!!!!!!

Prizes based on Hays/Caldwell Feral Hog bounty totals claimed as of March 31

HAYS COUNTY TEXAS

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TEXAS DEPARTMENT OF AGRICULTURE

COMMISSIONER SID MILLER

Trade and Business Development
Grants Office
Performance and Budget Report

[FOR TDA USE ONLY]
Date Received: _____
Date Approved: _____

GTDB-302

QUARTERLY PERFORMANCE AND BUDGET REPORT

Directions. This form was developed to be completed electronically. Click the grey text boxes to type responses. Sections A – E of the performance narrative must be completed for the performance report to be approved by TDA.

If work toward the project has not been completed during the period of this report, a brief justification must be provided in Section B. *Repeated lack of progress may result in project termination.*

PROJECT INFORMATION

Project Title	TDA PROJECT NO.
Caldwell County CHOMP Grant	**CHOMP-15-04**

REPORT PERIOD

Date report covered	Submission Date of Report:
12/1/15 – 4/30/16	6/1/16

QUARTERLY BUDGET REPORT

Funding Expended to Date:	$24,999.41	Reimbursement requested to date:	$ 24,999.41

Note: If no funds have been expended please provide a brief justification in Section F.

PROJECT MANAGER

Title	First Name	Last Name
☒ Mr. ☐ Dr. ☐ Ms. ☐ Other	Nick	Dornak

PERFORMANCE NARRATIVE

Section A - Project Summary.
In 200 words or less, please give a brief summary of the project.

Caldwell County CHOMP-15-04 Grant funds the continued implementation of the Caldwell County Feral Hog Action Plan as amended and managed by the Caldwell County Feral Hog Task Force (CCFHTF), a volunteer-led Task Force designated by the Caldwell County Commissioner's Court through Resolution 16-2013, passed and adopted on May 28, 2013. Project components funded by CHOMP-15-04 include landowner cooperative cost-share and/or lease programs for the purchase of new feral hog traps and equipment, cellular game cameras and professional aerial control time. Funds also support a countywide feral hog bounty program.

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Section B – Activities Performed.

Briefly describe the work accomplished during the reporting period. What specific tasks from the approved project proposal were accomplished? Utilizing the actual objectives, activities, or goals in your proposal, detail all activities, accomplishments, or work conducted for each objective during this reporting period. Include the successes, challenges, and/or any limitations you faced while implementing your project.

Management of the Caldwell Co. Feral Hog Action Plan, Year 2/3

- Continuation of CCFHTF website (ave. 1,300 views per month), Facebook page (93 likes to date, and Twitter
- Cellular trail camera cost-share program implemented during reporting period providing wireless capable cameras for 16 participants
- 2 feral hog bounty claims during reporting period with a total of 39 participants
- 12 aerial operations performed in Caldwell County on 12 separate properties during the reporting period removing 330 feral swine. Average cost / hog = $18.18
- The 32-month documented feral hog harvest for Caldwell County stands at 9,626 as of Apr. 30, 2016 with an estimated actual harvest of 13,794 (based on 30% non-reporting factor)
- Total reported Caldwell Co. feral hog harvest for CHOMP = 3,623
- Total annual economic relief to Caldwell County landowners from harvested feral hogs reported for CHOMP programs = $1,086,900 (based on $300/year/hog)
- Total lifetime economic relief to landowners and citizens from ALL feral hogs harvested in Caldwell County through 32 months of Caldwell Co. Feral Hog Action Plan Implementation > $16,552,800 (13,794*$300*4)[1]

[1]*total estimated 32-month harvest * annual economic damage * estimated lifespan*

Trapping supplies – *participant cost-share program* ($3,000)

COMPLETE

The CCFHTF purchased $3,000 in supplies for 20 new corral traps installed throughout the County.

Cellular trail cameras (Prior - $3,500 / Per this request - $2,500)

COMPLETE

The CCFHTF purchased 16 wireless adapters for use with a variety of Moultrie game cameras. These supplies are directed to the more serious feral hog trappers in the county and landowners that reside in adjacent counties. Cellular trail cameras allow standard corral and cage traps to remain engaged and monitored daily without the need to physically drive to the location. These cameras will save users' fuel cost and allow traps to be baited and run continuously without having to consider in-person daily monitoring.

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Through a partnership with Smith Supply, the wireless adapters are purchased at wholesale cost which allowed for the expansion of this program from 10 to 16 devices while also reducing the budgeted amount. Additionally, the adapters are mobile and can be installed on a variety of Moultrie trail camera models enabling participants to select one or more combinations to best suit their needs.

- Program run through partnership with Smith Supply locations in Lockhart and Luling. Vendor delays led to an extension request for this grant program. Eligible participants receive a free wireless adapter (retail value $200) with the purchase of a wireless-capable Moultrie trail camera from Smith Supply. Participants are responsible for cellular/data plans.

Countywide Bounty Program (Prior - $12,500 / Per this request - $13,500)

COMPLETE

- Two bounty claims managed by CCFHTF volunteers and paid by the County Auditor
- Offered 50# bags of corn as bonus to $5/hog bounty
- Total bounty participants = 39
- Total pounds of corn distributed to participants = 4,100
- Total bounty claims submitted = 761 feral hogs

NOTE: An adjusted increase of $1,000 to the "Other" budget category was required to cover bounty cost. This led to a $1,000 reduction in the "Supplies" budget category.

Professional aerial gunning services - *landowner cost-share program* ($6,000)

COMPLETE

The CCFHTF provided $500 per participant to 12 landowners seeking professional aerial eradication services from an approved aerial gunning service provider. The funds offset costs for local landowners and provided incentives for new participants who have not before utilized this proven method for feral hog abatement.

- 330 feral hogs harvested at an average cost / hog = $18.18
- 9 hours of flight time for an average of 36.7 hogs / hour

Section C - Project Schedule.

Is your project on schedule as originally proposed? What delays have you faced, if any? Include any actions or steps taken to address the delays if applicable.

- Product availability and difficulties in determining the most responsible and proper delivery of cellular trail camera program delayed the anticipated start date for this program.

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- Damage to dedicated helicopter for aerial gunning operations delayed start date for this program.
- The above unanticipated delays required a 2-month grant extension which was approved. Grant period ended on April 30, 2016.

Section D – Changes.

Document any changes from the original proposal, including but not limited to changes related to scope of work, activities, timelines, key personnel, and any other changes that directly impact the progress and completion of the funded project.

- $1,000 from “Supplies” to “Other” to cover bounty program expenses.

Section E – Next Steps.

Briefly describe the planned activities for the next reporting period.

- All programs completed

Section F – Other Information.

Please provide any additional information related to your project that may not have been included above.

- n/a

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TEXAS DEPARTMENT OF AGRICULTURE
COUNTY HOG OUT MANAGEMENT PROGRAM

COMMISSIONER SID MILLER

FINAL PERFORMANCE REPORT

GRANTEE	
County Name **Caldwell**	Grant Number **CHOMP-16-09**

PROJECT MANAGER CONTACT INFORMATION				
First Name **Nick**	Last Name Dornak	☒ Mr. ☐ Dr. ☐ Ms. ☐ Other ____		
Contact E-mail Address **ccfhtf@gmail.com**	Contact phone number (**512**) 213 - 7389			
Mailing Address **405 E. Market Street**	City **Lockhart**	State **TX**	Zip 78644	County **Caldwell**

PROJECT INFORMATION

In 200 words or less, please give a summary of the how grant funds were used for feral hog abatement in the county. Be sure to include information about the methods used and number taken by each method. Also, provide a detailed description of the county-approved educational programs conducted and types of abatement technologies discussed.

CHOMP funds were used to extend Caldwell County Feral Hog Task Force (CCFHTF) activities for FY2017. These included project management and the employment of a part-time CCFHTF Administrator; continuation of a landowner cost-share program for aerial gunning; CCFHTF program costs, marketing and outreach; and a countywide bounty program. A bounty program was very popular again with 2,158 feral hogs certified. Three aerial gunning operation took 179 feral hogs. A tri-county workshop (funded by AgriLife) was held in Luling, TX (Caldwell Co.) on February 2017 with more than 120 in attendance.

Total number of feral hogs taken in the county during August 1, 2016 to December 31, 2017, as certified by the county with grant funds.	2,337 hogs
Total number of participants at all county-sponsored educational programs about feral hog abatement technologies using grant funds during August 1, 2016 to December 31, 2017.	0 people

ADDITIONAL INFORMATION

Please provide any additional information or other quantifiable data you feel may be relevant to the Feral Hog Abatement Program. Offer insights into the lessons learned by the project staff as a result of completing this project. This section is meant to illustrate the positive and negative results and conclusions for the project.

CCHFTF programs have yielded the removal of over 13,000 feral hogs from Caldwell County since September 2013. A rapid adoption of controls and utilization of funding led to huge numbers of hogs being removed in 2014 and 2015. Resources and personnel have been stretched in 2016 and 2017 leading to a leveling off of activity. The uncertainty of future funds and scheduling issues led to the indefinite postponement of a CCFHTF Membership meeting in 2017. We were unable to utilize $2,781 in grant funds for hunting trapping supplies as program opportunities declined near the end of 2017. New energy from a new Leadership Committee along with increased feral hog activity in the County should result in a large number of feral hogs removed from Caldwell County in 2018.

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TEXAS STATE UNIVERSITY
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Date: September 30, 2018

To: Texas A&M AgriLife Extension Service
Attn: Michael Bodenchuk, State Director

RE: Fiscal Year 2018 – County Feral Hog Abatement Grants Awarded to Hays, Caldwell and Guadalupe Counties

Final Report: 2018 Central Texas Feral Hog Action and Sustainability Plan

The Meadows Center for Water and the Environment at Texas State University has partnered with Texas A&M AgriLife Extension, local stakeholder groups and the counties of Hays, Caldwell and Guadalupe to establish the Central Texas Feral Hog Task Force.

Funding

Fiscal Year 2018 funding for this effort was secured through participating County Commissioner's Courts and separate grant contracts awarded to the three participating counties:

- Hays County ILA = $7,850
- Caldwell County ILA = $12,000
- Guadalupe County ILA = $15,000
- Local matching funds = $2,597.50
- **TOTAL FUNDS = $37,447.50**

Bounty Program

Due to the limited timeframe for fund expenditure, primary abatement efforts took place over just a two-month period, July and August 2018. Total documented feral hog abatement through county-implemented bounty programs over this period included the removal of **1,039 feral swine** in the three-county region.

Trapping Kits

Capital investment for ongoing and future feral hog abatement was also a top priority to establish program sustainability. Investment in direct landowner assistance through the development of an incentive-based program to distribute trapping kits to engaged landowners will enhance feral hog management on numerous properties throughout the three-county region. As a result of this program,

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twenty-seven new feral hog corral traps will be activated in the region with an anticipated annual abatement capacity of **1,350 feral swine**. The following trapping supplies were purchased and distributed through the Central Texas Feral Hog Task Force:

Landowner Trapping Kits Distributed through the Central Texas Feral Hog Task Force – FY2018

- Hays County = 2 kits (t-posts, panels, 40" door) valued at $609 each
- Caldwell County = 9 kits (t-posts, panels and 40" door) valued at $528 each
- Guadalupe County = 16 kits (16 gift cards for selected trapping supplies) valued at $500 each

Additional Program Investments

Additional capital investment/ongoing program funding included FY2018 Wireless Traps service fees incurred by Caldwell and Hays County. Three W*ireless Traps* currently in use through a local landowner cooperative support previously initiated efforts by the Caldwell County Feral Hog Task Force and Hays County.

To bring new efficiencies and accuracies to abatement documentation efforts, the Meadows Center directs program funds to a 10.5 inch iPad Pro with WiFi and Cellular to be piloted for future bounty efforts in Caldwell County.

Surveys

To help quantify feral hog damage in the three-county Central Texas region, **a voluntary landowner survey was completed by 29 participants (Appendix A – Landowner Survey)**. An aerial survey was also completed to assess feral hog impacts on local streams. **The aerial survey was conducted via helicopter on August 20, 2018**, by Meadows Center and AgriLife staff and included Geronimo Creek (full reach) and a segment of the Guadalupe River in Guadalupe County as well as segments of Plum Creek and the San Marcos River in southern Caldwell County. Due to heavy canopy and limited visibility, the aerial survey was scratched for additional stream segments in Caldwell County and Hays County. Five feral hogs were spotted on the Guadalupe River, two miles downstream from the confluence with Geronimo Creek. Individual feral hogs were also spotted on Geronimo Creek and the San Marcos River upstream of the confluence with Plum Creek. While approximately ten traps and feeders were identified in the survey segments, the total number of hogs spotted from the air was <10 individuals over two hours of flight time, which should be considered a drastic under representation of the actual feral hog population active along these stream segments. Further aerial analysis and landowner surveys during FY2019 (minimal canopy for aerial observations in Jan. and Feb.) should be completed to better quantify feral hog impacts to local streams.

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Texas A&M AgriLife Extension conducted interviews and footage during aerial survey efforts the new video is now available on YouTube and will be added to the Central Texas Feral Hog Task Force website. Access the video at: https://www.youtube.com/watch?v=0BY7OHrmDts&feature=youtu.be.

Outreach and Education

The Meadows Center worked with state and local AgriLife staff, watershed protection groups and other stakeholders to advertise and conduct two landowner workshops (see **Appendix B – Press Releases, Workshop Agendas and Sign-in Sheets**). A total of 47 attendees (non-presenters) received three hours of education on feral hog history, biology and management for a total of **141 direct contact hours**.

Finally, to bring all Central Texas Feral Hog Task Force program information together under one roof, the Meadows Center has established a website, new email inbox and Facebook event pages for the program. Participant contact information collected throughout program implementation will also be used as part of a dynamic database for enhanced future communication. The project website can be accessed at: http://www.feralhogtaskforce.com/. Website components include the following:

- Downloadable Feral Hog Damage and Control Survey for Landowners
- Individual project pages for each partnering county
- Calendar of Events
- Links, photos, resources and videos
- Contact Us form

Sustainability

Each Central Texas Feral Hog Task Force partner county will continue abatement efforts in FY2019 with a goal of 6,000 feral swine to be removed throughout the region over this period. Investments in equipment, technology and communication networks will enable continued monitoring and increased landowner participation.

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Appendix A – Landowner Survey

Central Texas Feral Hog Task Force

Feral Hog Damage and Control Survey

Central Texas Feral Hog Task Force

Please complete the following for **property owned or managed**. Information provided will be used exclusively for data collection and analysis. Personal information will not be distributed by the Central Texas Feral Hog Task Force without your express consent.

Name		
Preferred contact info (phone/email)		
Physical address of primary property owned/managed	**City / State / Zip**	
County	**Total acres of all properties owned/managed in specified County**	

1. Please mark all of the areas in which feral hogs had negative impacts on your property.
   - ☐ Growing or planting commodity crop losses
   - ☐ Growing or planting specialty crop losses
   - ☐ Stored commodities
   - ☐ Pastures / Wetlands
   - ☐ Livestock (injury, deaths, diseases)
   - ☐ Growing or planting commodity crop losses
   - ☐ Fences, water troughs or other improvements
   - ☐ Equipment or vehicles
   - ☐ Personal injuries
   - ☐ Loss of land value
   - ☐ Loss of lease value, food plot/feeder damage
   - ☐ Owner and employee time
2. Please mark all of the control methods you use on your property(s).
   - ☐ Trapped and destroyed
   - ☐ Trapped and moved from premise
   - ☐ Aerial gunning
   - ☐ Trapped & sold
   - ☐ Owner/employee hunting
   - ☐ Snares
   - ☐ Lease hunting
   - ☐ Use of dogs
   - ☐ Other _____
3. Income from trapping and selling hogs and/or leasing hog hunting rights in the last 12 months? $ ☐☐☐☐☐.00
4. Please complete the following table for years 2011 through 2014 (best estimate):

	2015	2016	2017	2018
Total hogs harvested in for property listed				
Estimated number of hogs on property				
Feral hog management EFFORT on a rating scale of 1 to 10				
Total damages from feral hog activity	$	$	$	$

Program sign-up on back of form.

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Appendix B – Press Releases, Workshop Agendas and Sign-in Sheets

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TEXAS STATE UNIVERSITY
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Date: August 30, 2019

To: Texas A&M AgriLife Extension Service
Attn: Michael Bodenchuk, State Director

RE: Fiscal Year 2019 – County Feral Hog Abatement Grants Awarded to Hays and Caldwell Counties

Final Report: 2019 Central Texas Feral Hog Action and Sustainability Plan

The Meadows Center for Water and the Environment at Texas State University has partnered with Texas A&M AgriLife Extension, local stakeholder groups and the counties of Hays, Caldwell and Guadalupe (no grant funds for FY2019) to continue development of the Central Texas Feral Hog Task Force.

Funding

Fiscal Year 2019 funding for this effort was secured through participating County Commissioner's Courts and separate grant contracts awarded to the three participating counties:

- Hays County ILA w/ AgriLife = $13,100
- Caldwell County ILA w/ AgriLife = $20,000
    - Caldwell Co. matching funds = $5,000.00
- Guadalupe County funds (bounty only) = $3,530

FY2019 Program Totals

- **TOTAL FUNDS = $41,630.00**
- **TOTAL FERAL SWINE ABATED = 4,607 ($9.04 per hog)**
- **ESTIMATED 2019 PROPERTY/ECOLOGICAL DAMAGE MITIGATED = $2,303,500 (ROI = $55.33)**

Bounty Program

The bounty program in Caldwell County began in March 2019 with monthly collection events held at Smith Supply in Lockhart, TX, with support from the Plum Creek Watershed Partnership and trained Central Texas Feral Hog Task Force volunteers. Grant funding of $5,000 was budgeted for the program but limited to 50% reimbursement, so Caldwell County Commissioners approved an additional $5,000 in matching funds to cover 2,000 bounties at $5.00 per verified feral hog extirpated from the County. Initial bounty funds were exhausted during the July collection event, but the County approved additional funds to keep the program funded. Prior to August reporting, 2,071 feral swine were reported for the Caldwell

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County Bounty Program. Guadalupe County ran a bounty program strictly from local funding approved by County Commissioners. The program was conducted out of the Guadalupe County extension office and yielded 706 feral swine. No bounty program was conducted in Hays County. Total documented feral hog abatement through county-implemented bounty programs over this period included the removal of **2,777 feral swine** in the three-county region.

Trapping Kits

Capital investment for ongoing and future feral hog abatement was also a top priority to establish program sustainability. Investment in direct landowner assistance through the development of an incentive-based program to distribute trapping kits to engaged landowners will enhance feral hog management on numerous properties throughout the three-county region. As a result of this program, *thirteen new feral hog corral traps will be activated* in the region with an anticipated annual abatement capacity of **650 feral swine**. The following trapping supplies were purchased and distributed through the Central Texas Feral Hog Task Force:

Landowner Trapping Kits Distributed through the Central Texas Feral Hog Task Force – FY2019

- Hays County = 6 kits (t-posts, panels, 36" door) valued at $598 each
- Caldwell County = 7 kits (t-posts, panels and 36" door) valued at $400 each

**40 new hog traps have been activated by the Central Texas Feral Hog Task Force since 2018!*

Aerial Gunning

Aerial gunning was conducted by pilots and trained marksmen with Veracity Aviation, based out of Seguin, TX. As grant funds were not available until January 2019, contracts could not be acquired with Veracity until mid-February, which in 2019, meant thicker canopy and less effective timing for aerial gunning. Nevertheless, efforts were made to expand landowner participation in the program throughout Hays and Caldwell County. From February through June of 2019, Veracity Aviation conducted nine aerial gunning operations covering 9,030 acres of Caldwell and Hays County. Total hogs viewed = 111. **Total hogs abated = 100.** At a cost of $3,844, the rate of return for aerial gunning in 2019 was $38.44 per hog removed.

Additional Program Investments

Additional capital investment/ongoing program funding included FY2019 Wireless Traps service fees incurred by Caldwell and Hays County. Three W*ireless Traps* are currently in use through a local landowner cooperative support previously initiated efforts by the Central Texas Feral Hog Task Force. **Estimated total feral swine abated = 1,080**

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To bring new efficiencies and accuracies to abatement documentation efforts, the Meadows Center directed program funds to a 10.5 inch iPad Pro with WiFi and Cellular in 2018 to be piloted for future bounty efforts in Caldwell County. During several trials, it was determined that bounty participants much preferred paper recording; however, continued efforts will be made to incorporate this technology into the research and documentation process.

Surveys

To help quantify feral hog damage in the three-county Central Texas region, **a voluntary landowner survey was completed by 27 participants (Appendix A – Landowner Survey)**. Participants were able to complete the survey in person during bounty claim opportunities or at their local Texas A&M AgriLife Extension Service offices. The survey could also be completed online, which was the preferred choice in 2019! The survey may be completed by visiting www.feralhogtaskforce.com and clicking the link "Feral Hog Damage and Control ONLINE Survey".

Outreach and Education

The Meadows Center worked with state and local AgriLife staff, watershed protection groups and other stakeholders to advertise and conduct education during "Hog Week" 2019. Three live webinars were conducted with subject matter experts. Webinars may be accessed on YouTube or through the Central Texas Feral Hog Task Force website by visiting www.feralhogtaskforce.com.

Hog Week 2019 Webinars

- August 27, 2019 – *Latest and Greatest Feral Hog Updates with Josh Helcel*, Texas A&M Natural Resources Institute.

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- August 28, 2019 – *Aerial Control of Feral Hogs – The How, Why, Where and When of This Unique Management Tool with Veracity Aviation*.
- August 30, 2019 – Catch them ALL – Tips and Tricks of the Trade from the Expert with R.A. "Bubba" Ortiz, Ortiz Game Management.

Finally, to bring all Central Texas Feral Hog Task Force program information together under one roof, the Meadows Center has continued to develop a website, maintain an email account and Facebook event pages for the program. Participant contact information collected throughout program implementation will also be used as part of a dynamic database for enhanced future communication. The project website can be accessed at: http://www.feralhogtaskforce.com/. Website components include the following:

- Downloadable Feral Hog Damage and Control Survey for Landowners
- Individual project pages for each partnering county
- Calendar of Events
- Links, photos, resources and videos
- Contact Us form

Sustainability

Each Central Texas Feral Hog Task Force partner county will continue abatement efforts in FY2020 with a goal of 6,000 feral swine to be removed throughout the region over this period. Investments in equipment, technology and communication networks will enable continued monitoring and increased landowner participation.

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Appendix A – Landowner Survey

Central Texas Feral Hog Task Force

Feral Hog Damage and Control Survey

Central Texas FERAL HOG TASK FORCE

Please complete the following for **property owned or managed**. Information provided will be used exclusively for data collection and analysis. Personal information will not be distributed by the Central Texas Feral Hog Task Force without your express consent.

Name		
Preferred contact info (phone/email)		
Physical address of primary property owned/managed	**City / State / Zip**	
County	**Total acres of all properties owned/managed in specified County**	

1. Please mark all of the areas in which feral hogs had negative impacts on your property.
   - ☐ Growing or planting commodity crop losses
   - ☐ Growing or planting specialty crop losses
   - ☐ Stored commodities
   - ☐ Pastures / Wetlands
   - ☐ Livestock (injury, deaths, diseases)
   - ☐ Equipment or vehicles
   - ☐ Fences, water troughs or other improvements
   - ☐ Personal injuries
   - ☐ Loss of land value
   - ☐ Loss of lease value, food plot/feeder damage
   - ☐ Owner and employee time

2. Please mark all of the control methods you use on your property(s).
   - ☐ Trapped and destroyed
   - ☐ Lease hunting
   - ☐ Aerial gunning
   - ☐ Trapped & sold
   - ☐ Owner/employee hunting
   - ☐ Snares
   - ☐ Trapped and moved from premise
   - ☐ Use of dogs
   - ☐ Other _____

3. Income from trapping and selling hogs and/or leasing hog hunting rights in the last 12 months? $ ☐☐☐☐.00

4. Please complete the following table for years 2015 through 2018 (best estimate):

	2015	2016	2017	2018
Total hogs harvested in for property listed				
Estimated number of hogs on property				
Feral hog management EFFORT on a rating scale of 1 to 10				
Total damages from feral hog activity	$	$	$	$

Program sign-up on back of form.

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I would like to participate in the following Central Texas Feral Hog Task Force cooperative feral hog management programs in 2019:

Program	Check all boxes that apply
Wireless "smart" trap with 30' corral (cooperative sharing program)	
TPWD Landowner Agreement (LOA) for aerial control	
Assistance from contracted or volunteer hunter/trapper	
Free corral trap supply kit	
Other assistance (specify)	

Name

Signature Date

Please sign and submit completed survey via email to FeralHog@txstate.edu or drop off at your local county AgriLife Extension Office:

Caldwell County AgriLife Extension 1403 Blackjack Street, Ste. B Lockhart, TX 78644 512.398.3122	Hays County AgriLife Extension 200 Stillwater Road Wimberley, TX 78676 512.393.2120

Email: FeralHog@txstate.edu

Website: www.FeralHogTaskForce.com

Central Texas Feral Hog Task Force

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Date: August 28, 2020

To: Texas A&M AgriLife Extension Service
Attn: Michael Bodenchuk, State Director

RE: Fiscal Year 2020 – County Feral Hog Abatement Grants Awarded to Hays and Caldwell Counties

Final Report: 2020 Central Texas Feral Hog Action and Sustainability Plan

The Meadows Center for Water and the Environment at Texas State University has partnered with Texas A&M AgriLife Extension, local stakeholder groups and the counties of Hays, Caldwell and Guadalupe (no grant funds for FY2020) to continue development of the Central Texas Feral Hog Task Force.

Funding

Fiscal Year 2019 funding for this effort was secured through participating County Commissioner's Courts and separate grant contracts awarded to the three participating counties:

- Hays County ILA w/ AgriLife = $7,500
- Caldwell County ILA w/ AgriLife = $20,000
    - Caldwell Co. matching funds = $5,000.00
- Guadalupe County funds (bounty only) = $5,000

FY2020 Program Totals

- **TOTAL FUNDS = $37,500.00**
- **TOTAL FERAL SWINE ABATED = 2,877 ($13.03 per hog)**
- **ESTIMATED 2020 PROPERTY/ECOLOGICAL DAMAGE MITIGATED = $1,438,500 (ROI = $38.36 per $1 spent)**

Bounty Program

The bounty program in Caldwell County began in February 2020 with monthly collection events planned for Smith Supply in Lockhart, TX, with support from the Plum Creek Watershed Partnership and trained Central Texas Feral Hog Task Force volunteers. Grant funding of $7,500* was budgeted for the program but limited to 50% reimbursement, so Caldwell County Commissioners approved an additional $7,500 in matching funds to cover 3,000 bounties at $5.00 per verified feral hog extirpated from the County.

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The bounty program was suspended after the March collection event due to COVID-19; however, a surprisingly smooth and successful virtual bounty program was reinstated from July 1, 2020 through August 15, 2020.

- February and March 2020 Caldwell Co. Bounty Collection = 990 feral hogs
- July and August 2020 Virtual Bounty Program = 1,117

*Unspent grant funds to support the Caldwell County bounty program totaling $2,189 were diverted to the purchase of additional trapping kits for program participants.

Guadalupe County ran a bounty program strictly from local funding approved by County Commissioners. The program was conducted out of the Guadalupe County extension office and yielded 648 feral swine.

No bounty program was conducted in Hays County.

Total documented feral hog abatement through county-implemented bounty programs over this period included the removal of **2,755 feral swine** in the three-county region just 22 feral swine below 2019 totals.

Trapping Kits

Capital investment for ongoing and future feral hog abatement was also a top priority to establish program sustainability. Investment in direct landowner assistance through the development of an incentive-based program to distribute trapping kits to engaged landowners will enhance feral hog management on numerous properties throughout the three-county region. As a result of this program, *nine new feral hog corral traps will be activated* in the region with an anticipated annual abatement capacity of **450 feral swine**. The following trapping supplies were purchased and distributed through the Central Texas Feral Hog Task Force:

Landowner Trapping Kits Distributed through the Central Texas Feral Hog Task Force – FY2019

- Hays County = 2 kits (t-posts, 36” door) valued at $391 each
- Caldwell County = 7 kits (t-posts, panels and 36” door) valued at $484 each

49 new hog traps have been activated by the Central Texas Feral Hog Task Force since 2018!

Aerial Gunning

Aerial gunning operations were conducted by pilots and trained marksmen with Veracity Aviation, based out of Seguin, TX. From February through August, Veracity conducted 14 aerial gunning flights covering

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Caldwell and Hays County. Total hogs viewed = 155. **Total hogs abated = 122.** At a cost of $5,915, the rate of return for aerial gunning in 2020 was $48.48 per hog removed. The cost per hog removed by aerial gunning increased 26% over the same period in 2019. This could indicate fewer feral swine in the areas covered by aerial gunning. Efforts will be made in 2021 to acquire additional properties and landowner agreements.

Additional Program Investments

Additional capital investment/ongoing program funding included FY2020 Wireless Traps service fees incurred by Caldwell and Hays County. Three W*ireless Traps* are currently in use through a local landowner cooperative support previously initiated efforts by the Central Texas Feral Hog Task Force. **Estimated total feral swine abated = 1,080**

Surveys

To help quantify feral hog damage in the three-county Central Texas region, **a voluntary landowner survey (Appendix A – Landowner Survey)** was updated in 2020. The survey is available to be completed online by visiting www.feralhogtaskforce.com and clicking the link "Feral Hog Damage and Control ONLINE Survey".

Outreach and Education

The Meadows Center worked with state and local AgriLife staff, watershed protection groups and other stakeholders to advertise and conduct education during "Hog Week" 2020. Two live webinars were conducted with subject matter experts. Webinars may be accessed on YouTube or through the Central Texas Feral Hog Task Force website by visiting www.feralhogtaskforce.com.

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Hog Week 2020 Webinars

- July 28, 2020 – *Caldwell County Feral Hog Webinar with Josh Helcel*, Texas A&M Natural Resources Institute.
- July 29, 2020 – *Hays County Feral Hog Webinar with Josh Helcel*, Texas A&M Natural Resources Institute.

Finally, to bring all Central Texas Feral Hog Task Force program information together under one roof, the Meadows Center has continued to develop a website, maintain an email account, Twitter and Facebook event pages for the program. Participant contact information collected throughout program implementation will also be used as part of a dynamic database for enhanced future communication. The project website can be accessed at: http://www.feralhogtaskforce.com/. Website components include the following:

- Downloadable Feral Hog Damage and Control Survey for Landowners
- Individual project pages for each partnering county
- Calendar of Events
- Links, photos, resources and videos
- Contact Us form

Sustainability

Each Central Texas Feral Hog Task Force partner county will continue abatement efforts in FY2021 with a goal of 6,000 feral swine to be removed throughout the region over this period. Investments in equipment, technology and communication networks will enable continued monitoring and increased landowner participation.

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TEXAS STATE UNIVERSITY

The rising STAR *of Texas*

Appendix A – Landowner Survey

Central Texas Feral Hog Task Force

Feral Hog Damage and Control Survey

Central Texas FERAL HOG TASK FORCE

Please complete the following for **property owned or managed**. Information provided will be used exclusively for data collection and analysis. Personal information will not be distributed by the Central Texas Feral Hog Task Force without your express consent.

Name		
Preferred contact info (phone/email)		
Physical address of primary property owned/managed	**City / State / Zip**	
County	**Total acres of all properties owned/managed in specified County**	

1. Please mark all of the areas in which feral hogs had negative impacts on your property.
   - ☐ Growing or planting commodity crop losses
   - ☐ Growing or planting specialty crop losses
   - ☐ Stored commodities
   - ☐ Pastures / Wetlands
   - ☐ Livestock (injury, deaths, diseases)
   - ☐ Growing or planting commodity crop losses
   - ☐ Fences, water troughs or other improvements
   - ☐ Equipment or vehicles
   - ☐ Personal injuries
   - ☐ Loss of land value
   - ☐ Loss of lease value, food plot/feeder damage
   - ☐ Owner and employee time
2. Please mark all of the control methods you use on your property(s).
   - ☐ Trapped and destroyed
   - ☐ Trapped and moved from premise
   - ☐ Aerial gunning
   - ☐ Trapped & sold
   - ☐ Owner/employee hunting
   - ☐ Snares
   - ☐ Lease hunting
   - ☐ Use of dogs
   - ☐ Other _____
3. Income from trapping and selling hogs and/or leasing hog hunting rights in the last 12 months? $ ☐☐☐☐☐.00
4. Please complete the following table for years 2016 through 2019 (best estimate):

	2016	2017	2018	2019
Total hogs harvested in for property listed				
Estimated number of hogs on property				
Feral hog management EFFORT on a rating scale of 1 to 10				
Total damages from feral hog activity	$	$	$	$

Program sign-up on back of form.

THE MEADOWS CENTER FOR WATER AND THE ENVIRONMENT

601 University Drive San Marcos, Texas 78666 | *phone* 512.245.9200 | *fax* 512.245.7371
www.meadowscenter.txstate.edu

Texas State University-San Marcos, founded in 1899.
MEMBER THE TEXAS STATE UNIVERSITY SYSTEM™

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TEXAS STATE UNIVERSITY

The rising STAR *of Texas*

I would like to participate in the following Central Texas Feral Hog Task Force cooperative feral hog management programs in 2019:

Program	Check all boxes that apply
Wireless "smart" trap with 30' corral (cooperative sharing program)	
TPWD Landowner Agreement (LOA) for aerial control	
Assistance from contracted or volunteer hunter/trapper	
Free corral trap supply kit	
Other assistance (specify)	

Name

Signature Date

Please sign and submit completed survey via email to feralhog@txstate.edu or drop off at your local county AgriLife Extension Office:

Caldwell County AgriLife Extension 1403 Blackjack Street, Ste. B Lockhart, TX 78644 512.398.3122	Hays County AgriLife Extension 200 Stillwater Road Wimberley, TX 78676 512.393.2120

www.feralhogtaskforce.com The Meadows Center for Water and the Environment feralhog@txstate.edu

THE MEADOWS CENTER FOR WATER AND THE ENVIRONMENT

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www.meadowscenter.txstate.edu

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MEMBER THE TEXAS STATE UNIVERSITY SYSTEM™

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Authorize the County Judge to execute a service agreement with Personnel Evaluation, Inc. for the Sheriff's Office to perform pre-employment screenings.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
CONSENT	November 2, 2021	NTE $10,000 per FY

LINE ITEM NUMBER

001-618-03.5335 Jail, Employment Testing
001-618-00.5335 S.O., Employment Testing
001-618-04.5335 Animal Control, Employment Testing

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
Sheriff Gary Cutler	Click to Select Sponsor.	N/A

SUMMARY

The Personnel Evaluation Profile (PEP) is designed to evaluate an applicant's basic value system: their background, attitudes, and beliefs concerning critical areas such as honesty, reporting dishonesty, customer service, socialization, drugs, employment background, work ethic, absenteeism, and tardiness. It is not meant to replace any current pre-employment testing or psychological evaluation but rather to direct the interviewing official on weak areas in the applicant's overall character. The S.O. will implement this tool at the pre-employment phase of the hiring process. All applicants (sworn law enforcement/corrections, records, dispatch, support personnel, etc. are evaluated on the same questions in the same manner. The tool can be administered onsite in paper/pencil form or online. The average time to complete the survey is 30 minutes, and the results are available immediately. There is a one-time setup fee of $250.00 and $20.00 for each PEP administered. Funding in the Sheriff's Office budgets is available.

Attachments: Personnel Evaluation, Inc. Agreement
Personnel Evaluation, Inc. Flyer

2021 PEP LICENSE AND TRADE SECRETS AGREEMENT

The Personnel Evaluation Profile (PEP) is one of the most advanced and effective pre-employment screening tools available. The sale, use and administration of the PEP is restricted only to those firms and individuals authorized in writing by Personnel Evaluation, Inc. (PEI). This license agreement is required to protect the confidential nature of the copyrighted survey materials, administrative manuals, and printout reports and to insure that the survey is properly administered and evaluated by qualified personnel.

It is agreed and understood that the PEP is the sole property of PEI. All rights are reserved; any reproduction or duplication of any part of the survey booklet, administrative manuals or printouts is prohibited without prior written permission from PEI. The PEP and associated manuals and materials will be promptly returned to PEI upon termination of this agreement.

It is further agreed that all survey materials, manuals, printouts, etc. associated with the PEP will be strictly controlled. The materials will be kept in a secured area with access limited only to authorized personnel. All survey results/printouts will be disclosed to authorized personnel only. PEP results will not be stored in applicants' personnel files and results will not be given out to job applicants under any circumstances without prior written approval from PEI. PEP results are considered to be "trade secrets" any release of PEP results that are required by State or Federal law will only be released in a manner that is consistent with preserving those trade secrets and measures will be undertaken to insure "preservation of secrecy."

It is agreed and understood that the PEP is to be used as a screening "tool" to assist in the hiring process and should not be used as the **sole** basis for making a hiring decision and the survey will be administered, scored and used in accordance with the guidelines provided by PEI. It is understood that there are no perfect screening tools; all are subject to some degree of error. The licensee is ultimately responsible for whom they hire. PEI bears no responsibility or liability for hiring mistakes. Hiring decisions should be based upon the applicant's employment history, references, job interview(s), job skills, other written screening tools (if applicable), and criminal records checks, etc. The PEP was designed to meet EEOC Guidelines and to comply with federal and state laws, however PEI and its employees or agents cannot be held responsible for discriminatory practices of the hiring company. The PEP may not be used in Massachusetts or Rhode Island. Clients are responsible for monitoring their local and state laws to insure that all parts of their hiring process, including the PEP, remain in compliance. It is agreed that if the licensee decides to use the PEP as a pass/fail instrument, the licensee will consult with PEI to establish the specific raw score cut-off. If raw score cut-offs are used, the licensee agrees to supply EEOC data to PEI to ensure no adverse impact is occurring. Client agrees to participate in the PEP Share Program (Agreement dated 2021) and agrees to all provisions of said document including fees, release of information and liability.

It is agreed that PEP surveys manuals, printouts or related materials will not be supplied to any outside person, agency, educational institution, etc. without written permission from PEI except for professional consultants of the licensee for statistical, legal or psychological studies.

If Client is not satisfied and discontinues during the trial period, PEI will credit the cost of the trial program back to Client; however, Client MUST receive a minimum of (10) verbal consultations in order to ensure complete understanding of the program before a refund is given. It is understood that PEI may terminate the license agreement at any time if the PEP is not administered and used in a fair and ethical manner consistent with the guidance provided.

Price per survey: $20.00 One time start-up fee: $250.00 Laminated booklets: $15.00 each
NOTE: If PEI “proctors” a PEP for Client, there is a $10 surcharge.

Invoices not paid within 30 days will have interest assessed.

Licensee Agency Name: Hays County Sheriff’s Office
Address: 810 S. Stagecoach Trail San Marcos, TX 78666
Agency Official: _____ Title: _____
Signature: _____ Date _____
Facsimile signatures shall be sufficient unless originals are requested by third party.

NOTE: This License Agreement is valid without a PEI representative’s signature. It becomes effective upon the earlier date of Client’s signature or Client’s use of the PEP.

PEI Acceptance Signature Chris Wicklund Date 04/28/2021

Personnel Evaluation, Inc. - 11138 West Greenfield Avenue - Milwaukee, WI 53214
414-256-3600 - toll free 888-734-2727
fax: 414-921-9744

PEP Share Program Agreement - 2021

Many agencies/businesses utilize the Personnel Evaluation Profile (PEP) as part of their evaluation process and there are many applicants who have previously taken the PEP for other agencies. The ability to access and compare an applicant's previous results can be extremely valuable in the evaluation process.

Prior PEP results are only released if the applicant signs the attached release form. Upon receipt of the candidate's release form, we will search our files and release his/her results from previous participating agency application processes. When prior results are found, a consistency report will be provided, highlighting any noteworthy differences in the way the applicant answered questions regarding their background and value system. An $8.00 processing fee will be charged for each prior result found and released (there is a $5.00 search fee if no results are found).

Please note: This form authorizes access to information only if the requesting agency has both a current PEP result and the signed applicant release form.

APPLICANT PEP RELEASE

I hereby authorize Personnel Evaluation, Inc. to release any of my previous Personnel Evaluation Profile (PEP) survey results to _____.

I understand that information I previously provided might be compared to my current answers and that reviewing prior result(s) may be a contributing factor in this agency's decision to approve or disqualify my application for employment. I hereby release Personnel Evaluation, Inc., any prior agencies/businesses or entities, and the agency where I am currently seeking employment from any liability whatsoever regarding the disclosure of my past results.

Requesting Officer's Name: _____ (Please Print)

Applicant Name _____SSN:_____

Applicant Signature _____ Date_____

Please list all agencies/businesses where you have taken the PEP as part of the application process. Please also list the approximate dates.

Agency/Business	Date
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Please email this release to pepemail@peiasap.com or fax to (414) 921-9744.

PEP

Personnel Evaluation Profile

- Fast, accurate, cost-effective
- Uncovers poor value systems
- Helps identify 1/3 more disqualifying criteria
- Greatly reduces backgrounding hours

COVERING

Work Ethic	Customer Service
Absenteeism	Drugs
Tardiness	Reporting Dishonesty
Ethics/Honesty	Survey Distortion
Socialization	Employment Background

The PEP is one of the finest pre-employment screening tools available. Survey results are presented in the form of a graph allowing hiring officials to easily compare applicants. Itemized responses provide the interviewer with direct insight as to the applicant's general character and value system – information that may not be found in a standard background investigation. The survey also contains several sophisticated scoring mechanisms to identify applicants trying to manipulate or create a "good impression" on the survey.

We offer a verbal consultation on every result – at no additional fee! Hiring experts point out inconsistencies in applicant statements and discuss areas that should be explored prior to hire.

The PEP may be administered on-site in paper/pencil form or over the internet. Average time for completion is 25-30 minutes. Survey results are available immediately by email or fax.

Shown below is the graph portion of a PEP result.

PERSONNEL EVALUATION PROFILE (PEP)
Management Printout

Copyright © 1988, 1992, 1993, 1995, 2000, 2006, 2007
by Personnel Evaluation, Inc.

Applicant: Mr. High Risk

Date Processed: February 17, 2009

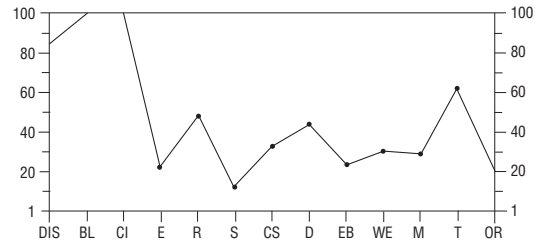
Control Number: 191482

XYZ Company

Note: Most scores on key scales are below average (50).

Interviewer's Notes:
- applicant admits to stealing property 5 times in the last year
- admits to shoplifting 3 weeks ago
- admits to $2,500 theft from previous job
- was fired from last 2 jobs
- admits to daily marijuana use

APPLICANT'S PROFILE



DIS = Distortion
BL = Blatant Lie
CI = Critical Thinking
E = Ethics
R = Reporting Theft
S = Socialization
CS = Customer Service
D = Drug Attitude
EB = Employment Background
WE = Work Ethic
M = Absenteeism
T = Tardiness
OR = Overall Recommendation

SUCCESS STORY

Real life scenario:

Two departments, using the PEP, rejected the same eligible candidate based on the PEP results prior to running his background check. Their cost was $20. A third department ran a full background investigation on this same individual, only to reject him as a result of the background check. Their cost? Thousands. This department now uses the PEP prior to running their backgrounds.

TESTIMONIALS

"We used the Personnel Evaluation Profile for the first time last year when hiring Correction's Officers for our new Jail. Using the PEP to gain valuable insight into the applicants' work habits and personality traits prior to the interview has been very effective. The results were so successful that now our Dispatch Center and Law Enforcement Center are using the PEP and our other county departments are considering using it as a part of their hiring procedures. The feedback from PEI is fast and costs are budget friendly."

"We use the Personnel Evaluation Profile as a part of the process for hiring new Police Officers. We found it to be a valuable tool to augment the background investigation. The Customer Service was exceptional. The Representative from P.E.I. spent 45 minutes on the phone interpreting results from three finalists. We would not consider hiring a candidate without having them take the PEP."

Personnel Evaluation, Inc. • Milwaukee, WI • (888) 734-2727

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Authorize a purchasing waiver for the Sheriff's Office to utilize The Wrap by Safe Restraints, Inc. for FY 2022 approved safety restraints.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
CONSENT	November 2, 2021	$10,064.00

LINE ITEM NUMBER

001-618-00.5717_400 Law Enforcement Equipment Operating

AUDITOR USE ONLY

AUDITOR COMMENTS:

Requires a waiver to the Hays County Purchasing Policy requiring three quotes.

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** MARISOL VILLARREAL-ALONZO

REQUESTED BY	SPONSOR	CO-SPONSOR
Sheriff Gary Cutler	INGALSBE	N/A

SUMMARY

The Sheriff's Office is requesting a waiver to the purchasing policy requiring three quotes for the safety restraints that are approved in the FY 2022 budget process. The requested vendor offers the only restraint system that is designed to stop conflicts quickly, achieve fast de-escalation, and provide rapid recovery for both subject and personnel. Fast control is achieved; the subject is now restrained comfortably in an upright and seated position for respiratory recovery and receives immediate medical care as needed. It is designed to protect subjects and personnel by reducing the possibility of injury and death. The Sheriff’s Office has been thoroughly trained with this system and has been using the wrap for approximately ten years.

**********Sole Source Letter**********

To: Hays County Sheriff's Office
From: Charles Hammond
Date: Sept. 30,2021
Subject: Sole Source Provider-The WRAP Safety Restraint Equipment

Safe Restrains Inc. is the sole and exclusive world-wide manufacturer and distributor of The WRAP safety restraint system, the WRAP Carry Cart and WRAP Transport Harness.

If you have any further questions, please reach out to me directly.

Best Regards,

Charles

Charles Hammond
President/CEO 716 863 0498
Safe Restraints Inc.

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court
Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Approve and confirm the appointments of Leia Boggs as Reserve Deputy Constable and Travis Bertram as Deputy Constable in the Hays County Constable Precinct 1 Office, effective date November 2, 2021.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
CONSENT	November 2, 2021	N/A

LINE ITEM NUMBER

N/A

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
Constable David Peterson	INGALSBE	N/A

SUMMARY

Pursuant to Local Government Code Chapter 86 Subchapter B 86.011 (a) The Commissioner's Court shall approve and confirm the appointment of a Deputy Constable.

Sec. 86.011. APPOINTMENT OF DEPUTY CONSTABLE.
(a) An elected constable who desires to appoint a deputy must apply in writing to the commissioners court of the county and show that it is necessary to appoint a deputy in order to properly handle the business of the constable's office that originates in the constable's precinct. The application must state the name of the proposed deputy. The commissioners court shall approve and confirm the appointment of the deputy only if the commissioners court determines that the constable needs a deputy to handle the business originating in the precinct.
(b) Each deputy constable must qualify in the manner provided for deputy sheriffs.
(c) The constable is responsible for the official acts of each deputy of the constable. The constable may require a deputy to post a bond or security. A constable may exercise any remedy against a deputy or the deputy's surety that a person may exercise against the constable or the constable's surety.
(d) A person commits an offense if the person:
(1) serves as a deputy constable and the person has not been appointed as provided by Subsection (a); or
(2) is a constable and issues a deputyship without the consent and approval of the commissioners court.
(e) An offense under Subsection (d) is punishable by a fine of not less than $50 or more than $1,000

Please refer to the attached bio.

DEPUTATION

THE STATE OF TEXAS
COUNTY OF HAYS

I, **DAVID PETERSON, CONSTABLE PCT. 1** in and for the County of Hays and State of Texas, having full confidence in **LEIA BOGGS**, do hereby, with the consent of the Honorable Commissioners' Court of Hays County, nominate and appoint **HIM/HER** my true and lawful deputy, in my name, place and stead, to do and perform any and all acts and things pertaining to the office of **CONSTABLE PCT. 1** for said County and State, hereby ratifying and confirming any and all such acts and things lawfully done in the premises by virtue hereof.

Witness my hand, this the **2ND day of NOVEMBER, 2021**.

DAVID PETERSON, CONSTABLE PCT. 1
HAYS COUNTY, TEXAS

Before me, the undersigned authority, in and for Hays County, Texas, on this day personally appeared **DAVID PETERSON**, known to me to be the person whose name is subscribed to the foregoing deputation, and acknowledged to me that **he** executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office at San Marcos, Texas, this the **2ND day of NOVEMBER, 2021.**

ELAINE H. CARDENAS, HAYS COUNTY CLERK

OATH OF OFFICE

I, **LEIA BOGGS**, solemnly swear (or affirm) that I will faithfully execute the duties of the office of **RESERVE DEPUTY CONSTABLE PCT. 1** for the County of Hays, State of Texas, and will to the best of my ability preserve, protect, and defend the Constitution and Laws of the United States and of this State, so help me God.

Subscribed and sworn to before me on this the **2ND day of NOVEMBER, 2021**.

DEBBIE INGALSBE,
COMMISSIONER PCT. 1
HAYS COUNTY, TEXAS

BY: _____

The State of Texas

Statement of ~~Elected~~/Appointed Officer

(Pursuant to Tex. Const. Art. XVI, § (b), amended 2001)

I, LEIA BOGGS, do solemnly swear (or affirm), that I have not directly or indirectly paid, offered, promised to pay, contributed, or promised to contribute any money or thing of value, or promised any public office or employment as a reward to secure my appointment or confirmation so help me God.

UNDER PENALTIES OF PERJURY, I DECLARE THAT I HAVE READ THE FOREGOING STATEMENT AND THAT THE FACTS STATED THEREIN ARE TRUE.

Date: **NOVEMBER 2, 2021**

Affiant's Signature

RESERVE DEPUTY CONSTABLE PCT. 1
Position to which Appointed

HAYS COUNTY, TEXAS

SWORN to and subscribed before me by Affiant on this the 2nd day of November, 2021.

Signature of Person Administering Oath

Printed Name: **DEBBIE INGALSBE**
Title: **COMMISSIONER PCT. 1**
HAYS COUNTY,TEXAS

2021 – 2024 TERM OF OFFICE

DEPUTATION

THE STATE OF TEXAS
COUNTY OF HAYS

I, **DAVID PETERSON, CONSTABLE PCT. 1** in and for the County of Hays and State of Texas, having full confidence in **TRAVIS BERTRAM**, do hereby, with the consent of the Honorable Commissioners' Court of Hays County, nominate and appoint **HIM/HER** my true and lawful deputy, in my name, place and stead, to do and perform any and all acts and things pertaining to the office of **CONSTABLE PCT. 1** for said County and State, hereby ratifying and confirming any and all such acts and things lawfully done in the premises by virtue hereof.

Witness my hand, this the **2ND** **day of** **NOVEMBER**, **2021**.

DAVID PETERSON, CONSTABLE PCT. 1
HAYS COUNTY, TEXAS

Before me, the undersigned authority, in and for Hays County, Texas, on this day personally appeared **DAVID PETERSON**, known to me to be the person whose name is subscribed to the foregoing deputation, and acknowledged to me that **he** executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office at San Marcos, Texas, this the **2ND** **day of NOVEMBER, 2021.**

ELAINE H. CARDENAS, HAYS COUNTY CLERK

OATH OF OFFICE

I, **TRAVIS BERTRAM**, solemnly swear (or affirm) that I will faithfully execute the duties of the office of **DEPUTY CONSTABLE PCT. 1** for the County of Hays, State of Texas, and will to the best of my ability preserve, protect, and defend the Constitution and Laws of the United States and of this State, so help me God.

Subscribed and sworn to before me on this the **2ND** **day of NOVEMBER**, **2021**.

DEBBIE INGALSBE,
COMMISSIONER PCT. 1
HAYS COUNTY, TEXAS

BY: _____

The State of Texas

Statement of ~~Elected~~/Appointed Officer

(Pursuant to Tex. Const. Art. XVI, § (b), amended 2001)

I, TRAVIS BERTRAM, do solemnly swear (or affirm), that I have not directly or indirectly paid, offered, promised to pay, contributed, or promised to contribute any money or thing of value, or promised any public office or employment as a reward to secure my appointment or confirmation so help me God.

UNDER PENALTIES OF PERJURY, I DECLARE THAT I HAVE READ THE FOREGOING STATEMENT AND THAT THE FACTS STATED THEREIN ARE TRUE.

Date: **NOVEMBER 2ND , 2021**

Affiant's Signature

DEPUTY CONSTABLE PCT. 1
Position to which Appointed

HAYS COUNTY, TEXAS

SWORN to and subscribed before me by Affiant on this the 2ND day of NOVEMBER, 2021.

Signature of Person Administering Oath

Printed Name: **DEBBIE INGALSBE**
Title: **COMMISSIONER PCT. 1**
HAYS COUNTY,TEXAS

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Approve specifications for IFB 2022-B03 Cotton Gin Road - Low Water Crossing and authorize Purchasing to solicit for bids and advertise.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
CONSENT	November 2, 2021	

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
Jerry Borcherding	JONES	N/A

SUMMARY

Hays County (County) is issuing this Invitation for Bid (IFB) for the construction improvements of the low water crossing at Cotton Gin Road over Porter Creek.

Attached:
Solicitation: IFB 2022-B03 Cotton Gin Road - Low Water Crossing
Attachment A: Schedule of Rates and Prices
Attachment B: IFB 2022-B03 Construction Plans

SOLICITATION, OFFER AND AWARD

Hays County Auditor
Purchasing Office
712 S. Stagecoach Trail, Suite 1071
San Marcos, Texas 78666

Solicitation No.: IFB 2020-B03 **Cotton Gin Road – Low Water Crossing**	**Date Issued: November 4, 2021**

SOLICITATION

Respondents must submit proposals as listed: two (2) originals and one (1) digital copy on a thumb drive
Proposals will be received at the Hays County Purchasing Office at the address shown above until:
12:00 p.m. local time November 30, 2021.
Proposals received after the time and date set for submission will be returned unopened.

For information please email: purchasing@co.hays.tx.us	Questions concerning this RFP must be received in writing no later than 5:00 on November 15, 2021.	Phone No.: (512) 393-2283

OFFER (Must be fully completed by Respondent)

In compliance with the above, the undersigned offers and agrees to furnish all items or services awarded at the prices stipulated for each item delivered at the designated point(s) and within the time specified herein. Award shall include all solicitation documents and attachments.

MANUALLY SIGN ALL COPIES SUBMITTED. SIGNATURE IS MANDATORY.

Respondent		Respondent's Authorized Representative	
Entity Name: Mailing Address:		Name: Title: Email Address: Phone No.:	
Signature:		Date:	
Name, Email Address and Phone No. of person authorized to conduct negotiations on behalf of Respondent:			

NOTICE OF AWARD (To be completed by County)

Funding Source:	Awarded as to item(s):	Contract Amount:
Vendor:		Term of Contract:
This contract issued pursuant to award made by Commissioners Court on:	Date:	Agenda Item:

Important: Award notice may be made on this form or by other Authorized official written notice.

_____ _____
Hays County Judge Date

_____ _____
Hays County Clerk Date

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Attachment A: Schedule of Rates and Prices

Attachment B: Construction Plans

I. IFB Submittal Checklist

This checklist is provided for the Vendor's convenience and identifies the documents that MUST be submitted for the bid/proposal to be considered responsive, as well as the required forms requested by Hays County.

A COMPLETE SOLICITATION RESPONSE PACKAGE INCLUDES:

The following forms MUST be returned for the bid/proposal to be considered responsive:

____ 1. Solicitation, Offer and Award Form completed and signed

____ 2. Mandatory Schedule Rates and Prices: Attachment A

____ 3. Mandatory Bid Form: Appendix C

____ 4. Vendor Reference Form

____ 5. Bid Bond for 5% of total bid amount

Required Forms by Hays County:

____ 1. Conflict of Interest Questionnaire completed and signed

____ 2. Code of Ethics signed

____ 3. HUB Practices signed

____ 4. House Bill 89 Verification signed and notarized

____ 5. Senate Bill 252 Certification

____ 6. Debarment & Licensing Certification signed and notarized

____ 7. Vendor/Bidder's Affirmation completed and signed

____ 8. Federal Affirmation and Solicitation Acceptance

____ 9. Related Party Disclosure Form

____ 10. Any addenda applicable to this solicitation

Hays County will accept bids, by the stated due date by one of the following methods:

____ 1. Electronic Submission of Bid Packet through BidNet Direct and one (1) hard copy or

____ 2. One original of the proposal and a digital copy on a thumb drive in a sealed envelope with the Solicitation Number and Vendor's Name on the outermost envelope, addressed to:

Hays County Purchasing
712 S Stagecoach Trail, Suite 1071
San Marcos, TX 78666

II. Summary

1. Type of Solicitation:	Invitation for Bid (IFB)
2. Solicitation Number:	IFB 2022-B03 Cotton Gin Road – Low Water Crossing
3. Issuing Office:	Hays County Auditor Purchasing Office 712 S. Stagecoach Trial, Suite 1071 San Marcos, TX 78666
4. Responses to Solicitation:	Sealed proposals marked with Solicitation Number and Vendor Name on the outermost envelope One (1) Original and one (1) digital copy on a thumb drive, or Electronic Bid packets can be submitted through BidNet Direct and one (1) hard copy is required to be received.
5. Deadline for Responses:	In issuing office no later than: **Thursday, November 30, 2021; 12:00 p.m. Central Time (CT)**
6. Pre-Bid Meeting:	**Recommended** **Wednesday, November 10, 2021; 10:00 AM Central Time (CT)** Hays County Transportation Department 2171 Yarrington Road San Marcos, TX 78666
7. Bonding Requirements:	5% Bid bond Performance and Payment Bond: 100% of Contract Price within 10 days of contract award.
8. Initial Contract Term:	December 2021 – June 2022 (Until Project completion)
9. Optional Contract Terms:	none
10. Designated Contact:	Hays County Purchasing Email: purchasing@co.hays.tx.us
11. Questions & Answers:	Questions regarding this solicitation must be made in writing and submitted to the designated contact above no later than Monday, November 15, 2021; 5:00 p.m. CT. Telephone inquiries will not be accepted. Questions may be submitted by email to the address above. Answers to questions will be provided in the form of an addendum after the question deadline has passed. All addenda will be posted on CivicPlus, BidNet Direct and ESBD websites.

12. Addenda

Any interpretations, corrections or changes to this RFP and specifications will be made by addenda. Sole issuing authority of addenda shall be vested in the Hays County Purchasing Office. It is the Vendor's responsibility to acknowledge receipt of all addenda with proposal submission.

13. Contact with County Staff:

Upon issuance of this solicitation, employees and representatives of Hays County, other than the Purchasing Office staff identified as the Designated Contact above, will not discuss the contents of this solicitation with any Vendor or its representatives. Failure of a Vendor or any of its representatives to observe this restriction may result in disqualification of any related offer. This restriction does not preclude discussions between affected parties for the purpose of conducting business unrelated to this procurement.

Anticipated Schedule of Events

November 4, 2021	Issuance of IFB
November 10, 2021	Pre-Bid Meeting (10:00 AM CT)
November 15, 2021	Deadline for Submission of Questions (5:00 PM CT)
November 30, 2021	Deadline for Submission of Bids (12:00 PM CT) **Late bids will not be accepted.**
December 2021	Anticipated contract award date

III. Specifications

A. Introduction

Hays County (County) is issuing this Invitation for Bid (IFB) for the construction improvements of the low water crossing at Cotton Gin Road over Porter Creek.

B. Scope of Work

The proposed project will improve the existing low water crossing at Cotton Gin Road over Porter Creek, replacing the existing two 36-inch diameter corrugated metal pipe with five 10-foot x 5-foot boxes. The project includes new safety guard rails and streambank stabilization. The project includes new safety guard rails and streambank stabilization. The existing roadway width of approximately 24-feet will be widened to a minimum of 25-feet and will improve approximately 310 feet of roadway. The project also includes approximately 200 linear feet of guard rail installation along the pavement edge for traffic protection. Drainage improvements include new culvert and slope protection. Upon completion of the project all disturbed areas shall be revegetated. The improvements will significantly reduce overtopping of the road and lower the flooding elevation upstream of the crossing.

The following attachments to this IFB provide specific detail regarding this project and should be thoroughly reviewed prior to bid submittal:
Attachment A: Schedule Rates and Prices
Attachment B: IFB 2022-B03 Construction Plans

SUBSTANTIAL COMPLETION: Project shall be substantially complete no later than June 30, 2022. The successful bidder shall ensure the following items have been completed, inspected and approved prior to request for substantial completion:

1. Structures and drainage channels have been completed and inspected.
2. Repairs have been completed to all damaged pavements; all pavement installations have been completed.
3. All topsoil, seeding, sodding, and mulching of disturbed areas has been installed.
4. General cleanup has been completed, pavement markings and signage installed.

C. Specifications (Appendix A)

Texas Department of Transportation: **Governing Specifications**
(standard specifications, special provisions, and special specifications)
Where discrepancies occur between the technical specifications, the following Descending order of priority shall govern: (1) special conditions, (2) special Provisions to special specifications, (3) special specifications, (4) special Provisions, and (5) standard specifications.

All specifications and special provisions applicable to this project are identified in Appendix A.

D. Qualifications

RESPONSIBILTY: A prospective bidder must affirmatively demonstrate bidder's responsibility. A prospective bidder must meet the following requirements:

- Have adequate financial resources, or the ability to obtain such resources as required
- Be able to comply with required or proposed delivery schedule
- Have a satisfactory record of performance
- Be otherwise qualified and eligible to receive an award
- Have the proper equipment to fulfill the terms and conditions of this contract such as proper equipment for weighing materials, loading materials, delivering materials, etc.

COMPLIANCE WITH LAWS: The successful bidder shall comply with all applicable federal, state and local laws and regulations pertaining to the practice of the profession and the execution of the duties under the bid.

INSURANCE: The successful bidder will be required to furnish proof of insurance for Workers' Compensation, Auto Liability and General Liability before any work may begin.

It is the practice of Hays County to encourage local participation and to promote and encourage contracting and subcontracting opportunities for locally owned businesses and labor in all contracts.

The County of Hays does not discriminate on the basis of race, color, national origin, sex, religion, age and disability in employment or the provision of services.

E. Mandatory Schedule Rates and Prices (Attachment A) & Bid Form (Appendix C)

Respondent must provide its total bid amount by completing the mandatory Schedule Rates and Prices form included as Attachment A: Schedule Rates and Prices, as well as the mandatory Bid Form included as Appendix C.

Hays County is exempt from federal excise and state sales tax; therefore, tax must not be included in this bid.

ESTIMATED QUANTITIES: Hays County is not obligated to purchase any minimum amount, and the County may purchase any reasonable amount greater than the estimate for the same unit price. Any limit on quantities available must be stated expressly in the bid.

F. Submittal Requirements

Vendor must deliver their proposal to the Hays County Purchasing Department by one of the following methods by the specified deadline:

Mailed or Dropped off Proposals:

- One (1) original proposal with required forms manually signed by the Vendor with original signatures
- One (1) digital copy of the full proposal with all required forms on a thumb drive

Electronic Proposals:

- Upload proposal with required forms manually signed by the Vendor. (through BidNet Direct)
- One (1) original proposal with required forms manually signed by the Vendor, delivered to the Hays County Purchasing Office. Either the original or Electronic Proposal (through BidNet Direct) MUST be received by the due date and time to be considered responsive.
- www.bidnetdirect.com/hayscounty

LATE SUBMITTALS WILL NOT BE ACCEPTED.

ALTERING BIDS: Any interlineations, alteration, or erasure made before receiving time must be initialed by the signer of the bid, guaranteeing authenticity.

WITHDRAWING OF BID: A bid may be withdrawn at any time prior to the official opening. After the official opening, bids may not be amended, altered or withdrawn without the recommendation of the County Purchasing Manager and the approval of Commissioners Court.

It is understood that Hays County reserves the right to accept or reject any and all submittals as it shall deem to be in the best interest of Hays County.

FORMS: All bids must be submitted on the forms provided in this bid document. Changes to bid forms made by bidders shall disqualify the bid.

REFERENCES: Hays County requires respondent to supply a list of at least three (3) references (See Section IV for Vendor Reference Form) where like services have been supplied by their company. Include name of company, address, telephone number and name of representative.

G. Award of Contract

BASIS OF AWARD: The County reserves the right to award a contract for named project to a bidder on the basis of total low bid and/or the best value for the County. Bidders must bid on all items in order to be considered responsive. The County reserves the right to accept in part or in whole any bids submitted and waive any technicalities for the best interest of the County.

The bid award shall be based on but not necessarily limited to, the following factors:

- Total Price
- Special needs and requirements of Hays County
- Vendors past performance record with Hays County
- Hays County's evaluation of vendor's ability
- Vendor's references

RESPONSIBILTY: A prospective respondent must affirmatively demonstrate respondent's responsibility. A prospective respondent must meet the following requirements:

- Have adequate financial resources, or the above ability to obtain such resources as required
- Be able to comply with required or proposed delivery schedule
- Have a satisfactory record of performance
- Be otherwise qualified and eligible to receive an award

CONTRACT: This bid, when properly accepted by Hays County shall constitute a contract equally binding between the successful bidder and Hays County. No negotiations, decisions, or actions shall be initiated or executed by any vendor as a result of any discussions with any County employee. Only those communications that are in writing from the Purchasing Manager shall be considered as a duly authorized expression on behalf of the County. No oral agreements either expressed or implied will be considered in fulfilling this contract. No additional terms will become part of this contract with the exception of Commissioners Court approved change orders.

BIDDER AGREES, if this bid is accepted, to furnish any and all services upon which prices are offered, at the price(s) and upon the terms and conditions contained in the specifications. The period for acceptance of the bid will be sixty (60) calendar days.

The successful bidder expressly warrants that all services specified in the IFB will be performed with care and diligence and in accordance with all specifications of the IFB. The successful bidder agrees to correct any deficiencies in its performance of services upon notification by the County and without additional expense to the County.

The County reserves the right to accept in part or in whole any bids submitted and waive any technicalities for the best interest of the County.

If the bid is accepted and approved by Commissioners Court, this document shall be made part of the contract. No negotiations, decisions, or actions shall be initiated or executed by any vendor as a result of

any discussions with any County employee. No oral agreements either expressed or implied will be considered in fulfilling this contract.

H. Bond Requirements

BID BOND: A Bid Bond shall be submitted with your offer. It shall be in the amount of 5% of the total bid amount and in the form of a certified or cashier's check or bid bond issued by a surety company authorized to do business in Texas. Within Ten (10) days of award, it may be returned to you, if you are the unsuccessful offer. If you are the awardee, it shall be held until a Performance Bond is received as explained below.

PERFORMANCE & PAYMENT BONDS: Contractor shall furnish Performance and Payment Bonds to the County Purchasing Manager within ten (10) calendar days of notification of contract award. Each shall be in the amount at least equal to the contract price, as security for the faithful performance and payment of all of contractor's obligations under the contract documents. Even though a contract may be awarded, no contract is deemed to exist until the proper Performance Bond has been received. The bonds are to be issued from a surety company holding a license from the State of Texas to act as a surety. These bonds shall remain in effect until final acceptance by the Engineer and until a Maintenance Bond, which will run for a period of two (2) years after the successful completion of all work under the contract and acceptance of Hays County, is obtained and provided to the county. A Maintenance Bond guarantees all work under the contract to be free from faulty materials and free from improper workmanship, and against injury from proper and usual wear, and guarantees to replace or to re-execute, without cost to Hays County, such work as may be found to be improper or imperfect, and to make good all damage caused to the other work of materials, due to such required replacement or re-execution. At your request, the Performance Bond shall be returned by the County upon completion of the contract and final acceptance of all items in the contract. Neither the final certificate, nor payment, nor any provision in the contract documents shall relieve the contractor of responsibility for neglect or faulty materials or workmanship during the period covered by the Maintenance Bond. If the awardee fails to perform any of the services required by the contract within ten (10) days of receipt of written demand for performance from County or if the awardee fails to correct or replace defective goods or products within ten (10) days from receipt of written demand, the contract is deemed BREACHED and is cause for termination of the contract. A contract terminated for cause results in retention of the Bond by County for liquidated damages.

I. Warranty of Performance

The successful respondent expressly warrants that all services specified in the IFB will be performed with care and diligence and in accordance with all specifications of the IFB. The successful bidder agrees to correct any deficiencies in performance of services upon notification by the County and without additional expense to the County.

CONTINUING NON-PERFORMANCE of the bidder, in terms of specifications, shall be basis for the termination of the contract by the County. The County shall not pay for merchandise/services that are unsatisfactory. Failure to perform any provision will constitute a default of contract, in which case, corrective action shall take place within ten (10) days from the date of written notice citing the nature of breach. Failure to take corrective action or to provide a satisfactory written reply excusing such failure within the prescribed ten (10) days will authorize the County to terminate this agreement by written notice.

COMPLIANCE WITH LAWS: The successful Respondents shall comply with all applicable federal, state and local laws and regulations pertaining to the practice of the profession and the execution of the duties under the solicitation. Any contract executed as a result of this IFB shall be governed by the laws of the State of Texas.

LIQUIDATED DAMAGES FOR DELAYS: If the work is not substantially complete by June 30, 2022, the Contractor shall pay to the County as fixed, agreed, and liquidated damages (it being impossible to determine the actual damages occasioned by the delay) the amount of $610 (six hundred-ten dollars) for each calendar day of delay, until the work is completed. The Contractor and Contractor's sureties shall be liable to the County for the amount thereof.

EXCUSABLE DELAYS: The right of the Contractor to proceed shall not be terminated nor shall the Contractor be charged with liquidated damages for any delays in the completion of the work due to:

1. Any acts of the Government, including controls or restrictions upon or requisitioning of materials, equipment, tools, or labor by reason of war, national defense, or any other national emergency;
2. Any acts of the County;
3. Causes not reasonably foreseeable by the parties to this Contract at the time of execution which are beyond the control and without the fault or negligence of the Contractor, including, but not restricted to, acts of God, terrorism, war, acts of another Contractor in the performance of some other contract with the County, fires, floods, epidemics, quarantine, restrictions, strikes, freight embargoes, and weather of unusual severity such as hurricanes, tornadoes, cyclones and other extreme weather conditions;

Provided, however, that the Contractor promptly notifies the City/County within ten (10) days in writing of the cause of the delay. Upon receipt of such notification, the City/County shall ascertain the facts and the cause and extent of delay. If, upon the basis of the facts and the terms of this contract, the delay is properly excusable, the County shall extend the time for completing the work for a period of time commensurate with the period of excusable delay.

IV. General Terms and Conditions for Solicitations Applicable To: Invitations for Bid (IFB)

1. GENERAL DEFINITIONS:
    a. "Auditor" means the Hays County Auditor or his/her designee.
    b. "Commissioners Court" means Hays County Commissioners Court.
    c. “Contract” means the contract awarded pursuant to the IFB.
    d. “Contractor” means a person or firm receiving an award of contract from Commissioners Court.
    e. "County" means Hays County, Texas, a political subdivision of the State of Texas.
    f. "County Building" means any County owned buildings and does not include buildings leased by County.
    g. "Is doing business" and "has done business" mean:
        i. Paying or receiving in any calendar year any money or other valuable thing which is worth more than $250 in the aggregate in exchange for personal services or for purchase of any property or property interest, either real or personal, either legal or equitable; or
        ii. Loaning or receiving a loan of money; or goods or otherwise creating or having in existence any legal obligation or debt with a value of more than $250 in the aggregate in a calendar year;
        iii. But does not include any retail transaction for goods or services sold to a Key Contracting Person at a posted, published, or marked price available to the general public.
    h. "Key Contracting Person" means any person or business listed in Exhibit A to Affidavit.
    i. "Purchasing Manager" means the Hays County Purchasing Manager.
    j. “Sub-contractor” means a person or firm doing business with a Contractor.

2. FUNDING: Funds for payment on this Contract have been provided through the County budget approved by Commissioners Court for this fiscal year only. State of Texas statutes prohibit the obligations and expenditure of public funds beyond the fiscal year for which a budget has been approved. However, the cost of items or services covered by this Contract is considered a recurring requirement and is included as a standard and routine expense of Hays County to be included in each proposed budget within the foreseeable future. County Commissioners expect this to be an integral part of future budgets to be approved during the period of this Contract except for unanticipated needs or events which may prevent such payments against this Contract. However, County cannot guarantee the availability of funds, and enters into this Contract only to the extent such funds are made available. The Fiscal Year for County extends from October 1st of each calendar year to September 30th of the next calendar year.

3. FUNDING OUT: Despite anything to the contrary in this Contract, if, during budget planning and adoption, Commissioners Court fails to provide funding for this Contract for the following fiscal year of County, County may terminate this Contract after giving Contractor thirty (30) calendar days written notice that this Contract is terminated due to the failure to fund it.

4. INVOICING/PAYMENTS:
    a. Contractor shall provide County with an Internal Revenue Form W-9, Request for Taxpayer Identification Number and Certification, that is completed in compliance with the Internal Revenue Code and its rules and regulations before any Contract funds are payable.
    b. As a minimum, invoices shall include: (i) name, address, and telephone number of Contractor and similar information in the event payment is to be made to a different address; (ii) County Contract or Purchase Order number; (iii) identification of products or services as outlined in this Contract; (iv) quantity or quantities, applicable unit prices, total prices, and total amount; and (v) any additional payment information called for by this Contract. County will not pay invoices that are in excess of the amount authorized by the purchase order.
    c. Payment shall be made by check or warrant by County upon satisfactory delivery and acceptance of products and services and submission of an invoice to the address below:
    County Auditor
    712 S Stagecoach Trail, Suite 1071

San Marcos, Texas 78666

d. Payment shall be deemed to have been made on the date of mailing of the check or warrant. For purposes of payment discounts, time will begin upon satisfactory delivery of products and services and/or submission of acceptable invoice, whichever is last. Partial payments will not be made unless specifically requested and approved by County prior to Contract award.
e. Accrual and payment of interest on overdue payments shall be governed by Tex. Gov't Code Ann., ch. 2251.

5. COUNTY TAXES: If the Contractor subsequently becomes delinquent in the payment of County taxes, it will be grounds for cancellation of the contract. Despite anything to the contrary, if the contractor is delinquent in payment of County property taxes at the time of invoicing, Contractor assigns any payments to be made for performance under this contract to the County Tax Assessor-Collector for the payment of delinquent taxes.

6. PROMPT PAYMENT ACT: TEX. GOV'T CODE ANN., ch 2251 (Vernon Supp. 1995) requires that payments be made within 30 calendar days. If County fails to pay within 30 days, interest on overdue amounts is subject to Chapter 2251, Texas Government Code. The law does not apply if the terms of a federal grant, contract, regulation, or statute prevent local governments from making timely payments with federal funds. Contractors and subcontractors must pay their suppliers interest if the supplier is not paid within 10 calendar days after the contractor or subcontractor receives payment. Contractors must apply for interest payments within 6 months of submitting a proper invoice if they believe such interest was due but not paid. Interest begins accruing 30 days after either of the following, whichever is later; (i) satisfactory delivery or performance has been completed, or, (ii) a correct invoice is received at the designated place.

7. FOB POINT: Delivery of all products under this contract, if any, shall be made Free on Board to final destination, at the address shown in this contract or as indicated on each Purchase Order placed against this contract. The title and risk of loss of the goods shall not pass to County until acceptance takes place at the F.O.B. point.

8. INSPECTION AND ACCEPTANCE: The County office or department receiving items pursuant to this contract shall inspect and accept only those items that are satisfactory to them, and reject those items which are damaged or which do not conform to specifications. Contractor shall be responsible for the proper labeling, packing, and delivery to final destination, including replacement of rejected deliveries.

9. VARIATION IN QUANTITY: No variation in the quantity of any item called for by this contract will be accepted unless such variation has been caused by conditions of loading, shipping, or packing, or allowances in manufacturing processes, and then only to the extent, if any, specified elsewhere in this contract.

10. OFFICIALS NOT TO BENEFIT: If a member of Commissioners Court belongs to a cooperative association, the County may purchase equipment or supplies from the association only if no member of the Commissioners Court will receive a pecuniary benefit from the purchase, other than as reflected in an increase in dividends distributed generally to members of the association.

11. NONDISCRIMINATION; CIVIL RIGHTS/ADA COMPLIANCE:
    a. Contractor shall not engage in employment practices that have the effect of discriminating against employees or prospective employees because of age, race, color, sex, creed, national origin or handicapped condition.
    b. Contractor shall provide all services and activities required in a manner that would comply with the Civil Rights Act of 1964, as amended, the Rehabilitation Act of 1973, Public Law 93-1122, Section 504, and with the provisions of the Americans with Disabilities Act of 1990, Public Law 101-336 [S.933] if Contractor were an entity bound to comply with these laws.

12. CHANGES:
    a. This Contract may be amended only by written instrument signed by both County and Contractor. It is acknowledged by Contractor that NO OFFICIAL, EMPLOYEE, AGENT OR REPRESENTATIVE OF COUNTY HAS ANY AUTHORITY, EITHER EXPRESS OR IMPLIED, TO CHANGE THE SCOPE OF THIS CONTRACT OR OTHERWISE AMEND THIS CONTRACT, OR ANY ATTACHMENTS HERETO, UNLESS EXPRESSLY GRANTED THAT AUTHORITY BY THE COMMISSIONERS COURT.
    b. Contractor shall submit all requests for changes to this Contract or any attachment(s) to it to the Purchasing Manager. The Purchasing Manager shall present Contractor's requests to Commissioners Court for consideration.

13. REPRESENTATIONS:
    a. Contractor represents that he has thoroughly examined the drawings, specifications, schedule, instructions and all other contract documents. Contractor has made all investigations necessary to be thoroughly informed regarding plant and facilities for delivery of material, equipment and/or services as required by the proposal conditions.
    b. The Contractor's delivery time includes weekends and holidays.
    c. Contractor certifies that he is a qualified, bondable business entity that he is not in receivership or contemplates it, and has not filed for bankruptcy. He further certifies that the Company, Corporation, Partnership, or Sole Proprietorship is not delinquent with respect to payment of County property taxes.
    d. Contractor warrants that all applicable patents and copyrights which may exist on items that will be supplied under the contract have been adhered to and further warrants that County shall not be liable for any infringement of those rights. Warranties granted County shall apply for the duration of this contract or for the life of equipment or supplies purchased, whichever is longer. County must not extend use of the granted exclusive rights to any other than County employees or those with whom County has established a relationship aimed at furthering the public interest, and then only for official public uses. County will not knowingly or intentionally violate any applicable patent, license, or copyright. Contractor must indemnify County, its officers, agents, and employees against all claims, suits, and liability of every kind, including all expenses of litigation, court costs, and attorney's fees arising in connection with any alleged or actual infringement of existing patents, licenses or copyrights applicable to items sold.
    e. The Contractor warrants that upon execution of a contract with the County, he will not engage in employment practices which have the effect of discriminating against employees or prospective employees because of age, religion, race, color, sex, creed, handicap, or national origin and will submit reports as the County may require to assure compliance.
    f. Contractor warrants to County that all items delivered and all services rendered will conform to the specifications, drawings, or other descriptions furnished or incorporated by reference, and will be of merchantable quality, good workmanship, and free from defects. Contractor further agrees to provide copies of applicable warranties or guarantees to the Purchasing Manager. Copies will be provided within 10 days after the Notice of Award is issued. Return of merchandise under warranty shall be at Contractor's expense.

14. SUBCONTRACTS:
    a. Contractor shall not enter into any subcontracts for any service or activity relating to the performance of this Contract without the prior written approval or the prior written waiver of this right of approval from County. IT IS ACKNOWLEDGED BY CONTRACTOR THAT NO OFFICER, AGENT, EMPLOYEE OR REPRESENTATIVE OF COUNTY HAS THE AUTHORITY TO GRANT SUCH APPROVAL OR WAIVER UNLESS EXPRESSLY GRANTED THAT SPECIFIC AUTHORITY BY THE COMMISSIONERS COURT.
    b. If a subcontract is approved, Contractor must make a "good faith" effort to take all necessary and reasonable steps to insure HUBs maximum opportunity to be subcontractors under this Contract. Contractor must obtain County approval of all proposed HUB subcontractors through the Purchasing Manager. Failure by Contractor to make a good faith effort to employ HUBs as subcontractors constitutes a breach of this Contract and may result in termination of this Contract.

15. ASSIGNMENT:
    a. The parties to this Contract shall not assign any of the rights or obligation hereunder without the prior written consent of the other party. No official, employee, representative or agent of County has the authority to approve any assignment under this Contract unless that specific authority is expressly granted by Commissioners Court.
    b. The terms, provisions, covenants, obligations and conditions of this Contract are binding upon and inure to the benefit of the successors in interest and the assigns of the parties to this Contract if the assignment or transfer is made in compliance with the provisions of this Contract.
    c. Contractor remains responsible for the performance of this Contract when there is a change of name or change of ownership. If a change of name is required, the Purchasing Manager shall be notified immediately. No change in the obligation of or to Contractor will be recognized until it is approved by Commissioners Court.

16. DISPUTES AND APPEALS: The Purchasing Manager acts as the County representative in the issuance and administration of this contract in relation to disputes. Any document, notice, or correspondence not issued by or to the Purchasing Manager or other authorized County person, in relation to disputes is void unless otherwise stated in this contract. If the Contractor does not agree with any document, notice, or correspondence issued by the Purchasing Manager, or other authorized County person, the Contractor must submit a written notice to the Purchasing Manager within ten (10) calendar days after receipt of the document, notice, or correspondence, outlining the exact point of disagreement in detail. If the matter is not resolved to the Contractor's satisfaction, Contractor may submit a written Notice of Appeal to the Commissioners Court, through the Purchasing Manager, if the Notice is submitted within ten (10) calendar days after receipt of the unsatisfactory reply. Contractor then has the right to be heard by Commissioners Court.

17. MEDIATION: When mediation is acceptable to both parties in resolving a dispute arising under this Agreement, the parties agree to use a mutually agreed upon mediator, or a person appointed by a court of competent jurisdiction, for mediation as described in Section 154.023 of the Texas Civil Practice and Remedies Code. Unless both parties are satisfied with the result of the mediation, the mediation will not constitute a final and binding resolution of the dispute. All communications within the scope of the mediation shall remain confidential as described in §154.073 of the Texas Civil Practice and Remedies Code, unless both parties agree, in writing, to waive the confidentiality.

18. FORCE MAJEURE: If the performance by either party of any of its obligations under this Contract is interrupted or delayed due to an act of God or the common enemy or as the result of war, riot, civil commotion, sovereign conduct, or the act or conduct of any person or persons not a party to this Contract, then it shall be excused from performance for such period of time as is reasonably necessary to remedy the effects thereof.

19. NON-WAIVER OF DEFAULT:
    a. No payment, act or omission by County may constitute or be construed as a waiver of any breach or default of Contractor which then exists or may subsequently exist. No official, agent, employee or representative of County may waive any breach of any term or condition of this Contract unless expressly granted that specific authority by the Commissioners Court.
    b. All rights of County under this Contract are specifically reserved and any payment, act or omission shall not impair or prejudice any remedy or fight to County under it. Any right or remedy in this Contract shall not preclude the exercise of any other right or remedy under this Contract or under any law, nor shall any action taken in the exercise of any right or remedy be deemed a waiver of any other rights or remedies.

20. TERMINATION FOR DEFAULT: Failure by either County or Contractor to perform any provisions of this Contract shall constitute a breach of contract. Either party may require corrective action within ten (10) calendar days after date of receipt of written notice citing the exact nature of the other's breach. Failure to take corrective

action or failure to provide a satisfactory written reply excusing such failure within the ten (10) calendar days shall constitute a default. The defaulting party shall be given a twenty (20) calendar day period within which to show cause why this Contract shall not be terminated for default. All notices for corrective action, breach, default or show cause on behalf of County shall be issued by the Purchasing Manager or County legal representative only, and all replies to the same shall be made in writing to the County Purchasing Manager or County legal representative at the address provided herein. Notices issued by or to anyone other than the Purchasing Manager or County legal representative shall be null and void, and shall be considered as not having been issued or received. County reserves the right to enforce the performance of this Contract in any manner prescribed by law in case of default and may contract with another party with or without competition or further notification to the contractor. At a minimum, Contractor shall be required to pay any difference in the cost of securing the services covered by this Contract, or compensate for any loss or damage to the County derived hereunder if it becomes necessary to contract with another source because of a default, plus reasonable administrative costs and attorney's fees. In the event of termination for default, County, its agents or representatives, shall not be liable for loss of any profits anticipated under this Contract.

21. TERMINATION FOR CONVENIENCE: County reserves the right to terminate this Contract upon thirty (30) days written notice for any reason deemed by the Commissioners Court to serve the public interest, or resulting from any governmental law, ordinance, regulation, or court order. Termination for convenience shall not be exercised with the sole intention of awarding the same or similar contract requirements to another source. In the event of such termination, County shall pay Contractor those costs directly attributable to work done in preparation for compliance with this Contract prior to termination; provided, however, that no costs shall be paid which are recoverable in the normal course of the business in which Contractor is engaged, nor shall County pay any costs which can be mitigated through the sale of supplies or inventories. If County pays for the cost of supplies or materials obtained for use under this Contract those supplies or materials shall become the property of County and shall be delivered to the FOB point shown in this Contract, or as designated by the Purchasing Manager. County shall not be liable for loss of any profits anticipated under this Contract.

22. GRATUITIES: Contractor shall not provide any gratuity in any form, including entertainment, gifts, or otherwise, to any employee, buyer, agent, or representative of County with a view to securing a contract, or securing favorable treatment with respect to the award or amendment, or the making of any determination with respect to the performance of this Contract. County may terminate this Contract if it is found that gratuities of any kind including entertainment, or gifts were offered or given by the Contractor or any agent or representative of the Contractor, to any County Official or employee with a view toward securing favorable treatment with respect of this contract. If this Contract is terminated by the County pursuant to this provision, County shall be entitled, in addition to any other rights and remedies, to recover from the Contractor at least three times the cost incurred by Contractor in providing the gratuities.

23. COVENANT AGAINST CONTINGENT FEES: Contractor represents and warrants that no persons or selling agency has been retained to solicit this Contract upon an understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial selling agencies maintained by the Contractor to secure business. For breach or violation of this warranty, County shall have the right to terminate this Contract without liability, or in its discretion to, as applicable, add to or deduct from the Contract price for consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

24. COUNTY ACCESS: Contractor shall maintain and make available for inspection, audit or reproduction by any authorized representative of County all books, documents, and other evidence pertinent to the costs and expenses of this Contract, including but not limited to both direct and indirect costs, cost of labor, material, equipment, supplies, and services, and all other costs and expenses of whatever nature for which reimbursement is claimed under this Contract. All required records shall be maintained until an audit is completed and all required questions arising therefrom are resolved, or three (3) years after completion of the

contract term, whichever occurs first; provided, however, the records will be retained beyond the third year if an audit is in progress or the finding of a completed audit have not been resolved satisfactorily.

25. FORFEITURE OF CONTRACT:
    a. The selected Offeror must forfeit all benefits of the contract and County must retain all performance by the selected Offeror Contractor and recover all consideration or the value of all consideration paid to the selected Offeror pursuant to the contract if:
    b. The selected Offeror was doing business at the time of submitting its proposal offer or had done business during the 365- day period immediately prior to the date on which its proposal offer was due with one or more Key Contracting Persons if the selected Offeror failed to disclose the name of any such Key Contracting Person in its offer; or
    c. The selected Offeror does business with a Key Contracting Person after the date on which the offer that resulted in the contract is submitted and prior to full performance of the contract.

26. CONTRACTOR CLAIMS NOTIFICATION:
    a. If any claim, or other action, that relates to Contractor's performance under this Contract, including proceedings before an administrative agency, is made or brought by any person, firm, corporation, or other entity against Contractor, Contractor shall give written notice to County of the following information within ten (10) working days after being notified of it:
        i. The existence of the claim, or other action;
        ii. The name and address of the person, firm, corporation or their entity that made a claim or that instituted any type of action or proceeding;
        iii. The alleged basis of the claim, action or proceeding;
        iv. The court or administrative tribunal, if any, where the claim, action or proceeding was instituted; and
        v. The name or names of any person against whom this claim is being made.
    b. Except as otherwise directed, Contractor shall furnish to County copies of all pertinent papers received by Contractor with respect to making these claims or actions and all court pleadings related to the defense of these claims or actions.

27. CERTIFICATION OF ELIGIBILITY: This provision applies if the anticipated Contract exceeds $100,000. By submitting a bid or proposal in response to this solicitation, the bidder/respondent certifies that at the time of submission, he/she is not on the Federal Government's Excluded Parties List System (www.epls.gov), which details a listing of suspended, ineligible, or debarred contractors. In the event of placement on the list between the time of bid/proposal submission and time of award, the bidder/respondent will notify the Hays County Purchasing Manager. Failure to do so may result in terminating this Contract for default.

28. CONTRACTOR LIABILITY, INDEMNIFICATION AND CLAIMS NOTIFICATION: Contractor shall indemnify County, its officers, agents, and employees, from and against any and all third party claims, losses, damages, causes of action, suits, and liability of every kind whether meritorious or not and, including all expenses of litigation, court costs, and reasonable attorney's fees, arising in connection with the services provided by Contractor under this Contract. It is the expressed intention of the Parties to this Contract, both Contractor and County, that the indemnity provided for in this paragraph is indemnity by Contractor to indemnify and protect County from the consequences of Contractor's actions.

29. CONSTRUCTION OF CONTRACT:
    a. This Contract is governed by the laws of the United States of America and the State of Texas and all obligations under this Contract are performable in Hays County, Texas. Venue for any dispute arising out of this Contract will lie in the appropriate court of Hays County, Texas.
    b. If any portion of this Contract is ruled invalid, illegal, or unenforceable in any respect by a court of competent jurisdiction, the remainder of it shall remain valid and binding.

c. Headings and titles at the beginning of the various provisions of this Contract have been included only to make it easier to locate the subject matter covered by that part, section or subsection and are not to be used in construing this Contract.
d. When any period of time is stated in this Contract, the time shall be computed to exclude the first day and include the last day of period. If the last day of any period falls on a Saturday, Sunday, or a day that Hays County has declared a holiday for its employees, these days shall be omitted from the computation. All hours in this Contract are stated in Central Standard Time from 2:00 o'clock a.m. on the first Sunday of November until 2:00 o'clock a.m. on the second Sunday of March and in Central Daylight Saving Time from 2:00 o' clock a.m. on the second Sunday of March until 2:00 o'clock a.m. on the first Sunday of November or such other dates as may be adopted for the activation of Daylight Savings Time in the United States in future years.
e. Words of any gender in this Contract shall be construed to include any other gender and words in either number shall be construed to include the other unless the context clearly requires otherwise.
f. Provisions, Words, Phrases, and Statutes, whether incorporated by actual use or by reference, shall be applied to this Contract in accordance with Texas Government Code, §§ 312.002 and 312.003.

30. ADDITIONAL GENERAL PROVISIONS:
    a. Contractor must comply with all Federal and State laws and regulations, City and County ordinances, orders, and regulations, relating in any way to this Contract.
    b. Contractor must secure all permits and licenses, pay all charges and fees, and give all notices necessary for lawful operations.
    c. Contractor must pay all taxes and license fees imposed by the Federal and the State Governments and their agencies and political subdivisions upon the property and business of Contractor.
    d. Despite anything to the contrary in this Contract, if the Contractor is delinquent in payment of property taxes at the time of providing services, Contractor assigns the amount of any payment to be made for services provided under this Contract equal to the amount Contractor is delinquent in property tax payments to the Hays County Tax Assessor-Collector for the payment of the delinquent taxes.
    e. In this subsection, "County Building" means any County-owned buildings and does not include buildings leased by County. Contractor must not execute any mortgage, or issue any bonds, shares of stock, or other evidence of interest in County Buildings.

31. INTERPRETATION OF CONTRACT:
    a. This document contains the entire agreement between the parties relating to the rights granted and the obligations assumed. Any prior agreements or representations not expressly set forth in this agreement are of no force. Any oral representations or modifications concerning this agreement shall be of no force except a subsequent modification in writing signed by the Purchasing Manager. No official, representative, employee, or agent of the County has any authority to modify or amend this contract except pursuant to specific authority to do so granted by the Commissioners Court.
    b. If inconsistency exists between provisions of this solicitation, the inconsistency shall be resolved by giving precedence in the following ascending order of precedence:
        i. The Schedule of Items/Services
        ii. Terms and Conditions of Request for Proposals;
        iii. General Provisions;
        iv. Other provisions, whether incorporated by reference or otherwise; and
        v. The specifications.
    c. If any contract provision shall for any reason be held invalid, illegal, or unenforceable in any respect, invalidity, illegality, or unenforceability shall not affect any other provision, and this contract shall be construed as if invalid, illegal or unenforceable provision had never been contained.
    d. This contract shall be governed by the laws of Texas and all obligations are performable in Hays County, Texas.
    e. If a word is used with reference to a particular trade or subject matter or is used as a word of art, the word shall have the meaning given by experts in that particular field.

f. Words in the present or past tense include the future tense. The singular includes the plural and the plural includes the singular. The masculine gender includes the feminine and neuter genders.
g. The headings in this contract have been included only to make it easier to locate the subject covered by each provision and are not to be used in construing this contract.
h. Provisions, words, phrases, and statutes, whether incorporated by actual use or by reference, shall be applied to this contract in accordance with TEX. GOV'T CODE ANN., SEC 312.002, 312.003 (Vernon 1991).

32. MODIFICATIONS:
    a. The County Purchasing Manager may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in any one of the following:
        i. Drawings, designs or specifications when the supplies to be furnished are to be specifically manufactured for the County in accordance with the drawings, designs, or specifications.
        ii. Method of shipment or packing.
        iii. Place of deliveries.
        iv. Correction of errors of a general administrative nature or other mistakes, the correction of which does not affect the scope of the contract, or does not result in expense to the Contractor.
        v. Description of items to be provided.
        vi. Time of performance (i.e. hours of day, days of week, etc)
    b. If any such change causes an increase or decrease in the cost of, or time required for, performance of any part of the work under this contract whether, or not changed by the order, the Commissioners Court shall make an equitable adjustment in the contract price, the delivery schedule, or both, and shall modify the contract. The Contractor must submit any "proposal for adjustment" under this clause within thirty (30) calendar days from the date of receipt of the written order. However, if the County Purchasing Manager decides that the facts justify it, the County Purchasing Manager may receive and act upon a proposal submitted before final payment of the contract. If the Contractor's proposal includes the cost of property made obsolete or excess by the change, the County shall have the right to prescribe the manner of disposition of the property. Failure to agree to any adjustment shall be a dispute under the Disputes and Appeals clause. However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

33. PRICE CHANGES: The prices offered shall remain firm for the period of the contract. The prices offered shall also remain firm for the option years should the County choose to exercise the option to renew, except for changes that are industry wide and beyond the control of the contractor. If such changes do occur, it will be the responsibility of the contractor to provide documentation to Hays County substantiating the changes to the bid prices. Any price changes must be approved by Hays County and submitted forty-five (45) days prior to contract renewal date.

34. INSURANCE AND LIABILITY: During the period of this contract, contractor shall maintain at his expense, insurance with limits not less than those prescribed below. With respect to required insurance, Contractor shall;
    a. Name County as additional insured as its interests may appear.
    b. Provide County a waiver of subrogation.
    c. Provide County with a thirty (30) calendar day advance written notice of cancellation or material change to said insurance.
    d. Provide the County Purchasing Manager at the address shown on Page 1 of this contract, a Certificate of Insurance evidencing required coverage within ten (10) calendar days after receipt of Notice of Award. Also, please assure your certificate contains the contract number as indicated on the Contract Award form when issued by Hays County.
    e. Submit an original certificate of insurance reflecting coverage as follows:

Automobile Liability:	
Bodily Injury (Each person)	$250,000.00
Bodily Injury (Each accident)	$500,000.00

Property Damage	$1,000,000.00

Commercial General Liability (Including Contractual Liability):	
Bodily Injury (Each accident)	$1,000,000.00
Property Damage	$100,000.00

Excess Liability:	
Umbrella Form	Not Required

Labor Liability:	
Worker's Compensation	Meeting Statutory Requirements

V. Vendor Reference Form

Please list three (3) references of current customers who can verify the quality of service your company provides. The County prefers customers of similar size and scope of work to this proposal/bid. **This form must be returned with your bid/proposal.**

REFERENCE ONE

Company Name: _____

Address: _____

Contact Person and Title: _____

Phone Number: _____

Scope & Duration of Contract: _____

REFERENCE TWO

Company Name: _____

Address: _____

Contact Person and Title: _____

Phone Number: _____

Scope & Duration of Contract: _____

REFERENCE THREE

Company Name: _____

Address: _____

Contact Person and Title: _____

Phone Number: _____

Scope & Duration of Contract: _____

VI. Certificate of Interested Parties

In 2015, the Texas Legislature adopted House Bill 1295, which added 2252.908 to the Texas Government Code and applies to all contracts entered into on or after January 1, 2016. Section 2252.908 (b)(1)(2) applies only to a contract of a governmental entity or state agency that requires an action or vote by the governing body of the entity or agency before the contract may be signed or that has a value of at least $1 million. In addition, pursuant to Section 2252.908 (d), a governmental entity or state agency may not enter into a contract described by Subsection (b) with a business entity unless the business entity, in accordance with this section and rules adopted under this section, submits a disclosure of interested parties to the governmental entity or state agency at the time the business entity submits the signed contract to the governmental entity or state agency.

With regard to Hays County purchases, a vendor or other person who is awarded a contract or purchase approved by Hays County Commissioners Court is required to electronically complete a Form 1295 through the Texas Ethics Commission website at https://ethics.state.tx.us/whatsnew/elf_info_form1295.htm and submit a signed copy of the form to the Hays County Purchasing office. A contract, including County issued purchase order (if applicable), will not be enforceable or legally binding until the County received and acknowledges receipt of the properly completed Form 1295 from the awarded vendor.

If you do not have access to the link provided above or have any questions, please contact Purchasing at 512-393-2283.

VII. Conflict of Interest Questionnaire

CONFLICT OF INTEREST QUESTIONNAIRE

FORM CIQ

For vendor doing business with local governmental entity

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. *See* Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

OFFICE USE ONLY

Date Received

1 **Name of vendor who has a business relationship with local governmental entity.**

2 ☐ **Check this box if you are filing an update to a previously filed questionnaire.** (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 **Name of local government officer about whom the information is being disclosed.**

_____
Name of Officer

4 **Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.**

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

☐ Yes ☐ No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

☐ Yes ☐ No

5 **Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.**

6 ☐ Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

7

_____ _____
Signature of vendor doing business with the governmental entity Date

Form provided by Texas Ethics Commission www.ethics.state.tx.us Revised 11/30/2015

CONFLICT OF INTEREST QUESTIONNAIRE
For vendor doing business with local governmental entity

A complete copy of Chapter 176 of the Local Government Code may be found at http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.176.htm. For easy reference, below are some of the sections cited on this form.

Local Government Code § 176.001(1-a): "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

(A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;

(B) a transaction conducted at a price and subject to terms available to the public; or

(C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

Local Government Code § 176.003(a)(2)(A) and (B):

(a) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

***

(2) the vendor:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds $2,500 during the 12-month period preceding the date that the officer becomes aware that

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor;

(B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than $100 in the 12-month period preceding the date the officer becomes aware that:

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor.

Local Government Code § 176.006(a) and (a-1)

(a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

(1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);

(2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or

(3) has a family relationship with a local government officer of that local governmental entity.

(a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

(1) the date that the vendor:

(A) begins discussions or negotiations to enter into a contract with the local governmental entity; or

(B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the vendor becomes aware:

(A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);

(B) that the vendor has given one or more gifts described by Subsection (a); or

(C) of a family relationship with a local government officer.

VIII. CODE OF ETHICS FOR HAYS COUNTY

Public employment is a public trust. It is the policy of Hays County to promote and balance the objective of protecting government integrity and the objective of facilitating the recruitment and retention of personnel needed by Hays County. Such a policy implemented by prescribing essential standards of ethical conduct without creating unnecessary obstacles to entering public services.

Public servants must discharge their duties impartially so as to assure fair competitive access to governmental procurement by responsible contractors. Moreover, they should conduct themselves in such a manner as to foster public confidence in the integrity of the Hays County procurement organization.

To achieve the purpose of this article, it is essential that those doing business with Hays County also observe the ethical standards prescribed here.

It shall be a breach of ethics to attempt to influence any public employee, elected official or department head to breach the standards of ethical conduct set forth in this code.

It shall be a breach of ethics for any employee of Hays County or a vendor doing business with the county to participate directly or indirectly in a procurement when the employee or vendor knows that:

The employee or any member of the employee's immediate family, or household has a substantial financial interest pertaining to the procurement. This means ownership of 10% or more of the company involved and/or ownership of stock or other interest or such valued at $2500.00 or more.

A business or organization in which the employee, or any member of the employee's immediate family, has a financial interest pertaining to the procurement.

Gratuities: It shall be a breach of ethics to offer, give or agree to give any employee of Hays County or for any employee to solicit, demand, accept or agree to accept from a vendor, a gratuity of consequence or any offer of employment in connection with any decision approval, disapproval, recommendation, preparation or any part of a program requirement or purchase request influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or controversy, any particular matter pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefore pending before this government.

Kickbacks: It shall be a breach of ethics for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor for any contract for Hays County as an inducement for the award of a contract or order.

Contract Clause: The prohibition against gratuities and kickbacks prescribed above shall be conspicuously set forth in every contract and solicitation therefore.

Any effort to influence any employee, elected official, or department head to violate the standards of the code is grounds to void the contract. Please certify, by your signature below, that you understand the ethics policy of Hays County and in no way will attempt to violate the code.

SIGNATURE: _____

PRINT NAME & TITLE: _____

COMPANY NAME: _____

IX. Hays County Practices Related to Historically Underutilized Businesses

1. STATEMENT OF PRACTICES

Hays County will strive to ensure that all businesses, regardless of size, economic, social or ethnic status have an equal opportunity to participate in the County's procurement processes. The County is committed to promote full and equal business opportunity for all businesses to supply the goods and services needed to support the mission and operations of county government, and seeks to encourage the use of certified historically underutilized businesses (HUB's) through the use of race, ethnic and gender neutral means. It is the practice of Hays County to involve certified HUBs to the greatest extent feasible in the County's procurement of goods, equipment, services and construction projects while maintaining competition and quality of work standards. The County affirms the good faith efforts who recognize and practice similar business standards.

2. DEFINITIONS

Historically underutilized businesses (HUBs), also known as a disadvantaged business enterprise (DBE), are generally business enterprises at least 51% of which is owned and the management and daily business operations are controlled by one or more persons who is/are socially and economically disadvantaged because of his/her identification as a member of certain groups, including women, Black Americans, Mexican Americans, and other Americans if Hispanic origin, Asian Americans and American Indians.

Businesses include firms, corporations, sole proprietorships, vendors, suppliers, contractors, subcontractors, professionals and other similar references when referring to a business that provides goods and/or services regardless of the commodity category.

Certified HUB's include business enterprises that meet the definition of a HUB and who meet the certification requirements of certification agencies recognized by Hays County, as expressed below.

Statutory bid limit refers to the Texas Local Government Code provision that requires competitive bidding for many items valued at greater than $50,000.

3. GUIDELINES

a. Hays County, its contractors, their subcontractors and suppliers, as well as all vendors of goods, equipment and services, shall not discriminate on the basis of race, color, creed, gender, age, religion, national origin, citizenship, mental or physical disability, veteran's status or political affiliation in the award and/or performance of contracts. All entities doing business or anticipating doing business with the County shall support, encourage and implement affirmative steps toward a common goal of establishing equal opportunity for all citizens and businesses of the County.

b. Vendors and/or contractors desiring to participate in the HUB program must successfully complete the certification process with the State of Texas or Texas Unified Certification Program. The vendor or contractor is also required to hold a current valid certification (title) from either of these entities.

c. Vendors and/or contractors must be registered with the State Comptroller's web-based HUB directory and with the Comptroller's Centralized Master Bidder's List (CMBL). Hays County will solicit bids from certified HUB's for state purchasing and public works contracts.

4. Hays County will actively seek and encourage HUBs to participate in all facets of the procurement process by:
    a. Continuing to increase and monitor a database of certified HUB vendors, professionals and contractors. The database will be expanded to include products, areas of expertise and capabilities of each HUB firm.
    b. Continuing to seek new communication links with HUB vendors, professionals and contractors to involve them in the procurement process.
    c. Continuing to advertise bids on the County's website and in the newspapers including newspapers that target socially and economically disadvantaged communities.
5. As prescribed by law, the purchase of one or more items costing in excess of the statutory bid limit must comply with the competitive bid process. Where possible, those bids will be structured to include and encourage the participation of HUB firms in the procurement process by:
    a. Division of proposed requisitions into reasonable lots in keeping with industry standards and competitive bid requirements.
    b. Where feasible, assessment of bond and insurance requirements and the designing of such requirements to reasonably permit more than one business to perform the work.
    c. Specifications of reasonable, realistic delivery schedules consistent with the County's actual requirements.
    d. Specifications, terms and conditions reflecting the County's actual requirements are clearly stated, and do not impose unreasonable or unnecessary contract requirements.
6. A HUB practice statement shall be included in all specifications. The County will consider the bidder's responsiveness to the HUB Practices in the evaluation of bids and proposals. Failure to demonstrate a good faith effort to comply with the County's HUB practices may result in a bid or proposal being considered non-responsive to specifications.
7. Nothing in this practice statement shall be construed to require the County to award a contract other than to the lowest responsive bidder as required by law. This practice is narrowly tailored in accordance with applicable law.

Please sign for acknowledgement of the Hays County HUB Practices:

_____ _____

Signature Date

X. Hays County House Bill 89 Verification

I, _____ (Person name), the undersigned representative of _____(Company or Business name, hereafter referred to as Company) being an adult over the age of eighteen (18) years of age, after being duly sworn by the undersigned notary, do hereby depose and verify under oath that the company named above, under the provisions of Subtitle F, Title 10, Government Code Chapter 2270:

1. Does not boycott Israel currently; and
2. Will not boycott Israel during the term of the contract.

Pursuant to Section 2270.001, Texas Government Code:

1. *"Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes; and*

2. *"Company" means a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or any limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of those entities or business associations that exist to make a profit.*

_____ _____

Signature of Company Representative Date

On this _____ day of _____, 20____, personally appeared _____, the above-named person, who after by me being duly sworn, did swear and confirm that the above is true and correct.

NOTARY SEAL

_____

Notary Public in and for the State of Texas

_____

Date

XI. Hays County Purchasing Department Senate Bill 252 Certification

On this day, I, _____, the Purchasing Representative for Hays County in San Marcos, Texas, pursuant to Texas Government Code, Chapter 2252, Section 2252.152 and Section 2252.153, certify that I did review the website of the Comptroller of the State of Texas concerning the listing of companies that is identified under Section 806.051, Section 807.051 or Section 2253.253 and I have ascertained that the below-named company is not contained on said listing of companies which do business with Iran, Sudan or any Foreign Terrorist Organization.

_____
Company Name

_____
IFB or Vendor number

CERTIFICATION CHECK PERFORMED BY:

_____
Purchasing Representative

_____
Date

XII. Debarment and Licensing Certification

STATE OF TEXAS §
§
COUNTY OF HAYS §

I, the undersigned, being duly sworn or under penalty of perjury under the laws of the United States and the State of Texas, certifies that Firm named herein below and its principals:

a. Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any federal department or agency;
b. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
c. Are not presently indicted for or otherwise criminally or civilly charged by a federal, state or local governmental entity with commission of any of the offenses enumerated in paragraph (1)(b) of this certification;
d. Have not within a three-year period preceding this application/proposal had one or more public (federal, state or local) transactions terminated for cause or default;
e. Are registered and licensed in the State of Texas to perform the professional services which are necessary for the project; and
f. Have not been disciplined or issued a formal reprimand by any State agency for professional accreditation within the past three years.

_____
Name of Firm

_____ _____
Signature of Certifying Official Title of Certifying Official

_____ _____
Printed Name of Certifying Official Date

Where the Firm is unable to certify to any of the statements in this certification, such Firm shall attach an explanation to this certification.

SUBSCRIBED and sworn to before me the undersigned authority by _____on this the day of _____, 20___, on behalf of said Firm.

_____
Notary Public in and for the State of Texas

My commission expires: _____

XIII. Vendor/Bidder's Affirmation

1. Vendor/Bidder affirms that they are duly authorized to execute this Contract, that this company, corporation, firm, partnership or individual has not prepared this bid in collusion with any other bidder, and that the contents of this bid as to price, terms or conditions of said bid have not been communicated by the undersigned nor by any employee or agent to any other person engages in this type of business prior to the official opening of this bid.

2. Vendor/Bidder hereby assigns to Purchaser any and all claims for overcharges associated with this Contract which arise under the antitrust laws of the United States, 15 USCA Section 1 et seq., and which arise under the antitrust laws of the State of Texas, Tex. Bus. & Com. Code, Section 15.01, et seq.

3. Pursuant to 262.0276 (a) of the Texas Local Government Code, Vendor/Bidder, hereby affirms that Vendor/Bidder:

   _____ Does not own taxable property in Hays County, or;

   _____ Does not owe any ad valorem taxes to Hays County or is not otherwise indebted to Hays County

_____
Name of Contracting Company

If taxable property is owned in Hays County, list property ID numbers:

_____

_____
Signature of Company Official Authorizing Bid/Offer

_____ _____
Printed Name Title

_____ _____
Email Address Phone

XIV. FEDERAL AFFIRMATIONS AND SOLICITATION ACCEPTANCE

In the event federal funds are used for payment of part or all of the consideration due under any contract resulting from this Solicitation Response, Respondent must execute this **Federal Affirmation and Solicitation Acceptance**, which shall constitute an agreement, without exception, to the following affirmations:

1. Debarment and Suspension

Respondent certifies, by signing this Attachment, that neither it nor any of its principals or subcontractors are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. This certification is made pursuant to the regulations implementing Executive Order 12549, Debarment and Suspension, 28 C.F.R. pt. 67, § 67.510, as published as pt. VII of the May 26, 1988, Federal Register (pp. 19160-19211), and any relevant program-specific regulations. This provision shall be required of every subcontractor receiving any payment in whole or in part from federal funds.

2. Americans with Disabilities Act

Respondent and any potential subcontractors shall comply with all terms, conditions, and requirements of the Americans with Disabilities Act of 1990 (P.L. 101-136), 42 U.S.C. 12101, as amended, and regulations adopted thereunder contained in 28 C.F.R. 26.101-36.999, inclusive, and any relevant program- specific regulations.

3. Discrimination

Respondent and any potential subcontractors shall comply with all Federal statutes relating to nondiscrimination. These include, but are not limited to:

a. Title VI of the Civil Rights Act of 1964 (P.L. 88-352), which prohibits discrimination on the basis of race, color, or national origin;

b. Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex;

c. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps;

d. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101- 6107), which prohibits discrimination on the basis of age;

e. The Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse;

f. The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism;

g. Sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records;

h. Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental, or financing of housing;

i. Any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and

j. The requirements of any other nondiscrimination statute(s) that may apply to the application.

4. Wages

Respondent and any potential subcontractors have a duty to and shall pay the prevailing wage rate under the Davis Bacon Act, 40 U.S.C. 276a – 276a-5, as amended, and the regulations adopted thereunder contained in 29 C.F.R. pt. 1 and 5.

5. Lobbying

If Respondent, in connection with any resulting contract from this Solicitation, is a recipient of a Federal contract, grant, or cooperative agreement exceeding $100,000 or a Federal loan or loan guarantee exceeding

$150,000, the Contractor shall comply with the requirements of the new restrictions on lobbying contained in Section 1352, Title 31 of the U.S. Code, which are implemented in 15 CFR Part 28. Respondent shall require that the certification language of Section 1352, Title 31 of the U.S. Code be included in the award documents for all subcontracts and require that all subcontractors submit certification and disclosure forms accordingly.

6. Minority and Women's Businesses

Respondent and any potential subcontractors shall take affirmative steps to assure that minority and women's businesses are utilized when possible as sources of supplies, equipment, construction, and services, as detailed in the federal requirements relating to minority and women's business enterprises: Executive Order 11625 of October 13, 1971, 36 Fed. Reg. 19967, as amended by Executive Order No. 12007 of August 22, 1977, 42 Fed. Reg. 42839; Executive Order No. 12432 of July 14, 1983, 48 Fed. Reg., 32551; and Executive Order No. 12138 of May 18, 1979, 44 Fed. Reg. 29637.

7. Environmental Standards

Respondent and any potential subcontractors shall comply with environmental standards that may be prescribed pursuant to the following:

a. Institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514;
b. Notification of violating facilities pursuant to EO 11738;
c. Protection of wetlands pursuant to EO 11990;
d. Evaluation of flood hazards in floodplains in accordance with EO 11988;
e. Assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.);
f. Conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C.§§7401 et seq.);
g. Protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and
h. Protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).

8. Historic Properties

Respondent and any potential subcontractors shall assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).

9. All Other Federal Laws

Respondent and any potential subcontractors shall comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing the Solicitation.

I have read, understand, and agree to comply with the Federal Affirmations specified above. Checking "YES" indicates acceptance, while checking "NO" denotes non-acceptance.

YES_____ NO_____

Authorized Signature: _____

Printed Name and Title: _____

Respondent's Tax ID: _____ Telephone: _____

If Respondent is a Corporation or other legal entity, please attach a corporate resolution or other appropriate official documentation that states that the person signing this Solicitation Response is an authorized person to sign for and legally bind the corporation or entity.

XV. Related Party Disclosure Form

Hays County strives to provide financial transparency to its taxpayers. Completion of this form will allow for added transparency into the procurement process by disclosing Vendor relationships with current or former Hays County employees. The existence of a relationship may not present a legal or ethical conflict for a Vendor. However, disclosure will allow for consideration of potential conflicts and/or ways to eliminate conflicts.

A Vendor who Employs any of the following is required to disclose the relationship on this form:

- Current Hays County employee (including elected or appointed official) (Complete Section A)
- Former Hays County employee who has been separated from Hays County for no less than four (4) years (including elected or appointed official) (Complete Section B)
- Person related within the 2nd degree of consanguinity or affinity to either of the above(1) (Complete Section C)

If no known relationships exist, complete Section D.

This form is required to be completed in full and submitted with the proposal package. A submitted proposal package that does not include this completed form will be considered non-responsive and will not be eligible for an award.

Section A: Current Hays County Employee

_____

Employee Name Title

Section B: Former Hays County Employee

_____

Employee Name Title Date of Separation from County

Section C: Person Related to Current or Former Hays County Employee

_____

Hays Employee/Former Hays Employee Name Title

_____

Name of Person Related Title Relationship

Section D: No Known Relationships

If no relationships in accordance with the above exist or are known to exist, you may provide a written explanation below:

_____

_____

_____

Attach additional pages if necessary.

I, the undersigned, hereby certify that the information provided is true and complete to the best of my knowledge.

_____
Name of Vendor

_____ _____
Signature of Certifying Official Title of Certifying Official

_____ _____
Printed Name of Certifying Official Date

[1]A degree of relationship is determined under Texas Government Code Chapter 573. (as outlined below)

Relationship of Consanguinity				
	1st Degree	**2nd Degree**	**3rd Degree***	**4th Degree***
Person	child or parent	grandchild, sister, brother or grand-parent	great-grandchild, niece, nephew, aunt,* uncle* or great-grandparent	great-great-grandchild, grandniece, grandnephew, first cousin, great aunt,* great uncle* or great-great-grandparent
* An aunt, uncle, great aunt or great uncle is related to a person by consanguinity only if he or she is the sibling of the person's parent or grandparent.				

Relationship of Affinity		
	1st Degree	**2nd Degree**
Person	spouse, mother-in-law, father-in-law, son-in-law, daughter-in-law, stepson, stepdaughter, stepmother or stepfather	brother-in-law, sister-in-law, spouse's grandparent, spouse's grandchild, grandchild's spouse or spouse of grandparent

“Vendor” shall mean any individuals or entity that seeks to enter into a contract with Hays County.

“Employs” shall mean any relationship wherein Vendor has made arrangements to compensate an individual, directly or by way of a business organization in which the individual has a sharehold or ownership interest, even if that arrangement is contractual and/or on an hourly-charge basis.

Appendix A – IFB 2022-B03
Cotton Gin Road – Low Water Crossing
SPECIFICATION LIST

Texas Department of Transportation Standard Specifications for Construction and Maintenance of Highways, Streets, and Bridges Adopted November 1, 2014. For complete details of each item listed below visit the Texas Department of Transportation website: https://www.txdot.gov/business/resources/txdot-specifications.html

(txdot.gov > business > resources > standard TxDOT specifications for Construction and Maintenance of Highways, Streets and Bridges)

STANDARD SPECIFICATIONS

100 ITEMS		EARTHWORK AND LANDSCAPE
Item	100	Preparing Right of Way
	104	Removing Concrete
	105	Removing Treated and Untreated Base and Asphalt Pavement
	110	Excavation
	132	Embankment
	160	Topsoil
	164	Seeding for Erosion Control
	168	Vegetative Watering
	169	Soil Retention Blankets
200 ITEMS		SUBGRADE TREATMENTS AND BASE
Item	247	Flexible Base
	251	Reworking Base Courses
300 ITEMS		SURFACE COURSES AND PAVEMENTS
Item	310	Prime Coat
	340	Dense-Graded Hot-Mix Asphalt (Small Quantity)
	341	Dense-Graded Hot-Mix Asphalt
	360	Concrete Pavement
400 ITEMS		STRUCTURES
Item	400	Excavation and Backfill for Structures
	403	Temporary Special Shoring
	432	Riprap
	450	Railing
	462	Concrete Box Culverts and Drains
	464	Reinforced Concrete Pipe
	466	Headwalls and Wingwalls
	467	Safety End Treatment
	496	Removing Structures
500 ITEMS		MISCELLANEOUS CONSTRUCTION
Item	500	Mobilization
	502	Barricades, Signs, and Traffic Handling
	506	Temporary Erosion, Sedimentation, and Environmental Controls
	530	Intersections, Driveways, and Turnouts
	540	Metal Beam Guard Fence
	542	Removing Metal Beam Guard Fence
	544	Guardrail End Treatments
	552	Wire Fence
600 ITEMS		LIGHTING, SIGNING, MARKINGS, AND SIGNALS
Item	636	Signs
	644	Small Roadside Sign Assemblies
	658	Delineator and Object Marker Assemblies
	666	Retroreflectorized Pavement Markings

672 Raised Pavement Markers

700 ITEMS MAINTENANCE

Item 752 Tree and Brush Removal

SPECIAL SPECIFICATIONS

Item SS6001 Portable Changeable Message Sign

Appendix B
STANDARD FORM OF CONTRACT
Hays County, Texas

STATE OF TEXAS

HAYS COUNTY

THIS STANDARD FORM OF CONTRACT (the "Contract") is by and between **HAYS COUNTY, TEXAS**, a political subdivision of the State of Texas (hereinafter called "County") and _____ (hereinafter called Contractor").

The County and Contractor, in consideration of the mutual covenants hereinafter set forth, agrees as follows:

Article 1. Work
Contractor shall complete all Work as specified or indicated in the Contract Documents. The "Project is generally described as follows:

Project No. **IFB 2022-B03 – Cotton Gin Road – Low Water Crossing**
(Project Name)

Article 2. Engineer of Record
The Project has been designed by **Garver.** who is hereinafter called the "Engineer of Record" and who is to act as the County's design professional.

Article 3. Contract Time
The Work shall be Substantially Completed by **June 30, 2022** (the "Contract Time"). Following Substantial Completion, the Contractor shall proceed expeditiously with adequate forces and shall achieve Final Completion within the time specified in the Special Conditions.

Article 4. Contract Price
County shall pay Contractor for completions of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to Paragraph 4.1 below (the "Contract Price")

4.1 For all Unit price Work, an amount equal to the sum of the established unit price for each separately identified item of the Unit Price Work times the estimated quantity if that item as indicated in the Bid Form Schedule of Rates and Prices. And as totaled below:

TOTAL OF ALL UNIT PRICES: (bid total) $ _____
(Written out bid total)

_____

As provided in the Standard Specifications, estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by the Engineer of Record.

Article 5. Contractor's Representations
In order to induce County to enter into this Contract, Contractor makes the following representations:

5.1 Contractor has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents including the "technical data".

5.2 Contractor has visited the site and become familiar with and is satisfied as to the general, local and site conditions that may affect cost, progress, performance or furnishing of the Work.

5.3 Contractor is familiar with and is satisfied as to all federal, state and local Laws and Regulations that may affect cost, progress, performance and furnishing of the Work.

5.4 Contractor has carefully studied all reports of explorations and tests of subsurface conditions at or contiguous to the site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the site which has been identified. Contractor acknowledges that such reports and drawings are not Contract Documents and may not be complete for Contractor's purposes. Contractor acknowledges that the County and Engineer of Record do not assume responsibility for the accuracy or completeness if information and data shown or indicated in the Contract Documents with respect to Underground Facilities at or contiguous to the site.

5.5 Contractor has correlated the information known to Contractor, information and observations obtained from visits to the site, reports and drawings identified in the Contract Documents and all additional examinations, investigations, explorations, tests, studies and date with the Contract Documents.

5.6 Contractor has given Engineer of Record written notice of all conflicts, errors, ambiguities or discrepancies that Contractor has discovered in the Contract Documents and the written resolution thereof by Engineer of Record is acceptable to Contractor, and the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of Work.

5.7 Contractor represents and agrees that there are no obligations, commitments, or impediments of any kind that will limit or prevent performance of its obligations under the Contract Documents.

5.8 Contractor warrants, represents, and agrees that if (i) it is a corporation or limited liability company, then it is a corporation duly organized, validly existing and in good standing to conduct business in the State of Texas, or a foreign corporation or limited liability company duly authorized and in good standing to conduct business in the State of Texas, that it has all necessary corporate power and has received all necessary corporate approvals to execute and deliver this Contract, and the individual executing the Contract on behalf of the Contractor has been duly authorizes to act for and bind Contractor; or (ii) if it is a partnership, limited partnership, or limited liability partnership, then it has necessary partnership power and has secured all necessary approvals to execute and deliver this Contract and perform all its obligations under the Contract Documents; and the individual executing this Contract on behalf of Contractor has been duly authorized to act for and bind Contractor.

5.9 Neither the execution and delivery of this Contract by Contractor nor the performance of its obligations under the Contract Documents will result in the violation of any provision, if a corporation, of its articles of incorporation or bylaws, if a limited liability company, of its articles of organization or regulations, or if a partnership, by any partnership agreement by which Contractor is bound, or any agreement by which Contractor is bound or to the best of the Contractor's knowledge and belief, will conflict with any order or decree of any court of governmental instrumentality relating to Contractor.

5.10 Except for the obligation of the County to pay Contractor the Contract Price pursuant to the terms of the Contract Documents, and to perform certain other obligations pursuant to the terms and conditions

explicitly set forth in the Contract Documents, County shall have no liability to Contractor or to anyone claiming through or under Contractor by reason of the execution or performance of the Contract. Notwithstanding any obligation or liability of County to Contractor, no present or future partner or affiliate of County or any agent, officer, director, or employee of County, or of the various departments comprising Hays County, or anyone claiming through or under Contractor by reason of the execution or performance of this Contract.

Article 6. Contract Documents

The "Contract Documents", which comprise the entire agreement between Hays County and Contractor concerning the Work, consist of the following:

6.1 This Standard Form of Contract

6.2 Performance Bond

6.3 Payment Bond

6.4 Maintenance Bond

6.5 Certificate of Insurance

6.6 Wage Rates

6.7 Standard Specifications

6.8 Special Provisions

6.9 Special Conditions

6.10 Technical Specifications

6.11 Plan Drawings

6.12 Addendum numbers _____to _____, inclusive

6.13 Contractor's Bid Form

6.14 Documentation submitted by Contractor prior to Notice of Award

6.15 The following which may be delivered or issued after the Effective Date of the Contract and are not attached hereto: All Written Amendments and other documents amending, modifying or supplementing the Contract Documents pursuant to applicable sections in the Standard Specifications.

The documents listed in paragraphs 6.2 et seq. above are attached to this Contract (except as expressly noted otherwise above).

There are no Contract Documents other than those listed above in this Article 6. The Contract Documents may only be amended, modified or supplemented as provided in the Standard Specifications.

Article 7. Miscellaneous

7.1 Terms used in this contract which are defined in the Standard Specifications will have the meanings included in the Standard Specifications.

7.2 No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

7.3 The County and Contractor each binds itself, its partners, successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

7.4 Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon the County and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention if the stricken position.

7.5 Each Party to this Contract hereby agrees and acknowledges that venue and jurisdiction of any suit, right, or cause of action arising out of or in connections with this Contract shall lie exclusively in Hays County, Texas. Furthermore, this Contract shall be governed by and construed in accordance with the laws of the State of Texas, excluding, however its choice of law rules.

7.6 The parties to this Contract agree that during the performance of the services under this Contract they will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The parties to this Contract will take affirmative action to ensure that applicants are employed and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; termination; rates of pay or other forms of compensation, and selection for training including apprenticeship.

7.7 This Contract is for the sole and exclusive benefit of the parties hereto, and nothing in this Contract, express or implied, is intended to confer or shall be construed as conferring upon any other person any rights, remedies or any other type or types of benefits.

7.8 Each party to this Contract acknowledges that it and its counsel have reviewed this Contract and that the normal rules of construction ae not applicable and there will be no presumption that any ambiguities will be resolves against the drafting party in the interpretation of this Contract.

7.9 Each party to the Contract, in the performance of this Contract, shall act in an individual capacity and not as agents, employees, partners, joint ventures or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever.

7.10 Nothing in this Contract shall be deemed to waive, modify or amend any legal defense available at law or in equity to County, its past or present officers, employees, or agents or employees, nor to create any legal rights or claim on behalf of any third party. County does not waive, modify, or alter to any extent whatsoever the availability of the defense of governmental immunity under the laws of the State of Texas and of the United States.

7.11 To the Extent, if any, that any provision in this Contract is in conflict with Tex. Gov't Code 552.001 et seq., as amended (the "Public Information Act"), the same shall be of no force or effect. Furthermore, it is expressly understood and agreed that County, its officers and employees may request advice, decisions and opinions of the Attorney General of the State of Texas in regard to the application of the Public Information Act to any items or data furnished to County as to whether or not the same are available to the public. It is further understood that County's officers and employees shall have the right to rely on the advice, decisions and opinions of the Attorney General, and the County, its officers and employees shall have no liability or obligation to any party hereto for the disclosure to the public, or to any person or persons, of any items or data furnished to County by a party hereto, in reliance of any advice, decision or opinion of the Attorney General of the State of Texas.

7.12 County and Contractor have signed this Contract in triplicate. One counterpart each has been delivered to the County, Contractor and Engineer of Record. All portions of the Contract Documents have been signed, initialed, or identified by County and Contractor or identified by Engineer of Record on their behalf.

7.13 This Contract and Contract Documents represent the entire and integrates agreement between the parties hereto and supersedes all prior negotiations, representations, or agreements, either oral or written. This Contract may be amended only by written instrument signed by each party to this Contract. NO OFFICIAL, EMPLOYEE, AGENT, OR REPRESENTATIVE OF THE COUNTY HAS ANY AUTHORITY, EITHER EXPRESS OR IMPLIES, TO AMEND THIS CONTRACT, EXCEPT PURSUANT TO SUCH EXPRESS AUTHORITY AS MAY BE GRANTED BY THE HAYS COUNTY COMMISSIONERS COURT.

This Contract will be effective on _____, 20_____ (which is the "Effective Date" of the Contract)

COUNTY_____ CONTRACTOR_____

By: _____ By:_____

Printed Name: Rueben Becerra,_____ Printed Name: _____

Title: Hays County Judge_____ Title: _____

(CORPORATE SEAL)

Attest: _____ Attest: _____
Dr. Elaine H. Cardenas, County Clerk

Appendix C
BID FORM

PROJECT IDENTIFICATION
Project No. IFB 2022-B03

THIS BID IS SUBMITTED TO:
Electronically: BidNet Direct: www.bidnetdirect.com//hayscounty

Manually:
Hays County Purchasing Department
Attn: Stephanie Hunt
712 South Stagecoach Trail, Suite 1071
San Marcos, Texas 78666

The undersigned BIDDER proposes and agrees, if this Bid is accepted, to enter into an agreement with COUNTY in the form included in the Contract Documents to perform and furnish all Work as specified or indicated in the Contract Documents for the Bid Price and within the Bid Times indicated in this Bid and in accordance with the other terms and conditions of the Contract Documents.

All Bids will be considered non-responsive if the following forms are not signed and submitted with the Bid.

BIDDER accepts all of the terms and conditions of the Notice to Bidders and Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. This Bid will remain subject to acceptance for 60 days after the day of Bid opening. BIDDER will sign and deliver the required number of counterparts of the Agreement with the Bonds and other documents required by the Bidding Requirements within 10 working days after the date of COUNTY's Notice of Award.

This Bid is genuine and not made in the interest of or on behalf of any undisclosed person, firm, or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization, or corporation; BIDDER has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid; BIDDER has not solicited or induced any person, firm, or corporation to refrain from bidding; and BIDDER has not sought by collusion to obtain for itself any advantage over any other Bidder or over COUNTY.

BIDDER will complete the work in accordance with the Contract Documents and the accompanying Schedule of Rates and Prices and will pay not less than the Prevailing Wage Rates for Hays County, Texas. The work will be completed by June 30, 2022.

Communications concerning this Bid shall be addressed to the address of BIDDER indicated below:

_____
_____
_____

Terms used in this Bid which are defined in the General Provisions or Instructions will have the meanings indicated in the General Provisions or Instructions.

SUBMITTED ON_____, 20____.

State Contractor License Number _____

IF BIDDER is:
An Individual

By_____(SEAL)
(Individual's Name)

_____
(Signature)

doing business as _____
Business address: _____
_____

Phone Number:_____Fax Number: _____
Email: _____

A Partnership

By_____(SEAL)
(Firm Name)

_____
(General Partner)

_____
(Signature)

Business address:
_____
_____
_____

Phone Number:_____Fax Number: _____
Email: _____

A Corporation

By_____(SEAL)
(Corporate Name)

_____
(State of Incorporation)

By_____(SEAL)
(Name of Person Authorized to Sign)

_____
(Signature)

(Corporate Seal)

Attest: _____
(Secretary)

Business Address
_____
_____
_____

Phone Number:_____Fax Number: _____
Email: _____

Date of Qualification to Do Business is _____

A Joint Venture

By_____(SEAL)
(Name)

_____
(Address)

_____
(Signature)

By_____(SEAL)
(Name)

_____
(Address)

_____
(Signature)

Phone & Fax Numbers, Email & mailing addresses for receipt of official communications:
_____
_____
_____
_____

(Each joint venturer must sign. The manner for signing for everyone, partnership, and corporation that is a party to the joint venture should be in the manner above.)

ATTACHMENT A

SCHEDULE OF RATES AND PRICES

HAYS COUNTY, TEXAS

PROJECT NO: PROJECT NAME: HAYS COUNTY COTTON GIN ROAD

Full compensation for compliance with each and every provision of the Request for Bids, the Bid, the Specifications, and the Contract will be considered as included in the unit prices for the work set forth below, and no separate payment will be made for compliance with each and every provision of the Request for Bids, the Bid, the Specifications, and the Contract, unless separate payment is expressly provided for therein.

BID ITEM	TECH SPEC[1]	DESCRIPTION WITH UNIT PRICES IN WORDS	BID QUANTITY	UNIT MEASURE	UNIT COST	AMOUNT BID
1	TXDOT 100 6002	PREPARING ROW at Dollars and Cents per	3.1	STA		$ -
2	TXDOT 104 6009	REMOVING CONC (RIPRAP) at Dollars and Cents per	100	SY		$ -
3	TXDOT 105 6033	REMOVING STAB BASE AND ASPH PAV (10"-14") at Dollars and Cents per	822	SY		$ -
4	TXDOT 110 6001	EXCAVATION (ROADWAY) at Dollars and Cents per	334	CY		$ -
5	TXDOT 132 6006	EMBANKMENT (FINAL)(DENS CONT)(TY C) at Dollars and Cents per	324	CY		$ -
6	TXDOT 160 6003	FURNISHING AND PLACING TOPSOIL (4") at Dollars and Cents per	1658	SY		$ -
7	TXDOT 164 6023	CELL FBR MLCH SEED(PERM)(RURAL)(CLAY) at Dollars and Cents per	1658	SY		$ -
8	TXDOT 164 6029	CELL FBR MLCH SEED(TEMP)(WARM) at Dollars and Cents per	829	SY		$ -
9	TXDOT 164 6031	CELL FBR MLCH SEED(TEMP)(COOL) at Dollars and Cents per	829	SY		$ -
10	TXDOT 168 6001	VEGETATIVE WATERING at Dollars and Cents per	42	MG		$ -
11	TXDOT 169 6001	SOIL RETENTION BLANKETS (CL 1) (TY A) at Dollars and Cents per	1658	SY		$ -
12	TXDOT 247 6041	FL BS (CMP IN PLC) (TY A GR 1-2) (FINAL POS) at Dollars and Cents per	462	CY		$ -
13	TXDOT 251 6035	REWORK BS MTL (TY C) (6") (DENS CONT) at Dollars and Cents per	885	SY		$ -

[1] Refer to the Technical Specifications section for a description of the specific reference number.

ATTACHMENT A
SCHEDULE OF RATES AND PRICES
HAYS COUNTY, TEXAS

PROJECT NO: PROJECT NAME: HAYS COUNTY COTTON GIN ROAD

Full compensation for compliance with each and every provision of the Request for Bids, the Bid, the Specifications, and the Contract will be considered as included in the unit prices for the work set forth below, and no separate payment will be made for compliance with each and every provision of the Request for Bids, the Bid, the Specifications, and the Contract, unless separate payment is expressly provided for therein.

BID ITEM	TECH SPEC[1]	DESCRIPTION WITH UNIT PRICES IN WORDS			BID QUANTITY	UNIT MEASURE	UNIT COST	AMOUNT BID
14	TXDOT 310 6009	PRIME COAT (MC-30) at	Dollars and	Cents per	160	GAL		$ -
15	TXDOT 340 6103	D-GR HMA(SQ) TY-D SAC-A PG64-22 at	Dollars and	Cents per	6	TON		$ -
16	TXDOT 341 6020	D-GR HMA(SQ) TY-C SAC-A PG64-22 at	Dollars and	Cents per	10	TON		$ -
17	TXDOT 360 6002	CONC PVMT (CONT REINF - CRCP) (8") at	Dollars and	Cents per	318	SY		$ -
18	TXDOT 400 6002	STRUCT EXCAV (BOX) at	Dollars and	Cents per	646	CY		$ -
19	TXDOT 400 6005	CEM STABIL BKFL at	Dollars and	Cents per	155	CY		$ -
20	TXDOT 403 6001	TEMPORARY SPL SHORING at	Dollars and	Cents per	1779	SF		$ -
21	TXDOT 432 6002	RIPRAP (CONC)(5 IN) at	Dollars and	Cents per	3	CY		$ -
21	TXDOT 432 6032	RIPRAP (STONE PROTECTION) (15 IN) at	Dollars and	Cents per	406	CY		$ -
22	TXDOT 432 6045	RIPRAP (MOW STRIP)(4 IN) at	Dollars and	Cents per	9	CY		$ -
23	TXDOT 450 6019	RAIL (TY T631LS) at	Dollars and	Cents per	199	LF		$ -
24	TXDOT 462 6029	CONC BOX CULV (10 FT X 5 FT) at	Dollars and	Cents per	196	LF		$ -
25	TXDOT 464 6017	RC PIPE (CL IV)(18 IN) at	Dollars and	Cents per	38	LF		$ -

[1] Refer to the Technical Specifications section for a description of the specific reference number.

ATTACHMENT A
SCHEDULE OF RATES AND PRICES
HAYS COUNTY, TEXAS

PROJECT NO: PROJECT NAME: HAYS COUNTY COTTON GIN ROAD

Full compensation for compliance with each and every provision of the Request for Bids, the Bid, the Specifications, and the Contract will be considered as included in the unit prices for the work set forth below, and no separate payment will be made for compliance with each and every provision of the Request for Bids, the Bid, the Specifications, and the Contract, unless separate payment is expressly provided for therein.

BID ITEM	TECH SPEC[1]	DESCRIPTION WITH UNIT PRICES IN WORDS	BID QUANTITY	UNIT MEASURE	UNIT COST	AMOUNT BID
26	TXDOT 466 6170	WINGWALL (FW-S) (HW = 9 FT) at Dollars and Cents per	1	EA		$ -
27	TXDOT 466 6184	WINGWALL (PW-1) (HW = 9 FT) at Dollars and Cents per	1	EA		$ -
28	TXDOT 467 6363	SET (TY II) (18 IN) (RCP) (6: 1) (P) at Dollars and Cents per	2	EA		$ -
29	TXDOT 496 6007	REMOV STR (PIPE) at Dollars and Cents per	123	LF		$ -
30	TXDOT 496 6043	REMOV STR (SMALL FENCE) at Dollars and Cents per	461	LF		$ -
31	TXDOT 496 6111	REMOVE STR (WOOD FENCE & POSTS) at Dollars and Cents per	23	LF		$ -
32	TXDOT 500 6001	MOBILIZATION at Dollars and Cents per	1	LS		$ -
33	TXDOT 502 6001	BARRICADES, SIGNS AND TRAFFIC HANDLING at Dollars and Cents per	6	MO		$ -
34	TXDOT 506 6002	ROCK FILTER DAMS (INSTALL) (TY 2) at Dollars and Cents per	278	LF		$ -
35	TXDOT 506 6011	ROCK FILTER DAMS (REMOVE) at Dollars and Cents per	278	LF		$ -
36	TXDOT 506 6020	CONSTRUCTION EXITS (INSTALL) (TY 1) at Dollars and Cents per	278	SY		$ -
37	TXDOT 506 6024	CONSTRUCTION EXITS (REMOVE) at Dollars and Cents per	278	SY		$ -
38	TXDOT 506 6038	TEMP SEDMT CONT FENCE (INSTALL) at Dollars and Cents per	434	LF		$ -

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HAYS COUNTY, TEXAS

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BID ITEM	TECH SPEC[1]	DESCRIPTION WITH UNIT PRICES IN WORDS	BID QUANTITY	UNIT MEASURE	UNIT COST	AMOUNT BID
39	TXDOT 506 6039	TEMP SEDMT CONT FENCE (REMOVE) at Dollars and Cents per	434	LF		$ -
40	TXDOT 506 6042	BIODEG EROSN CONT LOGS (INSTL) (18") at Dollars and Cents per	350	LF		$ -
41	TXDOT 506 6043	BIODEG EROSN CONT LOGS (REMOVE) at Dollars and Cents per	350	LF		$ -
42	TXDOT 530 6005	DRIVEWAYS (ACP) at Dollars and Cents per	19	SY		$ -
43	TXDOT 540 6001	MTL W-BEAM GD FEN (TIM POST) at Dollars and Cents per	62.5	LF		$ -
44	TXDOT 542 6001	REMOVE METAL BEAM GUARD FENCE at Dollars and Cents per	250	LF		$ -
45	TXDOT 544 6001	GUARDRAIL END TREATMENT (INSTALL) at Dollars and Cents per	3	EA		$ -
46	TXDOT 552 6004	WIRE FENCE (TY D) at Dollars and Cents per	728	LF		$ -
47	TXDOT 552 6008	WIRE FENCE (WATER GAP) at Dollars and Cents per	9	LF		$ -
48	TXDOT 636 6001	ALUMINUM SIGNS (TY A) at Dollars and Cents per	33	SF		$ -
49	TXDOT 644 6001	IN SM RD SN SUP&AM TY10BWG(1)SA(P) at Dollars and Cents per	2	EA		$ -
50	TXDOT 644 6004	IN SM RD SN SUP&AM TY10BWG(1)SA(T) at Dollars and Cents per	2	EA		$ -
51	TXDOT 644 6068	RELOCATE SM RD SN SUP&AM TY 10BWG at Dollars and Cents per	1	EA		$ -

[1] Refer to the Technical Specifications section for a description of the specific reference number.

ATTACHMENT A

SCHEDULE OF RATES AND PRICES

HAYS COUNTY, TEXAS

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BID ITEM	TECH SPEC[1]	DESCRIPTION WITH UNIT PRICES IN WORDS			BID QUANTITY	UNIT MEASURE	UNIT COST	AMOUNT BID
52	TXDOT 658 6060	REMOVE DELIN & OBJECT MARKER ASSMS at	Dollars and	Cents per	4	EA		$ -
53	TXDOT 658 6062	INSTL DEL ASSM (D-SW)SZ 1(BRF)GF2(BI) at	Dollars and	Cents per	13	EA		$ -
54	TXDOT 666 6207	REFL PAV MRK TY II (Y) 4" (SLD) at	Dollars and	Cents per	620	LF		$ -
55	TXDOT 672 6009	REFL PAV MRKR TY II-A-A at	Dollars and	Cents per	7	EA		$ -
56	TXDOT 752 6015	TREE AND BRUSH REMOVAL at	Dollars and	Cents per	0.17	AC		$ -
57	TXDOT 6001 6002	PORTABLE CHANGEABLE MESSAGE SIGN at	Dollars and	Cents per	2	EA		$ -

SUBTOTAL $ -

TOTAL AMOUNT OF BID

_____ Dollars and _____Cents **$ -**

[1] Refer to the Technical Specifications section for a description of the specific reference number.

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court
Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Approve specifications for RFP 2022-P02 Consulting Services - Animal Shelter and Animal Services Feasibility Study and authorize Purchasing to solicit for bids and advertise.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
CONSENT	November 2, 2021	

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
	SHELL	INGALSBE

SUMMARY

Hays County (County) is seeking the services of a qualified Consultant(s), to provide the County with a comprehensive Animal Shelter and Animal Services Feasibility Study considering local and County commitment to the No-Kill Initiative, and the County's needs and capabilities.

Attached:
Solicitation: RFP 2022-P02 Consulting Services - Animal Shelter and Animal Services Feasibility Study

SOLICITATION, OFFER AND AWARD

Hays County Auditor
Purchasing Office
712 S. Stagecoach Trail, Suite 1071
San Marcos, Texas 78666

Solicitation No.: RFP 2022-P02 Consulting Services - Animal Shelter and Animal Services Feasibility Study	**Date Issued: November 4, 2021**

SOLICITATION

Vendors must submit proposals as listed: One (1) original and one (1) digital copy on a thumb drive at the Hays County Purchasing Office at the address shown above or Electronically through BidNet Direct and one (1) hard copy at the Hays County Purchasing Office at the address shown above until:

1:00 p.m. local time November 30, 2021.

Proposals received after the time and date set for submission will be returned unopened.

For information please email: purchasing@co.hays.tx.us	Questions concerning this RFP must be received in writing no later than 5:00 on November 15, 2021.	Phone No.: (512) 393-2283

OFFER (Must be fully completed by Respondent)

In compliance with the above, the undersigned offers and agrees to furnish all items or services awarded at the prices stipulated for each item delivered at the designated point(s) and within the time specified herein. Award shall include all solicitation documents and attachments.

MANUALLY SIGN ALL COPIES SUBMITTED. SIGNATURE IS MANDATORY.

Respondent		Respondent's Authorized Representative	
Entity Name: Mailing Address:		Name: Title: Email Address: Phone No.:	
Signature:		Date:	
Name, Email Address and Phone No. of person authorized to conduct negotiations on behalf of Respondent:			

NOTICE OF AWARD (To be completed by County)

Funding Source:	Awarded as to item(s):	Contract Amount:
Vendor:		Term of Contract:
This contract issued pursuant to award made by Commissioners Court on:	Date:	Agenda Item:

Important: Award notice may be made on this form or by other Authorized official written notice.

_____ _____
Hays County Judge Date

_____ _____
Hays County Clerk Date

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I. RFP Submittal Checklist

This checklist is provided for the Vendor's convenience and identifies documents that MUST be submitted for the bid/proposal/SOQ to be considered responsive, as well as the required forms requested by Hays County.

A COMPLETE SOLICITATION RESPONSE PACKAGE INCLUDES:

The following forms MUST be returned for the bid/proposal/SOQ to be considered responsive:

____ 1. Solicitation, Offer and Award Form completed and signed, and Proposal

____ 2. Vendor Reference Form

Required Forms by Hays County:

____ 1. Conflict of Interest Questionnaire completed and signed

____ 2. Code of Ethics signed

____ 3. HUB Practices signed

____ 4. House Bill 89 Verification signed and notarized

____ 5. Senate Bill 252 Certification

____ 6. Debarment & Licensing Certification signed and notarized

____ 7. Vendor/Bidder's Affirmation completed and signed

____ 8. Related Party Disclosure Form

____ 9. Any addenda applicable to this solicitation

Hays County will accept bids/proposals/SOQ, by the stated due date by one of the following methods:

____ 1. Electronic Submission of Bid Packet through BidNet Direct and one (1) hard copy or

____ 2. One original of the statement of qualifications and a digital copy on a thumb drive are in a sealed envelope with the Solicitation Number and Vendor's Name on the outermost envelope, addressed to:

Hays County Purchasing
712 S Stagecoach Trail, Suite 1071
San Marcos, TX 78666

II. Summary

1. Type of Solicitation:	Request for Proposal (RFP)
2. Solicitation Number:	RFP 2022-P02 Consulting Services – Animal Shelter and Animal Services Feasibility Study
3. Issuing Office:	Hays County Auditor Purchasing Office 712 S. Stagecoach Trail, Suite 1071 San Marcos, TX 78666
4. Responses to Solicitation:	Sealed proposals marked with Solicitation Number and Vendor Name on the outermost envelope One (1) Original and one (1) digital copy on a thumb drive, or Electronic Bid packets can be submitted through BidNet Direct and one (1) hard copy is required to be received.
5. Deadline for Responses:	In issuing office no later than: **Tuesday, November 30, 2021; 1:00 p.m. Central Time (CT)**
6. Initial Contract Term:	January 2022 – April 30, 2022
7. Optional Contract Terms:	none
8. Designated Contact:	Hays County Purchasing Email: purchasing@co.hays.tx.us
9. Questions & Answers:	Questions regarding this solicitation must be made in writing and submitted to the designated contact above no later than Monday, November 15, 2021; 5:00 p.m. CT. Telephone inquiries will not be accepted. Questions may be submitted by email to the address above. Answers to questions will be provided in the form of an addendum after the question deadline has passed. All addenda will be posted on CivicPlus, BidNet Direct and ESBD websites.
10. Addenda	Any interpretations, corrections or changes to this RFP and specifications will be made by addenda. Sole issuing authority of addenda shall be vested in the Hays County Purchasing Office. It is the Vendor's responsibility to acknowledge receipt of all addenda with proposal submission.
11. Contact with County Staff:	Upon issuance of this solicitation, employees and representatives of Hays County, other than the Purchasing Office staff identified as the Designated Contact above, will not discuss the contents of this

solicitation with any Vendor or its representatives. Failure of a Vendor or any of its representatives to observe this restriction may result in disqualification of any related offer. This restriction does not preclude discussions between affected parties for the purpose of conducting business unrelated to this procurement.

Anticipated Schedule of Events

November 4, 2021	Issuance of RFP
November 15, 2021	Deadline for Submission of Questions (5:00 PM CT)
November 30, 2021	Deadline for Submission of Proposals (1:00 PM CT) **Late proposals will not be accepted.**
January 2022	Anticipated contract award date

III. Specifications

A. Introduction

Hays County (County) is seeking the services of a qualified Consultant(s), to provide the County with a comprehensive Animal Shelter and Animal Services Feasibility Study considering local and County commitment to the No-Kill Initiative, and the County's needs and capabilities. Proposals should be from experienced and interested firms that have successfully completed similar projects including the programming, conceptual planning, and full design of a new and/or expanded animal shelter providing animal services utilizing one location or inclusive of multiple satellite locations; clinic for veterinary services for medical care, spay/neuter/vaccinations/microchipping; animal shelter adoption centers; animal control stray management/housing of animals, cats, dogs, and wildlife. The County intends to award the firm a Professional Services agreement.

B. Background

Hays County is comprised of the following cities/towns Austin (parts), Bear Creek, Buda, Driftwood, Dripping Springs, Hays, Kyle, Mountain City, Niederwald, San Marcos, Uhland, Wimberley, and Woodcreek. Hays County covers 680 square miles in the Southcentral Texas region, and according to the 2019 Census, it has a population of 213,366 with a 4.51% 1-year growth.

Currently Hays County, the City of Kyle and the City of Buda each contract for services with the City of San Marcos Regional Animal Shelter, which is located at 750 River Road, San Marcos, TX 78666. Demands on the San Marcos Regional Animal Shelter have been challenging and there is a need to accommodate future growth requirements. Currently Hays County contracts with the City of San Marcos to provide shelter and care for all found stray and surrendered animals within the unincorporated areas of Hays County, as well as adoptions, foster and rescue programs, and maintaining licensing and statistical computer information and software.

The County's primary concern is there be a positive investment for the county's growing community, one sustainable for future years; there be a facility which is constructed and managed utilizing best practices, No-Kill programs and methods, resulting in the highest live outcome possible; there be a facility with adequate capacity for holding animals in a humane manner that promotes good health, prevents the transmission of contagious diseases and provides an adequate opportunity for each animal to find a permanent home with a responsible individual or family or transfer to another organization, shelter or rescue group.

C. Scope of Work

Hays County is requesting professional services for an animal shelter and animal services feasibility study. The study must include a narrative review/summary in sufficient detail, advice, other considerations, and recommended options for consideration to facilitate the County's effort to determine need and assess feasibility. The study also needs to explore pros and cons whether it would be feasible to enter into a cooperative agreement with all cities within the County to operate a Countywide Animal Shelter. The consultant is tasked with providing viable options for the renovation, and/or expansion of the current animal shelter and/or the building of a new County-owned Regional Animal Shelter or satellite shelters. The consultants shall examine the existing animal shelter and its surrounding site to evaluate citizens' access and visibility, determine if the current construction, plumbing, and electrical systems, and foundation are suitable for renovation and/or expansion and

include recommendations for other locations. In addition to the work associated with the sheltering of animals the consultant shall prepare an analysis of Animal Services and Programs that could reduce the need for sheltering and further the no-kill goals of the partners of the San Marcos Regional Animal Shelter. This analysis should include but not be limited to recommendations on how to increase pet retention, shelter diversion approaches, increase access to spay/neuter programs for the public, manage TNR and SNR programs, enhance fostering and adoption programs, canine behavioral modification and enrichment training for staff and the public, improve public outreach and education, manage volunteer programs, and revise animal control ordinances.

To meet these needs any proposed shelter facility must:

- Provide an overview of animal sheltering and adoption services in Hays County, City of San Marcos, and surrounding municipalities; identify and interview local stakeholders as part of the overall analysis.
- Maintain and operate an “animal shelter" with sufficient capacity and resources to provide shelter services for all animals strayed, abandoned, or otherwise deposited to their care from within Hays County to include feeding, boarding, exercise, and non-emergency veterinary care of those animals.
- Analyze the ability and capacity of current provider, both current and future. Examine current status of present animal shelter facility and operations and future animal shelter needs. Consider demographic trends, the number of animals handled in recent years, estimated construction and operating budgets (if any), operational programs, population level served, current and future staffing levels and agency objective and goals.
- Provide humane treatment for unwanted and stray animals delivered to the shelter by a County or City Animal Protection/Control Officer, designees of the County and/or cities within Hays County, or residents residing within Hays County limits.
- Provide designated holding areas for animals that are placed in protective custody and/or need to be placed in rabies' quarantine, to include the sufficient capacity to hold these animals for a potentially extend period' of time.
- Provide sufficient receiving/intake staff to accept and process the animals received from Hays County.
- Collect all animal-related fees imposed by the City and/or County ordinances, including but not limited to license fees, impoundment fees, redemption fees, veterinary fees, and unaltered animal fees.
- Maintain a software system designed specifically for shelters and animal licensing. Software should be able to run monthly reporting: such as live outcome, transfers, and data to be analyzed and reported to the Interlocal Regional Animal Shelter Commission and posted publicly for transparency.
- Maintain adequate staffing levels.
- Offer low-cost spay/neuter, vaccination, and microchip services.
- Stakeholder input is essential. Consultant must describe their planned approach to obtaining input from key stakeholders including identification, scheduling of stakeholder input processes within the study timeline, and explanation of how stakeholder input will be used to inform the study.

- Analyze the system in place now which utilizes decentralized animal control departments/multiple jurisdictions, each contract partnering entity provides animal protection/control officers. Consultants should review the logistics and time issues required for Animal Protection/Control and the staffing management which currently, under the contracting system includes Kyle PD, San Marcos animal services/control, Buda PD, and Hays Co. Sheriff's Department.
- Evaluate different alternatives for delivering care for animal sheltering services on a local and regional level, including management of the facility. Conduct a survey of the County, City, and neighboring municipalities to determine the individual and combined average and peak sheltering needs. Project future sheltering needs (based on past sheltering demand and likely future population growth).
- Evaluate options for providing animal shelter services, including but not limited to: (1) utilizing the existing animal shelter; (2) utilizing a future County facility, expansion of the current facility, and/or an additional (regional satellite) county facility; and (3) building and operating a new animal shelter in San Marcos or a neighboring municipality. The County would be interested in other options identified by the Consultant that are not listed here. Include in the analysis (1) the cost and financial feasibility associated with each alternative and (2) data on the costs incurred by other cities using similar approaches to service delivery. Determine appropriate site, building, and parking requirements for a local and/or regional facility/facilities based on existing and projected needs. The analysis will also consider whether one or more sites would be the most effective. Shelter site location should consider visibility, accessibility and suitability. Identify alternative options for local and/or regional facility/facilities seeking location(s) convenient to the County, City, and neighboring municipalities.
- Evaluate different management structures, their estimated yearly cost, and advantages and disadvantages. Possible options include but should not be limited to Interlocal Regional Animal Commission, host management and private contractor under the supervision of regional organization. The County would be interested in other options identified by the Consultant that are not listed here including management and staffing oversight.
- Determine expectations relative to non-profit assistance relative to sheltering, spay/neuter and education. Explore and report on any public/private sector collaborative efforts, and how this model may be implemented in Hays County.
- Analyze the advantages and disadvantages of the alternatives; provide a preliminary range of cost estimates to include all upfront capital and construction costs, and on-going management/staffing, vehicles, veterinarian services/supplies and operating costs and revenues
- Provide a final recommendation on the preferred animal shelter model for Hays County and neighboring municipalities.

D. Qualifications

The awarded Consultant(s) should specialize in Animal Shelter and Animal Services Feasibility Studies. To be eligible to respond to this RFP, the proposing firm must demonstrate that it, or the principals assigned to the project, have successfully completed services similar to those specified in the Scope of Work section of this RFP to institutions similar in size and complexity to Hays County.

REFERENCES: Hays County requires respondent to supply with the statement of qualifications, a list of at least three (3) references where like services have been supplied by their company. Include name of company, address, telephone number and name of representative.

RESPONSIBILTY: A prospective respondent must affirmatively demonstrate respondent's responsibility. A prospective respondent must meet the following requirements:

- Have adequate financial resources, or the above ability to obtain such resources as required
- Have a satisfactory record of performance
- Be otherwise qualified and eligible to receive an award

TIME OF PERFORMANCE: It is imperative that the prospective respondent respond to County requests in a timely manner and comply with required or proposed delivery schedules. Please describe how you intend to respond to and track County requests.

E. Proposal Requirements

All proposals shall demonstrate the consultant(s) experience in performing a project of this scale and complexity. For the County representatives to accurately evaluate whether or not the respondent meets "Minimum Qualifications for All Respondent" and the "Specifications" proposals shall Include:

- **Letter of Transmittal** signed by the individual authorized to negotiate for and contractually bind the company.
- **Table of Contents**
- Brief summary of:
    a. Recent projects.
    b. Projects you have experience in that are similar to the project described in this solicitation.
    c. Projects that show experience or ability to engage in value engineering to complete a project within budget.
- Brief general statement of qualifications that responds to the project introduction and description provided above
- List of at least the last three (3) projects the firm has completed including the name of the project, client contact, owner's total initial budget, total project cost, date of bid, scheduled completion date and actual completion date
- County is interested in team's (including sub consultants) experience in Texas regarding animal shelter planning, feasibility, design, and construction. Projects should be listed based on the consistency with the RFP, including planning, programming, expansion, and/or new construction for animal shelter facilities work completed. Particular emphasis should be placed on innovative, sustainable and cost-effective solutions (construction and maintenance/operations)
- The team's organizational structure, their understanding of the project issues and their approach to the project including technical and management factors that will lead to a quality design and operation shall be included. Respondents are encouraged to use this section of the submittal to address optional improvements to the scope of services requirements outlined in the RFP. Competitive advantages or special capabilities of project teams should be highlighted in this section as well as the intended methods to ensure:
    a. Project design performance and product reliability

b. Cost effectiveness
c. Ability to meet budgets and schedules
d. Effective project management
e. Quality control

- Contact information for at least three references
- Provide name of firm, complete address, contact person, telephone number, fax number, and email address
- Resumes of personnel who will be involved (appendix materials)

Sheet size is limited to 8½" x 11" sheets only, using 12-point font. The proposal must include an organizational chart containing the names, telephone numbers, and e-mail addresses for the prime provider and any sub-providers if proposed for the team and their contract responsibilities by work category. The organizational chart is permissible to use an 11" x "17" sheet (one-sided) and a font smaller than 12-point for the organizational chart, provided text is clearly legible. It is permissible to use a font smaller than 12-point for graphics, provided text is clearly legible.

The proposal must be submitted with a continuous binding (e.g. – spiral, GBC, etc.) along the left edge; no other binding will be accepted.

F. Cost Proposal

The awarded consultant(s) will be paid based upon a "not to exceed" amount for each task, as well as a fee schedule for reimbursable expenses.

- Each major task shall be identified,
- Number of hours planned for each task,
- Hourly rates/fees of individuals performing the work,
- Costs associated with making presentations at up to two public meetings,
- Estimated total maximum cost for the project.

The cost proposal should also address the consultant(s) willingness to perform additional analytical work in the event additional project tasks are needed or should additional work be necessary after the project is completed, and the hourly rate(s) that would be charged for such work.

Payment by the County for the services will be made only after the services have been performed and an invoice is submitted in a form specified by the County. The invoice should specifically describe the services performed, the name(s) of the personnel performing such services. The appropriate County representative must approve the invoice. The County will make payment monthly, thirty (30) days after receipt of the invoice.

G. Evaluation Criteria

The Evaluating Committee will evaluate each respondent's proposal based on a comprehensive set of criteria. Proposals received shall be evaluated and ranked by the County according to the following criteria: **(Maximum Point Total 100)**

1. Program understanding/program approach	**30 points**
2. Experience and Capabilities	**30 points**
3. Team and Qualifications	**20 points**

4. **Program cost proposal** **20 points**
   Proposal with the lowest cost will receive the maximum points allowed. All other proposals receive a percentage of the points available based on their cost relationship to the lowest.

Interview (optional) **20 points Max.**

At the County's discretion, submitting entities may be requested by the Evaluating Committee to conduct interviews as part of the evaluation process, prior to making recommendations to Commissioners Court regarding award.

It is the practice of Hays County to encourage local participation and to promote and encourage contracting and subcontracting opportunities for locally owned businesses and labor in all contracts.

The County of Hays does not discriminate on the basis of race, color, national origin, sex, religion, age and disability in employment or the provision of services. Hays County is an Affirmative Action/Equal Opportunity Employer and strives to attain goals for Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), as amended. Section 3 Residents and Business Concerns, Minority Business Enterprises, Small Business Enterprises and Women Business Enterprises are encouraged to submit proposals.

H. Submittal Requirements

Vendor must deliver their proposal to the Hays County Purchasing Department by one of the following methods by the specified deadline:

Mailed or Dropped off Proposals:

- One (1) original proposal with required forms manually signed by the Vendor with original signatures
- One (1) digital copy of the full proposal with all required forms on a thumb drive

Electronic Proposals:

- Upload proposal with required forms manually signed by the Vendor. (through BidNet Direct)
- One (1) original proposal with required forms manually signed by the Vendor, delivered to the Hays County Purchasing Office. Either the original or Electronic Proposal (through BidNet Direct) MUST be received by the due date and time to be considered responsive.

LATE SUBMITTALS WILL NOT BE ACCEPTED.

ALTERING PROPOSALS: Any interlineations, alteration, or erasure made before receiving time must be initialed by the signer of the proposal, guaranteeing authenticity.

WITHDRAWING OF PROPOSAL: A proposal may be withdrawn at any time prior to the official opening. After the official opening, proposals may not be amended, altered or withdrawn without the recommendation of the County Purchasing Manager and the approval of Commissioners Court.

It is understood that Hays County reserves the right to accept or reject any and all submittals as it shall deem to be in the best interest of Hays County.

FORMS: All proposals must be submitted on the forms provided in this solicitation document. Changes to solicitation forms made by bidders shall disqualify the proposal.

REFERENCES: Hays County requires respondent to supply a list of at least three (3) references (See Section IV for Vendor Reference Form) where like services have been supplied by their company. Include name of company, address, telephone number and name of representative.

I. Award of Contract

BASIS OF AWARD: The County reserves the right to award a contract for named project to a respondent(s) on the basis of "best value". Best value will be determined based on cost, experience, qualifications, references, proposed methodology/technical proposal, and overall responsiveness, clarity, and organization of the solicitation response.

THE CONTRACTS AWARDED shall be based on but not necessarily limited to, the following factors:

- Total price
- Vendor's qualifications & competency
- Special needs and requirements of Hays County
- Vendors past performance record with Hays County
- Hays County's evaluation of vendor's ability
- Vendor's references

RESPONSIBILTY: A prospective respondent must affirmatively demonstrate respondent's responsibility. A prospective respondent must meet the following requirements:

- Have adequate financial resources, or the above ability to obtain such resources as required
- Be able to comply with required or proposed delivery schedule
- Have a satisfactory record of performance
- Be otherwise qualified and eligible to receive an award

BIDDER AGREES, if this proposal is accepted, to furnish any and all services upon which prices are offered, at the price(s) and upon the terms and conditions contained in the specifications. The period for acceptance of the proposal will be ninety (90) calendar days.

The successful bidder expressly warrants that all services specified in the RFP will be performed with care and diligence and in accordance with all specifications of the RFP. The successful bidder agrees to correct any deficiencies in its performance of services upon notification by the County and without additional expense to the County.

The County reserves the right to accept in part or in whole any proposal submitted and waive any technicalities for the best interest of the County.

If the proposal is accepted and approved by Commissioners Court, this document shall be made part of the contract. No negotiations, decisions, or actions shall be initiated or executed by any vendor as a result of any discussions with any County employee. No oral agreements either expressed or implied will be considered in fulfilling this contract.

J. Limitations

RIGHT TO ACCEPT OR REJECT: The County reserves the right to accept or reject any or all submissions as a result of this RFP, to negotiate with all qualified sources, or to cancel in part or its entirety if found to be in the best interest of the County. The RFP does not commit the County to award a contract, issue a

purchase order, or pay any costs incurred in the preparation of a submission in response to this RFP. Proposals may be held for one hundred twenty (120) calendar days after opening without taking action.

COMMISSIONERS COURT APPROVAL REQUIRED: The Hays County Commissioners Court must approve the contractors selected to provide the services requested in this RFP. The County reserves the right to authorize contract negotiations to begin without further discussion with contractors submitting a response. Therefore, each proposal should be submitted as completely and accurately as possible. The County reserves the right to request additional data, oral discussions, or presentations in support of the written proposal.

Contractor or Individual's Obligation Regarding Evaluation

a. SUBMISSION OF INFORMATION. Submitters are cautioned that it is each contractor and or individual's sole responsibility to submit information related to the evaluation categories, and the County is under no obligation to solicit such information if it is not included with the proposal. Failure of a contractor or individual to submit such information may cause an adverse impact on the evaluation of the specific proposal.
b. SUBMITTER REVIEW OF RFP. Submitters are responsible for examining and being familiar with all specifications, terms, conditions, provisions, and instructions of the RFP and their responses. Failure to do so will be at the contractor and/or individual's risk and will not be a determinative factor when awarding the contract for services.

ORAL NON-BINDING: Any non-written representations, explanations, or instructions given by County staff or County agents are not binding and do not form a part of, or alter in any way, the RFP, a written agreement pertinent to the RFP, or the awarding of the contract.

RESERVATIONS BY COUNTY: The Commissioners Court has the right to accept, reject, or cancel any and all submissions. In addition, the County expressly reserves the following:

1. waive any defect, irregularity, or informality in any submission or RFP procedure;
2. extend the RFP closing time and date;
3. reissue this RFP in a different form or context;
4. procure any item by other allowable means;
5. revise and modify, at any time before the RFP submittal due date, the factors and/or weights of factors the County will consider in evaluating RFP submittals and to otherwise revise or expand its evaluation methodology as set forth herein;
6. investigate the qualifications of any contractor under consideration and require confirmation of information furnished by a contractor;
7. require additional information from a contractor concerning contents of its RFP submittal and/or require additional evidence of qualifications;
8. waive minor deviations from specifications, conditions, terms, or provisions of the RFP, if it is determined that waiver of the minor deviations improves or enhances the County's business interests under the RFP;
9. extend any contract when most advantageous to the County, as set forth in this RFP.
10. appoint an evaluation committee to review RFP submittals or responses, make recommendations and seek the assistance of outside technical experts in RFP submittal evaluation;
11. hold interviews and conduct discussions and correspondence with one or more of the contractors responding to this RFP to seek an improved understanding and evaluation of the responses to this RFP.
12. disclose information contained in an RFP submittal to the public as required under the Texas Public Information Act; AND/OR

13. exercise any other right reserved or afforded to Hays County under this RFP. The County reserves the right to modify the process, in its sole discretion, to address applicable law and/or the best interest of the County.

The County shall not, under any circumstances, be bound by or be liable for any obligations with respect to any construction project until such time (if at all) a contract has been awarded and all approvals obtained in form and substance satisfactory to the County have been executed and authorized by the County, and then only to the extent of such agreements.

K. Warranty of Performance

The successful respondent expressly warrants that all services specified in the RFP will be performed with care and diligence and in accordance with all specifications of the RFP. The successful bidder agrees to correct any deficiencies in performance of services upon notification by the County and without additional expense to the County.

CONTINUING NON-PERFORMANCE of the bidder, in terms of specifications, shall be basis for the termination of the contract by the County. The County shall not pay for merchandise/services that are unsatisfactory. Failure to perform any provision will constitute a default of contract, in which case, corrective action shall take place within ten (10) days from the date of written notice citing the nature of breach. Failure to take corrective action or to provide a satisfactory written reply excusing such failure within the prescribed ten (10) days will authorize the County to terminate this agreement by written notice.

COMPLIANCE WITH LAWS: The successful Respondents shall comply with all applicable federal, state and local laws and regulations pertaining to the practice of the profession and the execution of the duties under the solicitation. Any contract executed as a result of this RFP shall be governed by the laws of the State of Texas.

IV. General Terms and Conditions for Solicitations Applicable To: Request for Proposals (RFP)

1. GENERAL DEFINITIONS:
    a. "Auditor" means the Hays County Auditor or his/her designee.
    b. "Commissioners Court" means Hays County Commissioners Court.
    c. “Contract” means the contract awarded pursuant to the RFP.
    d. “Contractor” means a person or firm receiving an award of contract from Commissioners Court.
    e. "County" means Hays County, Texas, a political subdivision of the State of Texas.
    f. "County Building" means any County owned buildings and does not include buildings leased by County.
    g. "Is doing business" and "has done business" mean:
        i. Paying or receiving in any calendar year any money or other valuable thing which is worth more than $250 in the aggregate in exchange for personal services or for purchase of any property or property interest, either real or personal, either legal or equitable; or
        ii. Loaning or receiving a loan of money; or goods or otherwise creating or having in existence any legal obligation or debt with a value of more than $250 in the aggregate in a calendar year;
        iii. But does not include any retail transaction for goods or services sold to a Key Contracting Person at a posted, published, or marked price available to the general public.
    h. "Key Contracting Person" means any person or business listed in Exhibit A to Affidavit.
    i. "Purchasing Manager" means the Hays County Purchasing Manager.
    j. “Sub-contractor” means a person or firm doing business with a Contractor.

2. FUNDING: Funds for payment on this Contract have been provided through the County budget approved by Commissioners Court for this fiscal year only. State of Texas statutes prohibit the obligations and expenditure of public funds beyond the fiscal year for which a budget has been approved. However, the cost of items or services covered by this Contract is considered a recurring requirement and is included as a standard and routine expense of Hays County to be included in each proposed budget within the foreseeable future. County Commissioners expect this to be an integral part of future budgets to be approved during the period of this Contract except for unanticipated needs or events which may prevent such payments against this Contract. However, County cannot guarantee the availability of funds, and enters into this Contract only to the extent such funds are made available. The Fiscal Year for County extends from October 1st of each calendar year to September 30th of the next calendar year.

3. FUNDING OUT: Despite anything to the contrary in this Contract, if, during budget planning and adoption, Commissioners Court fails to provide funding for this Contract for the following fiscal year of County, County may terminate this Contract after giving Contractor thirty (30) calendar days written notice that this Contract is terminated due to the failure to fund it.

4. INVOICING/PAYMENTS:
    a. Contractor shall provide County with an Internal Revenue Form W-9, Request for Taxpayer Identification Number and Certification, that is completed in compliance with the Internal Revenue Code and its rules and regulations before any Contract funds are payable.
    b. As a minimum, invoices shall include: (i) name, address, and telephone number of Contractor and similar information in the event payment is to be made to a different address; (ii) County Contract or Purchase Order number; (iii) identification of products or services as outlined in this Contract; (iv) quantity or quantities, applicable unit prices, total prices, and total amount; and (v) any additional payment information called for by this Contract. County will not pay invoices that are in excess of the amount authorized by the contract.
    c. Payment shall be made by check or warrant by County upon satisfactory delivery and acceptance of products and services and submission of an invoice to the address below:
    County Auditor

712 S Stagecoach Trail, Suite 1071
San Marcos, Texas 78666

d. Payment shall be deemed to have been made on the date of mailing of the check or warrant. For purposes of payment discounts, time will begin upon satisfactory delivery of products and services and/or submission of acceptable invoice, whichever is last. Partial payments will not be made unless specifically requested and approved by County prior to Contract award.
e. Accrual and payment of interest on overdue payments shall be governed by Tex. Gov't Code Ann., ch. 2251.

5. COUNTY TAXES: If the Contractor subsequently becomes delinquent in the payment of County taxes, it will be grounds for cancellation of the contract. Despite anything to the contrary, if the contractor is delinquent in payment of County property taxes at the time of invoicing, Contractor assigns any payments to be made for performance under this contract to the County Tax Assessor-Collector for the payment of delinquent taxes.

6. PROMPT PAYMENT ACT: TEX. GOV'T CODE ANN., ch 2251 (Vernon Supp. 1995) requires that payments be made within 30 calendar days. If County fails to pay within 30 days, interest on overdue amounts is subject to Chapter 2251, Texas Government Code. The law does not apply if the terms of a federal grant, contract, regulation, or statute prevent local governments from making timely payments with federal funds. Contractors and subcontractors must pay their suppliers interest if the supplier is not paid within 10 calendar days after the contractor or subcontractor receives payment. Contractors must apply for interest payments within 6 months of submitting a proper invoice if they believe such interest was due but not paid. Interest begins accruing 30 days after either of the following, whichever is later; (i) satisfactory delivery or performance has been completed, or, (ii) a correct invoice is received at the designated place.

7. FOB POINT: Delivery of all products under this contract, if any, shall be made Free on Board to final destination, at the address shown in this contract or as indicated on each Purchase Order placed against this contract. The title and risk of loss of the goods shall not pass to County until acceptance takes place at the F.O.B. point.

8. INSPECTION AND ACCEPTANCE: The County office or department receiving items pursuant to this contract shall inspect and accept only those items that are satisfactory to them, and reject those items which are damaged or which do not conform to specifications. Contractor shall be responsible for the proper labeling, packing, and delivery to final destination, including replacement of rejected deliveries.

9. VARIATION IN QUANTITY: No variation in the quantity of any item called for by this contract will be accepted unless such variation has been caused by conditions of loading, shipping, or packing, or allowances in manufacturing processes, and then only to the extent, if any, specified elsewhere in this contract.

10. OFFICIALS NOT TO BENEFIT: If a member of Commissioners Court belongs to a cooperative association, the County may purchase equipment or supplies from the association only if no member of the Commissioners Court will receive a pecuniary benefit from the purchase, other than as reflected in an increase in dividends distributed generally to members of the association.

11. NONDISCRIMINATION; CIVIL RIGHTS/ADA COMPLIANCE:
    a. Contractor shall not engage in employment practices that have the effect of discriminating against employees or prospective employees because of age, race, color, sex, creed, national origin or handicapped condition.
    b. Contractor shall provide all services and activities required in a manner that would comply with the Civil Rights Act of 1964, as amended, the Rehabilitation Act of 1973, Public Law 93-1122, Section 504, and with the provisions of the Americans with Disabilities Act of 1990, Public Law 101-336 [S.933] if Contractor were an entity bound to comply with these laws.

12. CHANGES:
    a. This Contract may be amended only by written instrument signed by both County and Contractor. It is acknowledged by Contractor that NO OFFICIAL, EMPLOYEE, AGENT OR REPRESENTATIVE OF COUNTY HAS ANY AUTHORITY, EITHER EXPRESS OR IMPLIED, TO CHANGE THE SCOPE OF THIS CONTRACT OR OTHERWISE AMEND THIS CONTRACT, OR ANY ATTACHMENTS HERETO, UNLESS EXPRESSLY GRANTED THAT AUTHORITY BY THE COMMISSIONERS COURT.
    b. Contractor shall submit all requests for changes to this Contract or any attachment(s) to it to the Purchasing Manager. The Purchasing Manager shall present Contractor's requests to Commissioners Court for consideration.

13. REPRESENTATIONS:
    a. Contractor represents that he has thoroughly examined the drawings, specifications, schedule, instructions and all other contract documents. Contractor has made all investigations necessary to be thoroughly informed regarding plant and facilities for delivery of material, equipment and/or services as required by the proposal conditions.
    b. The Contractor's delivery time includes weekends and holidays.
    c. Contractor certifies that he is a qualified, bondable business entity that he is not in receivership or contemplates it, and has not filed for bankruptcy. He further certifies that the Company, Corporation, Partnership, or Sole Proprietorship is not delinquent with respect to payment of County property taxes.
    d. Contractor warrants that all applicable patents and copyrights which may exist on items that will be supplied under the contract have been adhered to and further warrants that County shall not be liable for any infringement of those rights. Warranties granted County shall apply for the duration of this contract or for the life of equipment or supplies purchased, whichever is longer. County must not extend use of the granted exclusive rights to any other than County employees or those with whom County has established a relationship aimed at furthering the public interest, and then only for official public uses. County will not knowingly or intentionally violate any applicable patent, license, or copyright. Contractor must indemnify County, its officers, agents, and employees against all claims, suits, and liability of every kind, including all expenses of litigation, court costs, and attorney's fees arising in connection with any alleged or actual infringement of existing patents, licenses or copyrights applicable to items sold.
    e. The Contractor warrants that upon execution of a contract with the County, he will not engage in employment practices which have the effect of discriminating against employees or prospective employees because of age, religion, race, color, sex, creed, handicap, or national origin and will submit reports as the County may require to assure compliance.
    f. Contractor warrants to County that all items delivered and all services rendered will conform to the specifications, drawings, or other descriptions furnished or incorporated by reference, and will be of merchantable quality, good workmanship, and free from defects. Contractor further agrees to provide copies of applicable warranties or guarantees to the Purchasing Manager. Copies will be provided within 10 days after the Notice of Award is issued. Return of merchandise under warranty shall be at Contractor's expense.

14. SUBCONTRACTS:
    a. Contractor shall not enter into any subcontracts for any service or activity relating to the performance of this Contract without the prior written approval or the prior written waiver of this right of approval from County. IT IS ACKNOWLEDGED BY CONTRACTOR THAT NO OFFICER, AGENT, EMPLOYEE OR REPRESENTATIVE OF COUNTY HAS THE AUTHORITY TO GRANT SUCH APPROVAL OR WAIVER UNLESS EXPRESSLY GRANTED THAT SPECIFIC AUTHORITY BY THE COMMISSIONERS COURT.
    b. If a subcontract is approved, Contractor must make a "good faith" effort to take all necessary and reasonable steps to insure HUBs maximum opportunity to be subcontractors under this Contract. Contractor must obtain County approval of all proposed HUB subcontractors through the Purchasing

Manager. Failure by Contractor to make a good faith effort to employ HUBs as subcontractors constitutes a breach of this Contract and may result in termination of this Contract.

15. ASSIGNMENT:
    a. The parties to this Contract shall not assign any of the rights or obligation hereunder without the prior written consent of the other party. No official, employee, representative or agent of County has the authority to approve any assignment under this Contract unless that specific authority is expressly granted by Commissioners Court.
    b. The terms, provisions, covenants, obligations and conditions of this Contract are binding upon and inure to the benefit of the successors in interest and the assigns of the parties to this Contract if the assignment or transfer is made in compliance with the provisions of this Contract.
    c. Contractor remains responsible for the performance of this Contract when there is a change of name or change of ownership. If a change of name is required, the Purchasing Manager shall be notified immediately. No change in the obligation of or to Contractor will be recognized until it is approved by Commissioners Court.

16. DISPUTES AND APPEALS: The Purchasing Manager acts as the County representative in the issuance and administration of this contract in relation to disputes. Any document, notice, or correspondence not issued by or to the Purchasing Manager or other authorized County person, in relation to disputes is void unless otherwise stated in this contract. If the Contractor does not agree with any document, notice, or correspondence issued by the Purchasing Manager, or other authorized County person, the Contractor must submit a written notice to the Purchasing Manager within ten (10) calendar days after receipt of the document, notice, or correspondence, outlining the exact point of disagreement in detail. If the matter is not resolved to the Contractor's satisfaction, Contractor may submit a written Notice of Appeal to the Commissioners Court, through the Purchasing Manager, if the Notice is submitted within ten (10) calendar days after receipt of the unsatisfactory reply. Contractor then has the right to be heard by Commissioners Court.

17. MEDIATION: When mediation is acceptable to both parties in resolving a dispute arising under this Agreement, the parties agree to use a mutually agreed upon mediator, or a person appointed by a court of competent jurisdiction, for mediation as described in Section 154.023 of the Texas Civil Practice and Remedies Code. Unless both parties are satisfied with the result of the mediation, the mediation will not constitute a final and binding resolution of the dispute. All communications within the scope of the mediation shall remain confidential as described in §154.073 of the Texas Civil Practice and Remedies Code, unless both parties agree, in writing, to waive the confidentiality.

18. FORCE MAJEURE: If the performance by either party of any of its obligations under this Contract is interrupted or delayed due to an act of God or the common enemy or as the result of war, riot, civil commotion, sovereign conduct, or the act or conduct of any person or persons not a party to this Contract, then it shall be excused from performance for such period of time as is reasonably necessary to remedy the effects thereof.

19. NON-WAIVER OF DEFAULT:
    a. No payment, act or omission by County may constitute or be construed as a waiver of any breach or default of Contractor which then exists or may subsequently exist. No official, agent, employee or representative of County may waive any breach of any term or condition of this Contract unless expressly granted that specific authority by the Commissioners Court.
    b. All rights of County under this Contract are specifically reserved and any payment, act or omission shall not impair or prejudice any remedy or fight to County under it. Any right or remedy in this Contract shall not preclude the exercise of any other right or remedy under this Contract or under any law, nor shall any action taken in the exercise of any right or remedy be deemed a waiver of any other rights or remedies.

20. TERMINATION FOR DEFAULT: Failure by either County or Contractor to perform any provisions of this Contract shall constitute a breach of contract. Either party may require corrective action within ten (10) calendar days after date of receipt of written notice citing the exact nature of the other's breach. Failure to take corrective action or failure to provide a satisfactory written reply excusing such failure within the ten (10) calendar days shall constitute a default. The defaulting party shall be given a twenty (20) calendar day period within which to show cause why this Contract shall not be terminated for default. All notices for corrective action, breach, default or show cause on behalf of County shall be issued by the Purchasing Manager or County legal representative only, and all replies to the same shall be made in writing to the County Purchasing Manager or County legal representative at the address provided herein. Notices issued by or to anyone other than the Purchasing Manager or County legal representative shall be null and void, and shall be considered as not having been issued or received. County reserves the right to enforce the performance of this Contract in any manner prescribed by law in case of default and may contract with another party with or without competition or further notification to the contractor. At a minimum, Contractor shall be required to pay any difference in the cost of securing the services covered by this Contract, or compensate for any loss or damage to the County derived hereunder if it becomes necessary to contract with another source because of a default, plus reasonable administrative costs and attorney's fees. In the event of termination for default, County, its agents or representatives, shall not be liable for loss of any profits anticipated under this Contract.

21. TERMINATION FOR CONVENIENCE: County reserves the right to terminate this Contract upon thirty (30) days written notice for any reason deemed by the Commissioners Court to serve the public interest, or resulting from any governmental law, ordinance, regulation, or court order. Termination for convenience shall not be exercised with the sole intention of awarding the same or similar contract requirements to another source. In the event of such termination, County shall pay Contractor those costs directly attributable to work done in preparation for compliance with this Contract prior to termination; provided, however, that no costs shall be paid which are recoverable in the normal course of the business in which Contractor is engaged, nor shall County pay any costs which can be mitigated through the sale of supplies or inventories. If County pays for the cost of supplies or materials obtained for use under this Contract those supplies or materials shall become the property of County and shall be delivered to the FOB point shown in this Contract, or as designated by the Purchasing Manager. County shall not be liable for loss of any profits anticipated under this Contract.

22. GRATUITIES: Contractor shall not provide any gratuity in any form, including entertainment, gifts, or otherwise, to any employee, buyer, agent, or representative of County with a view to securing a contract, or securing favorable treatment with respect to the award or amendment, or the making of any determination with respect to the performance of this Contract. County may terminate this Contract if it is found that gratuities of any kind including entertainment, or gifts were offered or given by the Contractor or any agent or representative of the Contractor, to any County Official or employee with a view toward securing favorable treatment with respect of this contract. If this Contract is terminated by the County pursuant to this provision, County shall be entitled, in addition to any other rights and remedies, to recover from the Contractor at least three times the cost incurred by Contractor in providing the gratuities.

23. COVENANT AGAINST CONTINGENT FEES: Contractor represents and warrants that no persons or selling agency has been retained to solicit this Contract upon an understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial selling agencies maintained by the Contractor to secure business. For breach or violation of this warranty, County shall have the right to terminate this Contract without liability, or in its discretion to, as applicable, add to or deduct from the Contract price for consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

24. COUNTY ACCESS: Contractor shall maintain and make available for inspection, audit or reproduction by any authorized representative of County all books, documents, and other evidence pertinent to the costs and expenses of this Contract, including but not limited to both direct and indirect costs, cost of labor, material, equipment, supplies, and services, and all other costs and expenses of whatever nature for which

reimbursement is claimed under this Contract. All required records shall be maintained until an audit is completed and all required questions arising therefrom are resolved, or three (3) years after completion of the contract term, whichever occurs first; provided, however, the records will be retained beyond the third year if an audit is in progress or the finding of a completed audit have not been resolved satisfactorily.

25. FORFEITURE OF CONTRACT:
    a. The selected Offeror must forfeit all benefits of the contract and County must retain all performance by the selected Offeror Contractor and recover all consideration or the value of all consideration paid to the selected Offeror pursuant to the contract if:
    b. The selected Offeror was doing business at the time of submitting its proposal offer or had done business during the 365- day period immediately prior to the date on which its proposal offer was due with one or more Key Contracting Persons if the selected Offeror failed to disclose the name of any such Key Contracting Person in its offer; or
    c. The selected Offeror does business with a Key Contracting Person after the date on which the offer that resulted in the contract is submitted and prior to full performance of the contract.

26. CONTRACTOR CLAIMS NOTIFICATION:
    a. If any claim, or other action, that relates to Contractor's performance under this Contract, including proceedings before an administrative agency, is made or brought by any person, firm, corporation, or other entity against Contractor, Contractor shall give written notice to County of the following information within ten (10) working days after being notified of it:
        i. The existence of the claim, or other action;
        ii. The name and address of the person, firm, corporation or their entity that made a claim or that instituted any type of action or proceeding;
        iii. The alleged basis of the claim, action or proceeding;
        iv. The court or administrative tribunal, if any, where the claim, action or proceeding was instituted; and
        v. The name or names of any person against whom this claim is being made.
    b. Except as otherwise directed, Contractor shall furnish to County copies of all pertinent papers received by Contractor with respect to making these claims or actions and all court pleadings related to the defense of these claims or actions.

27. CERTIFICATION OF ELIGIBILITY: This provision applies if the anticipated Contract exceeds $100,000. By submitting a bid or proposal in response to this solicitation, the bidder/respondent certifies that at the time of submission, he/she is not on the Federal Government's Excluded Parties List System (www.epls.gov), which details a listing of suspended, ineligible, or debarred contractors. In the event of placement on the list between the time of bid/proposal submission and time of award, the bidder/respondent will notify the Hays County Purchasing Manager. Failure to do so may result in terminating this Contract for default.

28. CONTRACTOR LIABILITY, INDEMNIFICATION AND CLAIMS NOTIFICATION: Contractor shall indemnify County, its officers, agents, and employees, from and against any and all third party claims, losses, damages, causes of action, suits, and liability of every kind whether meritorious or not and, including all expenses of litigation, court costs, and reasonable attorney's fees, arising in connection with the services provided by Contractor under this Contract. It is the expressed intention of the Parties to this Contract, both Contractor and County, that the indemnity provided for in this paragraph is indemnity by Contractor to indemnify and protect County from the consequences of Contractor's actions.

29. CONSTRUCTION OF CONTRACT:
    a. This Contract is governed by the laws of the United States of America and the State of Texas and all obligations under this Contract are performable in Hays County, Texas. Venue for any dispute arising out of this Contract will lie in the appropriate court of Hays County, Texas.

b. If any portion of this Contract is ruled invalid, illegal, or unenforceable in any respect by a court of competent jurisdiction, the remainder of it shall remain valid and binding.
c. Headings and titles at the beginning of the various provisions of this Contract have been included only to make it easier to locate the subject matter covered by that part, section or subsection and are not to be used in construing this Contract.
d. When any period of time is stated in this Contract, the time shall be computed to exclude the first day and include the last day of period. If the last day of any period falls on a Saturday, Sunday, or a day that Hays County has declared a holiday for its employees, these days shall be omitted from the computation. All hours in this Contract are stated in Central Standard Time from 2:00 o'clock a.m. on the first Sunday of November until 2:00 o'clock a.m. on the second Sunday of March and in Central Daylight Saving Time from 2:00 o' clock a.m. on the second Sunday of March until 2:00 o'clock a.m. on the first Sunday of November or such other dates as may be adopted for the activation of Daylight Savings Time in the United States in future years.
e. Words of any gender in this Contract shall be construed to include any other gender and words in either number shall be construed to include the other unless the context clearly requires otherwise.
f. Provisions, Words, Phrases, and Statutes, whether incorporated by actual use or by reference, shall be applied to this Contract in accordance with Texas Government Code, §§ 312.002 and 312.003.

30. ADDITIONAL GENERAL PROVISIONS:
a. Contractor must comply with all Federal and State laws and regulations, City and County ordinances, orders, and regulations, relating in any way to this Contract.
b. Contractor must secure all permits and licenses, pay all charges and fees, and give all notices necessary for lawful operations.
c. Contractor must pay all taxes and license fees imposed by the Federal and the State Governments and their agencies and political subdivisions upon the property and business of Contractor.
d. Despite anything to the contrary in this Contract, if the Contractor is delinquent in payment of property taxes at the time of providing services, Contractor assigns the amount of any payment to be made for services provided under this Contract equal to the amount Contractor is delinquent in property tax payments to the Hays County Tax Assessor-Collector for the payment of the delinquent taxes.
e. In this subsection, "County Building" means any County-owned buildings and does not include buildings leased by County. Contractor must not execute any mortgage, or issue any bonds, shares of stock, or other evidence of interest in County Buildings.

31. INTERPRETATION OF CONTRACT:
a. This document contains the entire agreement between the parties relating to the rights granted and the obligations assumed. Any prior agreements or representations not expressly set forth in this agreement are of no force. Any oral representations or modifications concerning this agreement shall be of no force except a subsequent modification in writing signed by the Purchasing Manager. No official, representative, employee, or agent of the County has any authority to modify or amend this contract except pursuant to specific authority to do so granted by the Commissioners Court.
b. If inconsistency exists between provisions of this solicitation, the inconsistency shall be resolved by giving precedence in the following ascending order of precedence:
    i. The Schedule of Items/Services
    ii. Terms and Conditions of Request for Proposals;
    iii. General Provisions;
    iv. Other provisions, whether incorporated by reference or otherwise; and
    v. The specifications.
c. If any contract provision shall for any reason be held invalid, illegal, or unenforceable in any respect, invalidity, illegality, or unenforceability shall not affect any other provision, and this contract shall be construed as if invalid, illegal or unenforceable provision had never been contained.
d. This contract shall be governed by the laws of Texas and all obligations are performable in Hays County, Texas.

e. If a word is used with reference to a particular trade or subject matter or is used as a word of art, the word shall have the meaning given by experts in that particular field.
f. Words in the present or past tense include the future tense. The singular includes the plural and the plural includes the singular. The masculine gender includes the feminine and neuter genders.
g. The headings in this contract have been included only to make it easier to locate the subject covered by each provision and are not to be used in construing this contract.
h. Provisions, words, phrases, and statutes, whether incorporated by actual use or by reference, shall be applied to this contract in accordance with TEX. GOV'T CODE ANN., SEC 312.002, 312.003 (Vernon 1991).

32. MODIFICATIONS:
    a. The County Purchasing Manager may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in any one of the following:
        i. Drawings, designs or specifications when the supplies to be furnished are to be specifically manufactured for the County in accordance with the drawings, designs, or specifications.
        ii. Method of shipment or packing.
        iii. Place of deliveries.
        iv. Correction of errors of a general administrative nature or other mistakes, the correction of which does not affect the scope of the contract, or does not result in expense to the Contractor.
        v. Description of items to be provided.
        vi. Time of performance (i.e. hours of day, days of week, etc)
    b. If any such change causes an increase or decrease in the cost of, or time required for, performance of any part of the work under this contract whether, or not changed by the order, the Commissioners Court shall make an equitable adjustment in the contract price, the delivery schedule, or both, and shall modify the contract. The Contractor must submit any "proposal for adjustment" under this clause within thirty (30) calendar days from the date of receipt of the written order. However, if the County Purchasing Manager decides that the facts justify it, the County Purchasing Manager may receive and act upon a proposal submitted before final payment of the contract. If the Contractor's proposal includes the cost of property made obsolete or excess by the change, the County shall have the right to prescribe the manner of disposition of the property. Failure to agree to any adjustment shall be a dispute under the Disputes and Appeals clause. However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

33. PRICE CHANGES: The prices offered shall remain firm for the period of the contract. The prices offered shall also remain firm for the option years should the County choose to exercise the option to renew, except for changes that are industry wide and beyond the control of the contractor. If such changes do occur, it will be the responsibility of the contractor to provide documentation to Hays County substantiating the changes to the bid prices. Any price changes must be approved by Hays County.

34. INSURANCE AND LIABILITY: During the period of this contract, contractor shall maintain at his expense, insurance with limits not less than those prescribed below. With respect to required insurance, Contractor shall;
    a. Name County as additional insured as its interests may appear.
    b. Provide County a waiver of subrogation.
    c. Provide County with a thirty (30) calendar day advance written notice of cancellation or material change to said insurance.
    d. Provide the County Purchasing Manager at the address shown on Page 1 of this contract, a Certificate of Insurance evidencing required coverage within ten (10) calendar days after receipt of Notice of Award. Also, please assure your certificate contains the contract number as indicated on the Contract Award form when issued by Hays County.
    e. Vehicles Covered: All owned, leased, hired and non-owned vehicles, both private passenger and commercial – types, used by Prosper and its employees.
    f. Submit an original certificate of insurance reflecting coverage as follows:

Automobile Liability:	
Bodily Injury (Each person)	$ 250,000.00
Bodily Injury (Each accident)	$ 500,000.00
Property Damage	$1,000,000.00

Commercial General Liability (Including Contractual Liability):	
Each Occurrence Limit	$1,000,000.00
General Aggregate	$5,000,000.00
Products-Completed Operations Aggregate	$1,000,000.00
Personal & Advertising Injury Limit	$1,000,000.00
Property Damage Limit	$ 100,000.00

Employers, Lability	
Bodily Injury by Accident (Each Accident)	$1,000,000.00
Bodily Injury by Disease (Policy Limit)	$1,000,000.00
Bodily Injury by Disease (Each Employee)	$1,000,000.00

Excess Liability:	
Umbrella Form	Not Required

Labor Liability:	
Worker's Compensation	Meeting Statutory Requirements

Medical Malpractice:	
Minimum amount of coverage (each Occurrence)	$1,000,000.00
Aggregate	$5,000,000.00

V. Vendor Reference Form

Please list three (3) references of current customers who can verify the quality of service your company provides. The County prefers customers of similar size and scope of work to this proposal/bid. **This form must be returned with your bid/proposal.**

REFERENCE ONE

Company Name: _____

Address: _____

Contact Person and Title: _____

Phone Number: _____

Scope & Duration of Contract: _____

REFERENCE TWO

Company Name: _____

Address: _____

Contact Person and Title: _____

Phone Number: _____

Scope & Duration of Contract: _____

REFERENCE THREE

Company Name: _____

Address: _____

Contact Person and Title: _____

Phone Number: _____

Scope & Duration of Contract: _____

VI. Certificate of Interested Parties

In 2015, the Texas Legislature adopted House Bill 1295, which added 2252.908 to the Texas Government Code and applies to all contracts entered into on or after January 1, 2016. Section 2252.908 (b)(1)(2) applies only to a contract of a governmental entity or state agency that requires an action or vote by the governing body of the entity or agency before the contract may be signed or that has a value of at least $1 million. In addition, pursuant to Section 2252.908 (d), a governmental entity or state agency may not enter into a contract described by Subsection (b) with a business entity unless the business entity, in accordance with this section and rules adopted under this section, submits a disclosure of interested parties to the governmental entity or state agency at the time the business entity submits the signed contract to the governmental entity or state agency.

With regard to Hays County purchases, a vendor or other person who is awarded a contract or purchase approved by Hays County Commissioners Court is required to electronically complete a Form 1295 through the Texas Ethics Commission website at https://ethics.state.tx.us/whatsnew/elf_info_form1295.htm and submit a signed copy of the form to the Hays County Purchasing office. A contract, including County issued purchase order (if applicable), will not be enforceable or legally binding until the County received and acknowledges receipt of the properly completed Form 1295 from the awarded vendor.

If you do not have access to the link provided above or have any questions please contact Purchasing at 512-393-5532.

VII. Conflict of Interest Questionnaire

CONFLICT OF INTEREST QUESTIONNAIRE

FORM CIQ

For vendor doing business with local governmental entity

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. *See* Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

OFFICE USE ONLY

Date Received

1 **Name of vendor who has a business relationship with local governmental entity.**

2 ☐ **Check this box if you are filing an update to a previously filed questionnaire.** (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 **Name of local government officer about whom the information is being disclosed.**

_____
Name of Officer

4 **Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.**

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

☐ Yes ☐ No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

☐ Yes ☐ No

5 **Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.**

6 ☐ Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

7

_____ _____
Signature of vendor doing business with the governmental entity Date

Form provided by Texas Ethics Commission www.ethics.state.tx.us Revised 11/30/2015

CONFLICT OF INTEREST QUESTIONNAIRE
For vendor doing business with local governmental entity

A complete copy of Chapter 176 of the Local Government Code may be found at http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.176.htm. For easy reference, below are some of the sections cited on this form.

Local Government Code § 176.001(1-a): "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

(A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;

(B) a transaction conducted at a price and subject to terms available to the public; or

(C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

Local Government Code § 176.003(a)(2)(A) and (B):

(a) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

***

(2) the vendor:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds $2,500 during the 12-month period preceding the date that the officer becomes aware that

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor;

(B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than $100 in the 12-month period preceding the date the officer becomes aware that:

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor.

Local Government Code § 176.006(a) and (a-1)

(a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

(1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);

(2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or

(3) has a family relationship with a local government officer of that local governmental entity.

(a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

(1) the date that the vendor:

(A) begins discussions or negotiations to enter into a contract with the local governmental entity; or

(B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the vendor becomes aware:

(A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);

(B) that the vendor has given one or more gifts described by Subsection (a); or

(C) of a family relationship with a local government officer.

VIII. CODE OF ETHICS FOR HAYS COUNTY

Public employment is a public trust. It is the policy of Hays County to promote and balance the objective of protecting government integrity and the objective of facilitating the recruitment and retention of personnel needed by Hays County. Such a policy implemented by prescribing essential standards of ethical conduct without creating unnecessary obstacles to entering public services.

Public servants must discharge their duties impartially so as to assure fair competitive access to governmental procurement by responsible contractors. Moreover, they should conduct themselves in such a manner as to foster public confidence in the integrity of the Hays County procurement organization.

To achieve the purpose of this article, it is essential that those doing business with Hays County also observe the ethical standards prescribed here.

It shall be a breach of ethics to attempt to influence any public employee, elected official or department head to breach the standards of ethical conduct set forth in this code.

It shall be a breach of ethics for any employee of Hays County or a vendor doing business with the county to participate directly or indirectly in a procurement when the employee or vendor knows that:

The employee or any member of the employee's immediate family, or household has a substantial financial interest pertaining to the procurement. This means ownership of 10% or more of the company involved and/or ownership of stock or other interest or such valued at $2500.00 or more.

A business or organization in which the employee, or any member of the employee's immediate family, has a financial interest pertaining to the procurement.

Gratuities: It shall be a breach of ethics to offer, give or agree to give any employee of Hays County or for any employee to solicit, demand, accept or agree to accept from a vendor, a gratuity of consequence or any offer of employment in connection with any decision approval, disapproval, recommendation, preparation or any part of a program requirement or purchase request influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or controversy, any particular matter pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefore pending before this government.

Kickbacks: It shall be a breach of ethics for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor for any contract for Hays County as an inducement for the award of a contract or order.

Contract Clause: The prohibition against gratuities and kickbacks prescribed above shall be conspicuously set forth in every contract and solicitation therefore.

Any effort to influence any employee, elected official, or department head to violate the standards of the code is grounds to void the contract. Please certify, by your signature below, that you understand the ethics policy of Hays County and in no way will attempt to violate the code.

SIGNATURE: _____

PRINT NAME & TITLE: _____

COMPANY NAME: _____

IX. Hays County Practices Related to Historically Underutilized Businesses

1. STATEMENT OF PRACTICES

Hays County will strive to ensure that all businesses, regardless of size, economic, social or ethnic status have an equal opportunity to participate in the County's procurement processes. The County is committed to promote full and equal business opportunity for all businesses to supply the goods and services needed to support the mission and operations of county government, and seeks to encourage the use of certified historically underutilized businesses (HUB's) through the use of race, ethnic and gender neutral means. It is the practice of Hays County to involve certified HUBs to the greatest extent feasible in the County's procurement of goods, equipment, services and construction projects while maintaining competition and quality of work standards. The County affirms the good faith efforts who recognize and practice similar business standards.

2. DEFINITIONS

Historically underutilized businesses (HUBs), also known as a disadvantaged business enterprise (DBE), are generally business enterprises at least 51% of which is owned and the management and daily business operations are controlled by one or more persons who is/are socially and economically disadvantaged because of his/her identification as a member of certain groups, including women, Black Americans, Mexican Americans, and other Americans if Hispanic origin, Asian Americans and American Indians.

Businesses include firms, corporations, sole proprietorships, vendors, suppliers, contractors, subcontractors, professionals and other similar references when referring to a business that provides goods and/or services regardless of the commodity category.

Certified HUB's include business enterprises that meet the definition of a HUB and who meet the certification requirements of certification agencies recognized by Hays County, as expressed below.

Statutory bid limit refers to the Texas Local Government Code provision that requires competitive bidding for many items valued at greater than $50,000.

3. GUIDELINES

a. Hays County, its contractors, their subcontractors and suppliers, as well as all vendors of goods, equipment and services, shall not discriminate on the basis of race, color, creed, gender, age, religion, national origin, citizenship, mental or physical disability, veteran's status or political affiliation in the award and/or performance of contracts. All entities doing business or anticipating doing business with the County shall support, encourage and implement affirmative steps toward a common goal of establishing equal opportunity for all citizens and businesses of the County.

b. Vendors and/or contractors desiring to participate in the HUB program must successfully complete the certification process with the State of Texas or Texas Unified Certification Program. The vendor or contractor is also required to hold a current valid certification (title) from either of these entities.

c. Vendors and/or contractors must be registered with the State Comptroller's web-based HUB directory and with the Comptroller's Centralized Master Bidder's List (CMBL). Hays County will solicit bids from certified HUB's for state purchasing and public works contracts.

4. Hays County will actively seek and encourage HUBs to participate in all facets of the procurement process by:
    a. Continuing to increase and monitor a database of certified HUB vendors, professionals and contractors. The database will be expanded to include products, areas of expertise and capabilities of each HUB firm.
    b. Continuing to seek new communication links with HUB vendors, professionals and contractors to involve them in the procurement process.
    c. Continuing to advertise bids on the County's website and in the newspapers including newspapers that target socially and economically disadvantaged communities.
5. As prescribed by law, the purchase of one or more items costing in excess of the statutory bid limit must comply with the competitive bid process. Where possible, those bids will be structured to include and encourage the participation of HUB firms in the procurement process by:
    a. Division of proposed requisitions into reasonable lots in keeping with industry standards and competitive bid requirements.
    b. Where feasible, assessment of bond and insurance requirements and the designing of such requirements to reasonably permit more than one business to perform the work.
    c. Specifications of reasonable, realistic delivery schedules consistent with the County's actual requirements.
    d. Specifications, terms and conditions reflecting the County's actual requirements are clearly stated, and do not impose unreasonable or unnecessary contract requirements.
6. A HUB practice statement shall be included in all specifications. The County will consider the bidder's responsiveness to the HUB Practices in the evaluation of bids and proposals. Failure to demonstrate a good faith effort to comply with the County's HUB practices may result in a bid or proposal being considered non-responsive to specifications.
7. Nothing in this practice statement shall be construed to require the County to award a contract other than to the lowest responsive bidder as required by law. This practice is narrowly tailored in accordance with applicable law.

Please sign for acknowledgement of the Hays County HUB Practices:

_____ _____

Signature Date

X. Hays County House Bill 89 Verification

I, _____ (Person name), the undersigned representative of _____(Company or Business name, hereafter referred to as Company) being an adult over the age of eighteen (18) years of age, after being duly sworn by the undersigned notary, do hereby depose and verify under oath that the company named above, under the provisions of Subtitle F, Title 10, Government Code Chapter 2270:

1. Does not boycott Israel currently; and
2. Will not boycott Israel during the term of the contract.

Pursuant to Section 2270.001, Texas Government Code:

1. *"Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes; and*

2. *"Company" means a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or any limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of those entities or business associations that exist to make a profit.*

_____ _____

Signature of Company Representative Date

On this _____ day of _____, 20____, personally appeared _____, the above-named person, who after by me being duly sworn, did swear and confirm that the above is true and correct.

NOTARY SEAL

_____

Notary Public in and for the State of Texas

_____

Date

XI. Hays County Purchasing Department Senate Bill 252 Certification

On this day, I, _____, the Purchasing Representative for Hays County in San Marcos, Texas, pursuant to Texas Government Code, Chapter 2252, Section 2252.152 and Section 2252.153, certify that I did review the website of the Comptroller of the State of Texas concerning the listing of companies that is identified under Section 806.051, Section 807.051 or Section 2253.253 and I have ascertained that the below-named company is not contained on said listing of companies which do business with Iran, Sudan or any Foreign Terrorist Organization.

_____

Company Name

_____

RFP or Vendor number

CERTIFICATION CHECK PERFORMED BY:

_____

Purchasing Representative

_____

Date

XII. Debarment and Licensing Certification

STATE OF TEXAS §
§
COUNTY OF HAYS §

I, the undersigned, being duly sworn or under penalty of perjury under the laws of the United States and the State of Texas, certifies that Firm named herein below and its principals:

a. Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any federal department or agency;
b. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
c. Are not presently indicted for or otherwise criminally or civilly charged by a federal, state or local governmental entity with commission of any of the offenses enumerated in paragraph (1)(b) of this certification;
d. Have not within a three-year period preceding this application/proposal had one or more public (federal, state or local) transactions terminated for cause or default;
e. Are registered and licensed in the State of Texas to perform the professional services which are necessary for the project; and
f. Have not been disciplined or issued a formal reprimand by any State agency for professional accreditation within the past three years.

_____
Name of Firm

_____ _____
Signature of Certifying Official Title of Certifying Official

_____ _____
Printed Name of Certifying Official Date

Where the Firm is unable to certify to any of the statements in this certification, such Firm shall attach an explanation to this certification.

SUBSCRIBED and sworn to before me the undersigned authority by _____on this the day of _____, 20___, on behalf of said Firm.

_____
Notary Public in and for the State of Texas

My commission expires: _____

XIII. Vendor/Bidder's Affirmation

2. Vendor/Bidder affirms that they are duly authorized to execute this Contract, that this company, corporation, firm, partnership or individual has not prepared this bid in collusion with any other bidder, and that the contents of this bid as to price, terms or conditions of said bid have not been communicated by the undersigned nor by any employee or agent to any other person engages in this type of business prior to the official opening of this bid.

3. Vendor/Bidder hereby assigns to Purchaser any and all claims for overcharges associated with this Contract which arise under the antitrust laws of the United States, 15 USCA Section 1 et seq., and which arise under the antitrust laws of the State of Texas, Tex. Bus. & Com. Code, Section 15.01, et seq.

4. Pursuant to 262.0276 (a) of the Texas Local Government Code, Vendor/Bidder, hereby affirms that Vendor/Bidder:

   _____ Does not own taxable property in Hays County, or;

   _____ Does not owe any ad valorem taxes to Hays County or is not otherwise indebted to Hays County

_____
Name of Contracting Company

If taxable property is owned in Hays County, list property ID numbers:

_____

_____
Signature of Company Official Authorizing Bid/Offer

_____ _____
Printed Name Title

_____ _____
Email Address Phone

XIV. Related Party Disclosure Form

Hays County strives to provide financial transparency to its taxpayers. Completion of this form will allow for added transparency into the procurement process by disclosing Vendor relationships with current or former Hays County employees. The existence of a relationship may not present a legal or ethical conflict for a Vendor. However, disclosure will allow for consideration of potential conflicts and/or ways to eliminate conflicts.

A Vendor who Employs any of the following is required to disclose the relationship on this form:

- Current Hays County employee (including elected or appointed official) (Complete Section A)
- Former Hays County employee who has been separated from Hays County for no less than four (4) years (including elected or appointed official) (Complete Section B)
- Person related within the 2nd degree of consanguinity or affinity to either of the above(1) (Complete Section C)

If no known relationships exist, complete Section D.

This form is required to be completed in full and submitted with the proposal package. A submitted proposal package that does not include this completed form will be considered non-responsive and will not be eligible for an award.

Section A: Current Hays County Employee

_____

Employee Name Title

Section B: Former Hays County Employee

_____

Employee Name Title Date of Separation from County

Section C: Person Related to Current or Former Hays County Employee

_____

Hays Employee/Former Hays Employee Name Title

_____

Name of Person Related Title Relationship

Section D: No Known Relationships

If no relationships in accordance with the above exist or are known to exist, you may provide a written explanation below:

_____

_____

_____

Attach additional pages if necessary.

I, the undersigned, hereby certify that the information provided is true and complete to the best of my knowledge.

_____
Name of Vendor

_____ _____
Signature of Certifying Official Title of Certifying Official

_____ _____
Printed Name of Certifying Official Date

[1]A degree of relationship is determined under Texas Government Code Chapter 573. (as outlined below)

Relationship of Consanguinity				
	1st Degree	**2nd Degree**	**3rd Degree***	**4th Degree***
Person	child or parent	grandchild, sister, brother or grand-parent	great-grandchild, niece, nephew, aunt,* uncle* or great-grandparent	great-great-grandchild, grandniece, grandnephew, first cousin, great aunt,* great uncle* or great-great-grandparent
* An aunt, uncle, great aunt or great uncle is related to a person by consanguinity only if he or she is the sibling of the person's parent or grandparent.				

Relationship of Affinity		
	1st Degree	**2nd Degree**
Person	spouse, mother-in-law, father-in-law, son-in-law, daughter-in-law, stepson, stepdaughter, stepmother or stepfather	brother-in-law, sister-in-law, spouse's grandparent, spouse's grandchild, grandchild's spouse or spouse of grandparent

“Vendor” shall mean any individuals or entity that seeks to enter into a contract with Hays County.

“Employs” shall mean any relationship wherein Vendor has made arrangements to compensate an individual, directly or by way of a business organization in which the individual has a sharehold or ownership interest, even if that arrangement is contractual and/or on an hourly-charge basis.

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Authorize the submission of a grant application to the Texas Division of Emergency Management (TDEM) for the Hazard Mitigation Grant Program (HMGP) in the amount of $159,228.00.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
CONSENT	November 2, 2021	$39,871.00

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
T. CRUMLEY/MIKE JONES	BECERRA	N/A

SUMMARY

This grant application is for the Hays County Hazard Mitigation Plan update. The purpose of a Hazard Mitigation Plan is to identify the natural hazards that impact communities, identify actions to reduce losses from those hazards, and establish a coordinated process to implement the plan.
Specifically, the regulation at 44 CFR §201.6(d)(3) reads: A local jurisdiction must review and revise its plan to reflect changes in development, progress in local mitigation efforts, and changes in priorities, and resubmit it for approval within five (5) years in order to continue to be eligible for mitigation project grant funding.
The HMGP program will contribute up to 75% of the total project cost and the county will provide up at 25% of the total cost.

Total Project Cost: $159,483.00
Federal Share: $119,612.00
County Match: $39,871.00 (county match may be funded with CDBG-MIT dollars).

Hazard Mitigation Grant Program

Application Certification

Grant Program: HMGP CFDA #: 97.039 Grant #: 4586

Applicant: Hays County

Project Type: Planning - Mitigation Action Plan Update

Project Title: Hays County Hazard Mitigation Plan update

The undersigned assures fulfillment of all requirements of the Hazard Mitigation Grant Program as contained in the program guidelines and that all information contained herein is true and correct to the best of my knowledge.

The governing body of the applicant has duly authorized the document, and hereby applies for the assistance documented in this application.

The applicant understands that the project may proceed ONLY AFTER FEMA APPROVAL is gained.

Ruben Becerra	County judge	512-214-3533
Typed Name of Certifying Official	*Title*	*Telephone Number*

Signature of Certifying Official	*Date Signed*

OMB Number: 4040-0004
Expiration Date: 12/31/2022

Application for Federal Assistance SF-424

* 1. Type of Submission:
- [ ] Preapplication
- [x] Application
- [ ] Changed/Corrected Application

* 2. Type of Application:
- [x] New
- [ ] Continuation
- [ ] Revision

* If Revision, select appropriate letter(s):

* Other (Specify):

* 3. Date Received:

4. Applicant Identifier:

5a. Federal Entity Identifier:

5b. Federal Award Identifier:

State Use Only:

6. Date Received by State:

7. State Application Identifier:

8. APPLICANT INFORMATION:

* a. Legal Name: Hays County

* b. Employer/Taxpayer Identification Number (EIN/TIN): 74-60022415029

* c. Organizational DUNS: 0974948840000

d. Address:

* Street1: 712 S. Stagecoach Trail

Street2:

* City: San Marcos

County/Parish:

* State: TX: Texas

Province:

* Country: USA: UNITED STATES

* Zip / Postal Code: 78666-5999

e. Organizational Unit:

Department Name:

Division Name:

f. Name and contact information of person to be contacted on matters involving this application:

Prefix:

* First Name: Ruben

Middle Name:

* Last Name: Becerra

Suffix:

Title: County Judge

Organizational Affiliation: Hays County

* Telephone Number: 512-393-2205

Fax Number:

* Email: judge.becerra@co.hays.tx.us

Application for Federal Assistance SF-424

*** 9. Type of Applicant 1: Select Applicant Type:**

B: County Government

Type of Applicant 2: Select Applicant Type:

Type of Applicant 3: Select Applicant Type:

* Other (specify):

*** 10. Name of Federal Agency:**

Department of Homeland Security

11. Catalog of Federal Domestic Assistance Number:

97.039

CFDA Title:

*** 12. Funding Opportunity Number:**

DR-4586-TX

* Title:

Texas Winter Strom DR-4586

13. Competition Identification Number:

Title:

14. Areas Affected by Project (Cities, Counties, States, etc.):

Add Attachment | Delete Attachment | View Attachment

*** 15. Descriptive Title of Applicant's Project:**

Hays County Hazard Mitigation Plan update

Attach supporting documents as specified in agency instructions.

Add Attachments | Delete Attachments | View Attachments

Application for Federal Assistance SF-424

16. Congressional Districts Of:

* a. Applicant: TX-25 * b. Program/Project: TX-25

Attach an additional list of Program/Project Congressional Districts if needed.

Add Attachment | Delete Attachment | View Attachment

17. Proposed Project:

* a. Start Date: 10/01/2021 * b. End Date: 03/31/2023

18. Estimated Funding ($):

* a. Federal	119,421.00
* b. Applicant	
* c. State	
* d. Local	39,807.00
* e. Other	
* f. Program Income	
* g. TOTAL	159,228.00

*** 19. Is Application Subject to Review By State Under Executive Order 12372 Process?**

☐ a. This application was made available to the State under the Executive Order 12372 Process for review on .

☐ b. Program is subject to E.O. 12372 but has not been selected by the State for review.

☒ c. Program is not covered by E.O. 12372.

*** 20. Is the Applicant Delinquent On Any Federal Debt? (If "Yes," provide explanation in attachment.)**

☐ Yes ☒ No

If "Yes", provide explanation and attach

Add Attachment | Delete Attachment | View Attachment

21. *By signing this application, I certify (1) to the statements contained in the list of certifications and (2) that the statements herein are true, complete and accurate to the best of my knowledge. I also provide the required assurances** and agree to comply with any resulting terms if I accept an award. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U.S. Code, Title 218, Section 1001)**

☒ ** I AGREE

** The list of certifications and assurances, or an internet site where you may obtain this list, is contained in the announcement or agency specific instructions.

Authorized Representative:

Prefix: * First Name: Ruben

Middle Name:

* Last Name: Becerra

Suffix:

* Title: Hays County Judge

* Telephone Number: 512-393-2205 Fax Number:

* Email: judge.becerra@co.hays.tx.us

* Signature of Authorized Representative: * Date Signed: 11/02/2021

This Agreement (consisting of these terms and conditions and all exhibits) is made and entered into by and between the Texas Division of Emergency Management (TDEM), an agency of the State of Texas, hereinafter referred to as " TDEM," and the award recipient, Hays County, hereinafter referred to as the "Subrecipient." Furthermore, TDEM and the Subrecipient are collectively hereinafter referred to as the "Parties." All subawards made under this agreement are subject to the same terms and conditions below.

Subrecipient may not assign or transfer any interest in this award without the express, prior written consent of TDEM and/or DHS/FEMA or other awarding agency.

a. The term Recipient and pass-through entity have the same meaning as "Grantee," as used in governing statutes, regulations, and DHS/FEMA guidance.

b. A Recipient is also a "non-federal entity" for administration purposes.

c. A Subrecipient is also known as a "Subgrantee" as used in governing statutes regulations and DHS/ FEMA guidance.

d. A Subrecipient is also a "non-federal entity" for administration purposes.

e. The "Grant" referred to in this agreement is an awardto the Subrecipient passed through from TDEM to the Subrecipient.

f. Certifying Official will be the Mayor, Judge, or Executive Director authorized to execute these grant terms and conditions, and to submit changes of Subrecipient Agents.

g. Projects and any subsequent versions for those projects accepted by the Subrecipient and subsequently obligated or deobligated by DHS/FEMA are considered subawards to this grant agreement.

h. TDEM uses contractors to administer subawards, both in communication with Subgrantees and the awarding agency. A Subgrantee's point of contact for all awards will be the regional Recovery or Mitigation Coordinator followed by the regional contractor. Subgrantees should update their primary points of contact with every new award in addition to each time a contact may change.

A. **Standard of Performance**. Subrecipient shall perform all activities as approved by TDEM. Any change to a project shall receive prior written approval by TDEM and, if required, by FEMA or other awarding agency. Subrecipient shall perform all activities in accordance with all terms, provisions and requirements set forth in this Grant, including but not limited to the following Exhibits:

1. Assurances – Non-Construction Programs, hereinafter referred to as "Exhibit A"
2. Assurances – Construction Programs, hereinafter referred to as "Exhibit B"
3. Certifications for Grant Agreements, hereinafter referred to as "Exhibit C"
4. State of Texas Assurances, hereinafter referred to as "Exhibit D"
5. Environmental Review Certification, hereinafter referred to as "Exhibit E"
6. Additional Grant Conditions, hereinafter referred to as "Exhibit F"
7. Additional Grant Certifications, hereinafter referred to as "Exhibit G"
8. Request for Information and Documentation referred to as "Exhibit H"

B. **Failure to Perform**. In the event Subrecipient fails to implement and complete the project(s) approved and awarded, or comply with any provision of this Grant, Subrecipient shall be liable to TDEM for an amount not to exceed the award amount of this Grant and may be barred from applying for or receiving additional DHS/FEMA grant program funds

or any other grant program funds administered by TDEM until repayment to TDEM is made and any other compliance or audit finding is satisfactorily resolved, in addition to any other remedy specified in this Grant. Failure to timely implement and complete projects may reduce future funding in additional DHS/FEMA and/or other grant programs administered by TDEM.

C. **Funding Obligations**. TDEM shall not be liable to Subrecipient for any costs incurred by Subrecipient that are not allowable costs.
1. Notwithstanding any other provision of this Grant, the total of all payments and other obligations incurred by TDEM under this Grant shall not exceed the total cumulative award amounts listed on the Subawards (projects and subsequent versions).
2. Subrecipient shall contribute the match funds listed on the subaward.

Subrecipient shall refund to TDEM any sum of these Grant funds that has been determined by TDEM or DHS/FEMA to be an overpayment to Subrecipient or that TDEM determines has not been spent by Subrecipient in accordance with this Grant. No refund payment(s) shall be made from local, state or federal Grant funds unless repayment with Grant funds is specifically permitted by statute or regulation. Subrecipient shall make such refund to TDEM within thirty (30) calendar days after TDEM requests such refund. If the subrecipient is unable to refund the amount due at the time of request, they may request offset funds from other open projects under the same award or request a payment plan. If a subrecipient does not provide the amount requested within 30 calendar days, TDEM will first offset the amount with any available funds within the same award and may pursue other remedies to receive payment in full.

D. **Performance Period**. The performance period for this Grant is listed on the subaward letter for each project. **All projects shall be completed within the performance period AND all reimbursement requests shall be submitted to TDEM within 60 days of the end of the performance period.** Subrecipient shall have expended all Grant funds and submitted reimbursement requests, invoices and any supporting documentation to TDEM within 60 days of the end of the performance period. TDEM shall not be obligated to reimburse expenses incurred after the performance period or submitted after the deadline.

E. **Uniform Administrative Requirements, Cost Principals and Audit Requirements**. Except as specifically modified by law or this Grant, Subrecipient shall administer this Grant through compliance with the most recent version of all applicable laws and regulations, including but not limited to DHS program legislation, Federal awarding agency regulations, and the terms and conditions of this Grant. A non-exclusive list is provided below [not all may apply in every project]:
- Public Law 93-288, as amended (Stafford Act)
- 44 CFR, Emergency Management and Assistance
- Disaster Mitigation Act of 2000
- OMB Regulations 2 CFR, Grant and Agreements
- Executive Order 11988, Floodplain Management
- Executive Order 11990, Protection of Wetlands
- Executive Order 12372, Intergovernmental Review of Programs and Activities
- Executive Order 12549, Debarment and Suspension
- Executive Order 12612, Federalism

- Executive Order 12699, Seismic Design
- Executive Order 12898, Environmental Justice
- Coastal Barrier Resources Act, Public Law 97-348
- Single Audit Act, Public Law 98-502
- Sandy Recovery Improvement Act publications
- Disaster Recovery Reform Act of 201816 U.S.C. § 470, National Historic Preservation Act
- 16 U.S.C. § 1531, Endangered Species Act References
- FEMA program publications, guidance and policies

F. **State Requirements for Grants**. Subrecipient shall comply with all other federal, state, and local laws and regulations applicable to this Grant including but not limited to the laws and the regulations promulgated in Texas Government Code, Chapter 783, Uniform Grant and Contract Management, (UGMS) at:
http://www.window.state.tx.us/procurement/catrad/ugms.pdf
and the program State Administrative Plan, available at:
https://grants.tdem.texas.gov
Subrecipient shall, in addition to the assurances and certifications, comply and require each of its subcontractors employed in the completion of the project to comply with all applicable statutes, regulations, executive orders, OMB circulars, terms and conditions of this Grant and the approved application.

Grant funds may not be awarded to or expended by any entity which performs political polling. This prohibition does not apply to a poll conducted by an academic institution as part of the institution's academic mission that is not conducted for the benefit of a particular candidate or party.

Grant funds may not be expended by a unit of local government unless the following limitations and reporting requirements are satisfied:

1. Texas General Appropriations Act, Art. IX, Parts 2 and 3, except there is no requirement for increased salaries for local government employees;
2. Texas Government Code Sections 556.004, 556.005, and 556.006, which prohibits using any money or vehicle to support the candidacy of any person for office, influencing positively or negatively the payment, loan, or gift to a person or political organization for a political purpose, and using Grant funds to influence the passage or defeat of legislation including not assisting with the funding of a lobbyist, or using Grant funds to pay dues to an organization with a registered lobbyist;
3. Texas Government Code Sections 2113.012 and 2113.101, which prohibits using Grant funds to compensate any employee who uses alcoholic beverages on active duty and Subrecipient may not use Grant funds to purchase an alcoholic beverage and may not pay or reimburse any travel expense for an alcoholic beverage;
4. Texas General Appropriations Act, Art. IX, Section 6.13, which requires Subrecipient to make every effort to attain key performance target levels associated with this Grant, including performance milestones, milestone time frames, and related performance reporting requirements; and
5. General Appropriations Act, Art. IX, Sections 7.01 and 7.02, and Texas Government Code §2102.0091, which requires that this Grant may only be expended if Subrecipient timely completes and files its reports.

G. **Restrictions and General Conditions**.

1. Use of Funds. DHS/FEMA Grant funds may only be used for the purposes set forth in this

Grant, and shall be consistent with the statutory authority for this Grant. Grant funds may not be used for matching funds for other Federal grants/cooperative agreements, lobbying, or intervention in Federal regulatory or adjudicatory proceedings. In addition,

Federal funds may not be used to sue the Federal government or any other government entity.

2. Federal Employee Prohibition. Federal employees are prohibited directly benefiting from any funds under this Grant.
3. Points of Contacts. Within 10 calendar days of any change, Subrecipient shall notify TDEM of any change in designated of Subrecipient Agents as submitted during the execution of this agreement, and any subsequent changes submitted by Subrecipient. In the event a Subrecipient hires a consultant to assist them with managing its Public Assistance grants, they must be listed on the Designated Subrecipient Agent Form. TDEM will direct all correspondence to the Subrecipient but will cc: the consultant on all email exchanges. The Subrecipient will be responsible for sharing written communications with the consultant. The Subrecipient will remain the primary point of contact and must be included in all decision-making activities.
4. DUNS Number. Subrecipient confirms its Data Universal Numbering Systems (DUNS) Number is accurate and is registered on Sams.gov. The DUNS Number is the nine digit number established and assigned by Dun and Bradstreet, Inc., at 866/705-5711 or http://fedgov.dnb.com/webform
5. Central Contractor Registration and Universal Identifier Requirements. Subrecipient maintains that it has registered on the System for Award Management (SAM) at www.sam.gov or other federally established site for contractor registration, and entered TDEM-required information. Subrecipient shall keep current, and then review and update the information at least annually. Subrecipient shall keep information current in the SAM database until the later of when it submits this Grant's final financial report or receives final Grant award payment. Subrecipient agrees that it shall not make any subaward agreement or contract related to this Grant without first obtaining the vendor/subawardee's mandatory DUNS number. See Section §200.32 of OMB 2 C.F.R.
6. Reporting Total Compensation of Subrecipient Executives. 2 C.F.R. §200.331; see FEMA Information Bulletin 350.
    a. Applicability and what to report: Subrecipient shall report whether Subrecipient received $25 million or more in Federal procurement contracts or financial assistance subject to the Transparency Act per 2 C.F.R. §200.331. Subrecipient shall report whether 80% or more of Subrecipient's annual gross revenues were from Federal procurement contracts or Federal financial assistance. If Subrecipient answers "yes" to both questions, Subrecipient shall report, along with Subrecipient's DUNS number, the names and total compensation (see 17 C.F.R. §229.402(c)(2)) for each of Subrecipient's five most highly compensated executives for the preceding completed fiscal year.
    b. Where and when to report: Subrecipient shall report executive total compensation at www.sam.gov or other federally established replacement site. By signing this Grant, Subrecipient certifies that, if required, Subrecipient's jurisdiction has already registered, entered the required information, and shall keep information in the SAM database current, and update the information at least annually for each year until the later of when the jurisdiction submits its final financial report or receives final payment. Subrecipient agrees that it shall not make any subaward agreement or contract without first obtaining the subawardee's mandatory DUNS number.
7. Debarment and Suspension. Subrecipient shall comply with Executive Order 12549 and 12689, which provide protection against waste, fraud, and abuse by debarring or

suspending those persons deemed irresponsible in their dealings with the Federal government.

8. Direct Deposit. A completed direct deposit form from Subrecipient shall be provided to TDEM, prior to receiving any payments under the provisions of this grant. The direct deposit form is currently available at grants.tdem.texas.gov under Resources/Public Assistance.
9. Property Management and Inventory. Subrecipient shall maintain property/inventory records which, at minimum, shall include a description of the property, a serial number or other identification number, the source of property, who holds title, the acquisition date, the cost of the property, the percentage of Federal participation in the cost of the property, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property Subrecipient shall develop and implement a control system to prevent loss, damage or theft of property and Subrecipient shall investigate and document any loss, damage or theft of property funded under this Grant.
10. Site Visits. DHS/FEMA and/or TDEM, through its authorized representatives, have the right at all reasonable times to make site visits to review project accomplishments and management control systems and to provide such technical assistance as may be required. If any site visit is made by DHS/FEMA on the premises of Subrecipient or a contractor under this Grant, Subrecipient shall provide and shall require its contractors to provide all reasonable facilities and assistance for the safety and convenience of the government representatives in the performance of their duties. All site visits and evaluations shall be performed in such a manner that will not unduly delay the work.

H. **Procurement and Contracting**.

1. Procurements. Subrecipient shall comply with all applicable federal, state, and local laws and requirements, including but not limited to proper competitive solicitation processes where required, for any procurement which utilizes federal funds awarded under this Grant in accordance with 2 C.F.R. 200. 318-326 and Appendix II to Part 200 (A-C) and (E-J)
2. Contract Provisions. All contracts executed using funds awarded under this Grant shall contain the contract provisions listed under 2 C.F.R. 200.326 and Appendix II (A), Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.
3. Procurement activities must follow the most restrictive of Federal, State and Local procurement regulations:
    a. Procurement by micro purchase
    b. Procurement by small purchase
    c. Procurement by sealed bid
    d. Procurement by competitive proposal
    e. Procurement by non-competitive proposal, solely when the award of a contract is unfeasible under the other methods

    The State must be contacted for approval to use a noncompetitive procurement method. Failure to follow eligible procurement methods will result in ineligible costs. Other types of agreements for services must have State approval prior to use or execution. A copy of the local procurement policy must be provided to the State before initial payment.

The **cost plus a percentage of cost** and **percentage of construction** cost methods of contracting **are ineligible**.

Must perform **cost/price analysis** for every procurement action in excess of the Simplified Acquisition Threshold.

Must negotiate profit as a separate element where required.

4. Evidence of non-debarment for vendors must be documented through http://www.sam.gov/portal/public/SAM and http://www.window.state.tx.us/procurement/prog/vendor_performance/debarred/ and submitted for review.
5. Comply with rules related to underutilized businesses (small and minority businesses, women's enterprises and labor surplus firms) at 2 CFR 200.321

I. **Monitoring.** Subrecipient will be monitored periodically by federal, state or local entities, both programmatically and financially, to ensure that project goals, objectives, performance requirements, timelines, milestone completion, budget, and other program-related criteria are met.

TDEM, or its authorized representative, reserves the right to perform periodic desk/office-based and/or on-site monitoring of Subrecipient's compliance with this Grant and of the adequacy and timeliness of Subrecipient's performance pursuant to this Grant. After each monitoring visit, if the monitoring visit reveals deficiencies in Subrecipient's performance under this Grant, a monitoring report will be provided to the Subrecipient and shall include requirements for the timely correction of such deficiencies by Subrecipient. Failure by Subrecipient to take action specified in the monitoring report may be cause for suspension or termination of this Grant pursuant to the Suspension and/or Termination Section herein.

J. **Audit**.

1. Audit of Federal and State Funds. Subrecipient shall arrange for the performance of an annual financial and compliance audit of funds received and performances rendered under this Grant as required by the Single Audit Act (OMB 2 C.F.R. 200.501, formerly A- 133). Subrecipient shall comply, as applicable, with Texas Government Code, Chapter 783, the Uniform Grant Management Standards (UGMS), the State Uniform Administrative Requirements for Grants and Cooperative Agreements.
2. Right to Audit. Subrecipient shall give the United States Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), the Comptroller General of the United States, the Texas State Auditor, TDEM, or any of their duly authorized representatives, access to and the right to conduct a financial or compliance audit of Grant funds received and performances rendered under this Grant. Subrecipient shall permit TDEM or its authorized representative to audit Subrecipient's records. Subrecipient shall provide any documents, materials or information necessary to facilitate such audit.
3. Subrecipient's Liability for Disallowed Costs. Subrecipient understands and agrees that it shall be liable to TDEM for any costs disallowed pursuant to any financial or compliance audit(s) of these funds. Subrecipient further understands and agrees that reimbursement to TDEM of such disallowed costs shall be paid by Subrecipient

from funds that were not provided or otherwise made available to Subrecipient pursuant to this Grant or any other federal contract.

4. Subrecipient's Facilitation of Audit. Subrecipient shall take such action to facilitate the performance of such audit(s) conducted pursuant to this Section as TDEM may require of Subrecipient. Subrecipient shall ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through Subrecipient and the requirement to cooperate is included in any subcontract it awards.
5. State Auditor's Clause. Subrecipient understands that acceptance of funds under this Grant acts as acceptance of the authority of the State Auditor's Office to conduct an audit or investigation in connection with those funds. Subrecipient further agrees to cooperate fully with the State Auditor's Office in the conduct of the audit or investigation, including providing all records requested. Subrecipient shall ensure that this clause concerning the State Auditor's Office's authority to audit funds and the requirement to cooperate fully with the State Auditor's Office is included in any subgrants or subcontracts it awards. Additionally, the State Auditor's Office shall at any time have access to and the rights to examine, audit, excerpt, and transcribe any pertinent books, documents, working papers, and records of Subrecipient relating to this Grant.

K. **Retention and Accessibility of Records**.

1. Retention of Records. Subrecipient shall follow its own internal retention policy, or the state's retention policy, whichever is stricter. At a minimum, the subrecipient shall maintain fiscal records and supporting documentation for all expenditures of this Grant's funds pursuant to the applicable OMB 2 C.F.R. Subpart D – Post Federal Award Requirements, §200.333-337, and this Grant. Subrecipient shall retain these records and any supporting documentation for a minimum of three (3) years from the later of the completion of this project's public objective, submission of the final expenditure report, any litigation, dispute, or audit. Records shall be retained for three (3) years after any real estate or equipment final disposition. The DHS or TDEM may direct Subrecipient to retain documents or to transfer certain records to DHS/FEMA custody when DHS/FEMA determines that the records possess long term retention value.
2. Access to Records. Subrecipient shall give the United States Department of Homeland Security, the Comptroller General of the United States, the Texas State Auditor, TDEM, or any of its duly authorized representatives, access to and the right to examine all books, accounts, records, reports, files, other papers, things or property belonging to or in use by Subrecipient pertaining to this Grant including records concerning the past use of DHS/FEMA funds. Such rights to access shall continue as long as the records are retained by Subrecipient.

L. Changes, Amendments, Suspension or Termination

1. Modification. DHS/FEMA or TDEM may modify this Grant after an award has been made. Once notification has been made in writing, any subsequent request for funds indicates Subrecipient's acceptance of the changes to this Grant. Any alteration, addition, or deletion to this Grant by Subrecipient is not valid.
2. Effect of Changes in Federal and State Laws. Any alterations, additions, or deletions to this Grant that are required by changes in federal and state laws, regulations or policy are automatically incorporated into this Grant without written amendment to this Grant and shall become effective upon the date designated by such law or regulation. In the event DHS/FEMA or TDEM determines that changes are necessary to this Grant after an award has been made, including changes to the period of performance or terms and conditions, Subrecipient shall be notified of the changes in writing. Once notification has

been made, any subsequent request for funds will indicate Subrecipient's acceptance of the changes to this Grant.

3. Suspension. In the event Subrecipient fails to comply with any term of this Grant, TDEM may, upon written notification to Subrecipient, suspend this Grant, in whole or in part, withhold payments to Subrecipient and prohibit Subrecipient from incurring additional obligations of this Grant's funds.
4. Termination. TDEM shall have the right to terminate this Grant, in whole or in part, at any time before the end of the Performance Period, if TDEM determines that Subrecipient has failed to comply with any term of this Grant. TDEM shall provide written notice of the termination and include:
    a. The reason(s) for such termination;
    b. The effective date of such termination; and
    c. In the case of partial termination, the portion of this Grant to be terminated.
    d. Appeal may be made to the Deputy Chief of the Texas Division of Emergency Management - Recovery & Mitigation.

M. **Enforcement**. If Subrecipient materially fails to comply with any term of this Grant, whether stated in a federal or state statute or regulation, an assurance, in a state plan or application, a notice of award, or elsewhere, TDEM or DHS/FEMA may take one or more of the following actions, as appropriate in the circumstances:

1. Increased monitoring of projects and require additional financial and performance reports
2. Require all payments as reimbursements rather than advance payments
3. Temporarily withhold payments pending correction of the deficiency
4. Disallow or deny use of funds and matching credit for all or part of the cost of the activity or action not in compliance;
5. Request DHS/FEMA to wholly or partially de-obligate funding for a project
6. Temporarily withhold cash payments pending correction of the deficiency by subrecipient or more severe enforcement action by TDEM or DHS/FEMA;
7. Withhold further awards for the grant program
8. Take other remedies that may be legally available

In taking an enforcement action, TDEM will provide Subrecipient an opportunity for a hearing, appeal, or other administrative proceeding to which Subrecipient is entitled under any statute or regulation applicable to the action involved.

The costs of Subrecipient resulting from obligations incurred by Subrecipient during a suspension or after termination of this Grant are not allowable unless TDEM or DHS/FEMA expressly authorizes them in the notice of suspension or termination or subsequently.

Other Subrecipient costs during suspension or after termination which are necessary and not reasonably avoidable are allowable if:

- The costs result from obligations which were properly incurred by Subrecipient before the effective date of suspension or termination, are not in anticipation of it, and in the case of a termination, are non-cancellable; and
- The costs would be allowable if this Grant were not suspended or expired normally at the end of the funding period in which the termination takes effects.

The enforcement remedies identified in this section, including suspension and termination, do not preclude Subrecipient from being subject to "Debarment and Suspension" under E.O.

12549. 2 C.F.R., Appendix II to Part 200, (I).

N. **Conflicts of Interest**. The subrecipient will maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts and will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest or personal gain.

O. **Closing of this Grant**. TDEM will close each subaward after receiving all required final documentation from the Subrecipient. If the close out review and reconciliation indicates that Subrecipient is owed additional funds, TDEM will send the final payment automatically to Subrecipient. If Subrecipient did not use all the funds received, TDEM will recover the unused funds.

At the completion and closure of all Subrecipient's projects (subawards), TDEM will request the Subrecipient to Certify the completion of all projects (subawards) in accordance with the grant terms and conditions to state there are no further claims under this subgrant.
The closeout of this Grant does not affect:

1. DHS/FEMA or TDEM's right to disallow costs and recover funds on the basis of a later audit or other review;
2. Subrecipient's obligation to return any funds due as a result of later refunds, corrections, or other transactions;
3. Records retention requirements, property management requirements, and audit requirements, as set forth herein; and
4. Any other provisions of this Grant that impose continuing obligations on Subrecipient or that govern the rights and limitations of the parties to this Grant after the expiration or termination of this Grant.

P. **Notices.** All notices and other communications pertaining to this agreement shall be delivered in electronic format and/or writing and shall be transmitted by fax, e-mail, personal hand-delivery (and receipted for) or deposited in the United States Mail, as certified mail, return receipt requested and postage prepaid, to the other party.

EXHIBIT A

ASSURANCES - NON-CONSTRUCTION PROGRAMS See Standard Form 424B

As the duly authorized representative of Subrecipient, I certify that Subrecipient:

1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this Grant.

2. Will give the Department of Homeland Security, the Texas Division of Emergency Management, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to this Grant and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686 and 44 C.F.R. Part 19), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290dd-3 and 290ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which agreement for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply or has already complied with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally-assisted construction sub-agreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190 as amended by 42 U.S.C. 4311 et seq. and Executive Order (EO) 11514) which establishes national policy goals and procedures to protect and enhance the environment, including protection against natural disasters. To comply with NEPA for DHS grant-supported activities, DHS-FEMA requires the environmental aspects to be reviewed and evaluated before final action on the application; (b) notification of violating facilities pursuant to EO 11738;
(c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) comply with the Clean Air Act of 1977, (42 U.S.C. §§7401 et seq. and Executive Order 11738) providing for the protection of and enhancement of the quality of the nation's air resources to promote public health and welfare and for restoring and maintaining the chemical, physical, and biological integrity of the nation's waters; (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93- 205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).

14. Will comply with P.L. 93-348, 45 C.F.R. 46, and DHS Management Directive 026-044 (Directive) regarding the protection of human subjects involved in research, development, and related activities supported by this Grant. "Research" means a systematic investigation, including research, development, testing, and evaluation designed to develop or contribute to general knowledge. See Directive for additional provisions for including humans in the womb, pregnant women, and neonates (Subpart B); prisoners (Subpart C); and children (Subpart D). See also state and local law for research using autopsy materials.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) which requires the minimum standards of care and treatment for vertebrate animals bred for commercial sale, used in research, transported commercially, or exhibited to the public according to the Guide for Care and Use of Laboratory Animals and Public Health Service Policy and Government Principals Regarding the Care and Use of Animals.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.), which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133 (now OMB 2 C.F.R. 200.500), "Audits of States, Local Governments, and Non-Profit Organizations."

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, grant guidance, and policies governing this Grant.

EXHIBIT B

ASSURANCES - CONSTRUCTION PROGRAMS See Standard Form 424D

As the duly authorized representative of Subrecipient, I certify that Subrecipient:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of project described in this Grant.
2. Will give the Department of Homeland Security, the Texas Division of Emergency Management, the Comptroller General of the United States and, if appropriate, the State, the right to examine all records, books, papers, or documents related to this Grant and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will not dispose of, modify the use of, or change the terms of the real property title or other interest in the site and facilities without permission and instructions from the awarding agency. Will record the Federal awarding agency directives and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure nondiscrimination during the useful life of this Grant.
4. Will comply with the requirements of the assistance awarding agency with regard to the drafting, review and approval of construction plans and specifications.
5. Will provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work conforms with the approved plans and specifications and will furnish progressive reports and such other information as may be required by the awarding agency or State.
6. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
7. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest or personal gain.
8. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards of merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
9. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
10. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681 1683, and 1685-1686 and 44 C.F.R. Part 19), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29) U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290dd-3 and 290ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statue(s) under which agreement for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statue(s) which may apply to the agreement.
11. Will comply or has already complied with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal and federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
12. Will comply with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
13. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327- 333) regarding labor standards for federally- assisted construction sub-agreements.
14. Will comply with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.
15. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) as amended by 42 U.S.C. 4311 et seq. and Executive Order (EO) 11514 which establishes national policy goals and procedures to protect and enhance the environment, including protection against natural disasters; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) comply with the Clean Air Act of 1977, (42 U.S.C. §§7401 et seq. and Executive Order 11738) providing for the protection of and enhancement of the quality of the nation's air resources to promote public health and welfare and for restoring and maintaining the chemical, physical, and biological integrity of the nation's waters; (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
16. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
17. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq).
18. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133 (now OMB 2 C.F.R. 200.500), "Audits of States, Local Governments, and Non-Profit Organizations."
19. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, grant guidance and policies governing this Grant.

Exhibit C

Certifications for Grant Agreements

The undersigned, as the authorized official, certifies the following to the best of his/her knowledge and belief.

A. No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee or a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee or a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL Disclosure of Lobbying Activities, in accordance with its instructions.

C. The undersigned shall require that the language of this certification prohibiting lobbying be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

D. As required by Executive Order 12549, Debarment and Suspension, and implemented at 28 C.F.R. Part 67, for prospective participants in primary covered transactions, as defined at 28 C.F.R. Part 67, Section 67.510. (Federal Certification), the Subrecipient certifies that it and its principals and vendors:

   1. Are not debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of Federal benefits by a State or Federal court, or voluntarily excluded from covered transactions by any Federal department or agency. Subrecipient can access debarment information by going to www.sam.gov and the State Debarred Vendor List at: www.window.state.tx.us/procurement/prog/vendor_performance/debarred.

   2. Have not within a three-year period preceding this Grant been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction, violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

   3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (D)(2) of this certification;

   4. Have not within a three-year period preceding this Grant had one or more public transactions (Federal, State, or local) terminated for cause or default; or

   5. Where Subrecipient is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this Grant. (Federal Certification).

E. Federal funds will be used to supplement existing funds, and will not replace (supplant) funds that have been appropriated for the same purpose. Subrecipient may be required to supply documentation certifying that a reduction in non-federal resources occurred for reasons other than the receipt or expected receipt of federal funds.

F. Subrecipient will comply with 2 C.F.R. Part 180, Subpart C as a condition of receiving grant funds and Subrecipient will require such compliance in any subgrants or contract at the next tier.

G. Subrecipient will comply with the Drug-free Workplace Act, in Subpart B of 2 C.F.R. Part 3001.

H. Subrecipient is not delinquent on any Federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, and benefit overpayments. See OMB Circular A-129 and form SF-424, item number 17 for additional information and guidance.

I. Subrecipient will comply with all applicable requirements of all other federal laws, executive orders, regulations, program and administrative requirements, policies and any other requirements governing this Grant.

J. Subrecipient understands that failure to comply with any of the above assurances may result in suspension, termination or reduction of funds in this Grant.

EXHIBIT D

State of Texas Assurances

As the duly authorized representative of Subrecipient, I certify that Subrecipient:

1. Shall comply with Texas Government Code, Chapter 573, by ensuring that no officer, employee, or member of the Subrecipient's governing body or of the Subrecipient's contractor shall vote or confirm the employment of any person related within the second degree of affinity or the third degree of consanguinity to any member of the governing body or to any other officer or employee authorized to employ or supervise such person. This prohibition shall not prohibit the employment of a person who shall have been continuously employed for a period of two years, or such other period stipulated by local law, prior to the election or appointment of the officer, employee, or governing body member related to such person in the prohibited degree.
2. Shall insure that all information collected, assembled, or maintained by the Subrecipient relative to a project will be available to the public during normal business hours in compliance with Texas Government Code, Chapter 552, unless otherwise expressly prohibited by law.
3. Shall comply with Texas Government Code, Chapter 551, which requires all regular, special, or called meetings of governmental bodies to be open to the public, except as otherwise provided by law or specifically permitted in the Texas Constitution.
4. Shall comply with Section 231.006, Texas Family Code, which prohibits payments to a person who is in arrears on child support payments.
5. Shall not contract with or issue a license, certificate, or permit to the owner, operator, or administrator of a facility if the Subrecipient is a health, human services, public safety, or law enforcement agency and the license, permit, or certificate has been revoked by another health and human services agency or public safety or law enforcement agency.
6. Shall comply with all rules adopted by the Texas Commission on Law Enforcement pursuant to Chapter 1701, Texas Occupations Code, or shall provide the grantor agency with a certification from the Texas Commission on Law Enforcement that the agency is in the process of achieving compliance with such rules if the Subrecipient is a law enforcement agency regulated by Texas Occupations Code, Chapter 1701.
7. Shall follow all assurances. When incorporated into a grant award or contract, standard assurances contained in the application package become terms or conditions for receipt of grant funds. Administering state agencies and subrecipients shall maintain an appropriate contract administration system to ensure that all terms, conditions, and specifications are met. (See UGMS Section _.36 for additional guidance on contract provisions).
8. Shall comply with the Texas Family Code, Section 261.101, which requires reporting of all suspected cases of child abuse to local law enforcement authorities and to the Texas Department of Child Protective and Regulatory Services. Subrecipient shall also ensure that all program personnel are properly trained and aware of this requirement.
9. Shall comply with all federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352), which prohibits discrimination on the basis of race, color, or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps and the Americans with Disabilities Act of 1990 including Titles I, II, and III of the Americans with Disability Act which prohibits recipients from discriminating on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities, 44 U.S.C. §§ 12101-12213; (d) the Age Discrimination Act of 1974, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to the nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290dd-3 and 290ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental, or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to this Grant.
10. Shall comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally assisted construction subagreements.
11. Shall comply with requirements of the provisions of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (P.L. 91-646), which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
12. Shall comply with the provisions of the Hatch Political Activity Act (5 U.S.C. §§7321-29), which limit the political activity of employees whose principal employment activities are funded in whole or in part with Federal funds.
13. Shall comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act and the Intergovernmental Personnel Act of 1970, as applicable.

14. Shall insure that the facilities under its ownership, lease, or supervision which shall be utilized in the accomplishment of the project are not listed on the Environmental Protection Agency's (EPA) list of Violating Facilities and that it will notify the Federal grantor agency of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating that a facility to be used in the project is under consideration for listing by the EPA (EO 11738).

15. Shall comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973, Public Law 93-234. Section 102(a) requires the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any Federal financial assistance for construction or acquisition proposed for use in any area that has been identified by the Secretary of the Department of Housing and Urban Development as an area having special flood hazards.

16. Shall comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved state management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1977, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).

17. Shall comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

18. Shall assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).

19. Shall comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) which requires the minimum standards of care and treatment for vertebrate animals bred for commercial sale, used in research, transported commercially, or exhibited to the public according to the Guide for Care and Use of Laboratory Animals and Public Health Service Policy and Government Principals Regarding the Care and Use of Animals.

20. Shall comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residential structures.

21. Shall comply with the Pro-Children Act of 1994 (Public Law 103-277), which prohibits smoking within any portion of any indoor facility used for the provision of services for children.

22. Shall comply with all federal tax laws and are solely responsible for filing all required state and federal tax forms.

23. Shall comply with all applicable requirements of all other federal and state laws, executive orders, regulations, and policies governing this program.

24. And its principals are eligible to participate and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state, or local governmental entity and it is not listed on a state or federal government's terrorism watch list as described in Executive Order 13224. Entities ineligible for federal procurement have Exclusions listed at https://www.sam.gov/portal/public/SAM/.

25. Shall adopt and implement applicable provisions of the model HIV/AIDS workplace guidelines of the Texas Department of Health as required by the Texas Health and Safety Code, Ann., Sec. 85.001, et seq.

EXHIBIT E

Environmental Review

As the duly authorized representative of Subrecipient, I certify that Subrecipient:

1. shall assess its federally funded projects for potential impact to environmental resources and historic properties.
2. shall submit any required screening form(s) as soon as possible and shall comply with deadlines established by TDEM. Timelines for the Environmental Planning and Historic Preservation (EHP) review process will vary based upon the complexity of the project and the potential for environmental or historical impact.
3. shall include sufficient review time within its project management plan to comply with EHP requirements. Initiation of any activity prior to completion of FEMA's EHP review will result in a non-compliance finding and TDEM will not authorize or release Grant funds for non-compliant projects.
4. as soon as possible upon receiving this Grant, shall provide information to TDEM to assist with the legally-required EHP review and to ensure compliance with applicable EHP laws and Executive Orders (EO) currently using the FEMA EHP Screening Form OMB Number 1660-0115/FEMA Form 024-0-01 and submitting it, with all supporting documentation, to TDEM for review. These EHP requirements include but are not limited to the National Environmental Policy Act, the National Historic Preservation Act, the Endangered Species Act, EO 11988 – Floodplain Management, EO 11990 – Protection of Wetlands, and EO 12898 – Environmental Justice. Subrecipient shall comply with all Federal, State, and local EHP requirements and shall obtain applicable permits and clearances.
5. shall not undertake any activity from the project that would result in ground disturbance, facility modification, or purchase and use of sonar equipment without the prior approval of FEMA. These include but are not limited to communications towers, physical security enhancements involving ground disturbance, new construction, and modifications to buildings.
6. shall comply with all mitigation or treatment measures required for the project as the result of FEMA's EHP review. Any changes to an approved project description will require re-evaluation for compliance with EHP requirements before the project can proceed.
7. if ground disturbing activities occur during project implementation, Subrecipient shall ensure monitoring of ground disturbance and if any potential archeological resources are discovered, Subrecipient shall immediately cease construction in that area and notify FEMA and the appropriate State Historical Preservation Office.

EXHIBIT F

Additional Grant Conditions

1. Additional damage requiring a new Public Assistance project to be written must be reported within 60 days following the Project Scoping meeting with the State-Federal team (or FEMA process equivalent).

2. All work must be done prior to the approved project completion deadline assigned to each Project (POP). For projects written at 100% complete, documentation must be submitted within 90 days of the Recovery Scoping Meeting (or FEMA process equivalent) or within 90 days of the work completion date (both Hazard Mitigation and Public Assistance), whichever is later, regardless of whether the project has been obligated. Should additional time be required, a time extension request must be submitted which: a.) Identifies the projects requiring an extension. b.) Explains the reason for an extension. c.) Indicates the percentage of work that has been completed. d.) Provides an anticipated completion date. e) Provides detailed milestones documenting expected progress. The reason for an extension must be based on extenuating circumstances or unusual project requirements that are beyond the control of your jurisdiction/organization. **Failure to submit a time extension request 90 days prior to the end of the period of performance may result in reduction or withdrawal of federal funds for approved work.**

3. Any significant change to a project's approved Scope of Work must be reported and approved through TDEM and FEMA before starting the project. Failure to do so will jeopardize grant funding. The Subrecipient shall submit requests for cost overruns requiring additional obligations to TDEM, who will forward to FEMA for review and approval prior to incurring costs. Approval of these requests is not guaranteed and is subject to funding availability. Costs incurred prior to approval of any scope or budget/cost changes may be denied.

4. The Project Completion and Certification Report must be submitted to TDEM within 60 days of all approved work being completed for each project. If any project requires the purchase of insurance as a condition of receiving federal funds, a copy of the current policy must be attached to this report, or Duplication of Benefits form certifying other funds were received to complete the project.

5. A cost overrun appeal on small ($128,900) Public Assistance projects must be reported to the Texas Division of Emergency Management (TDEM) within 60 days of completing the last small project in order to be considered for additional funding.

6. Appeals may be filed on any determination made by FEMA or TDEM. All appeals must be submitted to TDEM within 60 days from receiving written notice of the action you wish to appeal. Should you wish to appeal a determination contained in the project application, the 60 days will start the day the application is signed. Appeals for Alternative Projects will be subject to the terms of the signed agreement for the Alternative Project.

7. Public Assistance program projects will not receive funding until all of the requirements identified in the comments section of the Project Worksheet are met.

8. You may request a payment of funds on projects by initiating a Request for Reimbursement (RFR) in TDEM's Grant Management System (GMS) or an Advance of Funds Request (AFR), and including documentation supporting your request. Small Public Assistance projects are paid upon obligation and will be initiated by TDEM personnel. Payments for open projects must be requested at least quarterly if expenditures have been made in that quarter.

9. Subrecipients will be required to submit quarterly progress reports (QPR) for open large projects and all Hazard Mitigation Grant Program projects using TDEM's GMS. Your assigned Public Assistance and/or Mitigation Coordinator will coordinate the due date for your specific reporting. Reports shall record all

information in an accurate and timely manner for each quarter. Detailed information regarding each item of information required is available on the form in GMS. Public Assistance program small projects are typically exempt from quarterly reporting, however TDEM reserves the right to require QPRs on any smalls requiring a POP extension. The first quarterly report will be due at the end of the first full quarter following the quarter in which the project was obligated. No quarterlies are required for projects that Subrecipient has initiated a closeout request and has provided a certificate of completion. Failure to submit required quarterly reports for two or more quarters can result in withholding or deobligation of funding for Subrecipients until all reports are submitted and up-to-date.

10. Subrecipients expending $750,000 or more in total Federal financial assistance in a fiscal year will be required to provide an audit made in accordance with OMB Uniform Guidance; Cost Principles, Audit, and Administrative Requirements for Federal Awards, Subpart F. A copy of the Single Audit must be submitted to your cognizant State agency or TDEM within nine months of the end of the subrecipient's fiscal year. Consult with your financial officer regarding this requirement. If not required to submit a single audit, a letter must be sent to TDEM certifying to this.

11. Subrecipients will not make any award to any party which is debarred or suspended, or is otherwise excluded from participation in the Federal assistance programs (EO 12549, Debarment and Suspension). Subrecipient must maintain documentation validating review of debarment list of eligible contractors.

12. Subrecipients must keep record of equipment acquired by federal funds for the life cycle of the equipment. A life cycle for most equipment will be three years, but could be longer. If the fair market value of a piece of equipment is valued over $5,000, FEMA will have the right to a portion of proceeds if equipment is sold. If the fair market value of a piece of equipment is less than $5,000, the property can either be retained, sold or designated as surplus with no further obligation to FEMA.

13. TDEM will be using the FEMA Public Assistance Delivery Model to facilitate the writing of project worksheets (Portal). Subrecipient will be responsible for establishing and maintaining an active account in the Portal and to provide and upload timely, all information requested that is needed to write accurate project worksheets. The Portal will provide the Subrecipient visibility of the entire project writing process.

14. TDEM requires the use of its Grant Management System (GMS) for Subrecipient grant management functions. Subrecipient will access GMS to initiate Requests for Reimbursements (RFR), Advance of Funds Requests (AFR), Time Extensions, Scope and Cost change requests, Quarterly Progress Reports, Project Closeouts, Appeals, and other items deemed necessary by TDEM. Requested forms and processes may be adjusted and changed to accommodate GMS processes and requirements. Subrecipient agrees to monitor GMS as necessary to properly manage and complete awarded projects under this agreement.

16. 2 CFR 200.210(a)(15), 2 CFR 200.331(a)(1)(xiii) and (a)(4) make reference to indirect cost rates. The Subrecipient may use the negotiated Indirect Cost Rate approved by its cognizant agency, or may use the 10% de minimis rate of modified total direct costs (MTDC) (as per § 200.414) when receiving Management Costs.

EXHIBIT G

Match Certification

Additional Grant Certifications

Subrecipient certifies that it has the ability to meet or exceed the cost share required for all subawards (Projects) and amendments (versions) under this Grant Agreement.

Duplication of Program Statement

Subrecipient certifies there has not been, nor will there be, a duplication of benefits for this project.

Match Certification

Federal Debt Disclosure

Subrecipient certifies that it is not delinquent on any Federal Debt.

For Hazard Mitigation Projects Only:

Maintenance Agreement

Applicant certifies that if there is a Maintenance Agreement needed for this facility copy of that agreement will be provided to TDEM.

Environmental Justice Statement

Federal Executive Order 12898 compliance requirements – If there are any concentrations of low income or minority populations in or near the HMGP project:

1. Applicant certifies that the HMGP project result will not result in a disproportionately high or adverse effect on low income or minority populations.

   OR

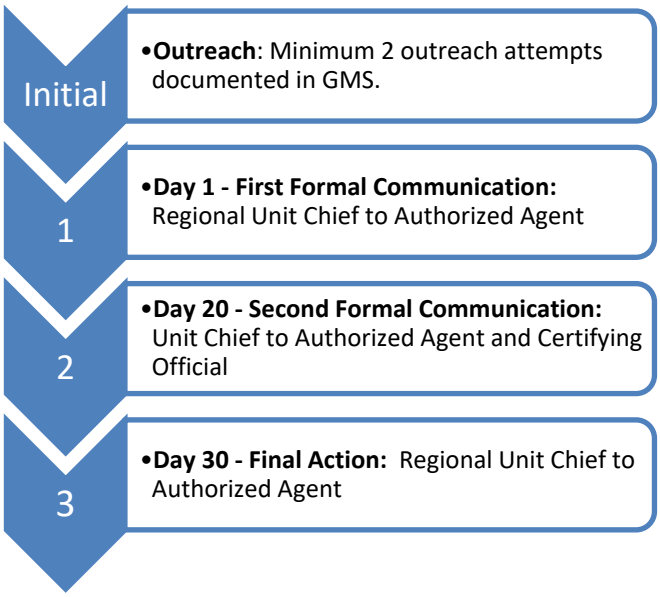
2. Applicant certifies that action will be taken to ensure achievement of environmental justice for low income and minority populations related to this HMGP project.

Formal Request for Information Policy

Timelines for providing complete and accurate information and documentation are crucial to the success of the overall Grant Program and to the timely completion and closure of awarded projects. TDEM has developed a framework to support this endeavor following a progressive series of communications for the subrecipient, referred to as Request for Information (RFI). TDEM will work with subrecipients throughout the Formal RFI process as communication is the key to success.

Scope: This policy will be applied to Public Assistance and Hazard Mitigation projects for management and closeout activities after obligation. This policy will address non-responsive and inadequate responses to request for information. The timelines outlined below represent a single 30-day period, containing three milestones.

Generally, this 30-day RFI Timeline begins after TDEM sufficiently documents communication (minimum of two GMS documented forms of outreach) with the subrecipient that has been escalated up to the Regional Unit Chief regarding the requested documentation. However, nothing limits the ability of TDEM to issue either a First or Second Request.



RFI Timelines

First Formal Communication	The TDEM Regional Unit Chief will issue a read-receipt, high importance email to the subrecipient's Authorized Agent(s) highlighting previous requests and allowing thirty calendar days to provide the requested information.
Second Formal Communication	TDEM staff will issue a formal reminder through a letter signed by the Unit Chief which is then emailed to the subrecipient's Authorized Agent(s) and Certifying Official informing them of the final ten business days remaining to provide the requested information. The Assistant Chief is to be copied on the email for visibility.

Final Action	If the RFI is not sufficiently answered, the Unit Chief will verbally contact the subrecipient's Authorized Agent(s) informing them of TDEM's intent to proceed with deobligation of funds or other remedies deemed appropriate by TDEM. Deobligation requires any previously paid funds to be returned to TDEM within thirty calendar days, per the State Administrative Plan.

GRANT TERMS AND CONDITIONS

Please initial by each Exhibit, acknowledging you have received them, understand them, and agree to abide by them.

_____ Assurances – Non-Construction Programs, hereinafter referred to as “Exhibit A”

_____ Assurances – Construction Programs, hereinafter referred to as “Exhibit B”

_____ Certifications for Grant Agreements, hereinafter referred to as “Exhibit C”

_____ State of Texas Assurances, hereinafter referred to as “Exhibit D”

_____ Environmental Review Certification, hereinafter referred to as “Exhibit E”

_____ Additional Grant Conditions, hereinafter referred to as “Exhibit F”

_____ Additional Grant Certifications, hereinafter referred to as “Exhibit G”

_____ Request for Information and Documentation referred to as “Exhibit H”

Please sign below to acknowledged acceptance of the grant and all exhibits in this agreement, and to abide by all terms and conditions.

	11/02/2021
Signature of Certifying Official	**Date**

Ruben Becerra, Hays County Judge

Printed Name and Title

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Accept a proposal from Beckwith Electronic Systems, LLC in the amount of $8,390 for repairs needed to the Crestron System in District Courtroom #7 of the Government Center; authorize a discretionary exemption pursuant to Texas Local Government Code 262.024A (7) (D) and amend the budget accordingly.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
CONSENT	November 2, 2021	$8,390

LINE ITEM NUMBER

001-608-00.5712_700

AUDITOR USE ONLY

AUDITOR COMMENTS:

Require a discretionary exemption pursuant to Texas Local Government Code 262.024A (7) (D) for captive replacement parts or components for equipment.

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** MARISOL VILLARREAL-ALONZO

REQUESTED BY	SPONSOR	CO-SPONSOR
Judge Gary Steel	INGALSBE	N/A

SUMMARY

On September 7, 2021 the court authorized the District Court to repair the Crestron System for the Government Center Courtroom #7. However, the parts needed were on back order and the project was unable to be completed in fiscal year 2021. Beckwith Electronics Systems was the contractor used during the Government Center build out of the current courtrooms that are in use. The system was customized for our District and County Court at Law Judges in order to provide consistency throughout all courtrooms. Additionally, Beckwith installed the wiring and configuration for the remaining courtrooms for future build outs. Due to the existing infrastructure that was put in place, it is necessary to utilize the same contractor to complete the repairs for District Courtroom #7.

Attachment: Beckwith Proposal #503

Budget Amendment:
Increase District Court Computer Equipment_Capital 001-608-00.5712_700
Potential Funding Source: County Wide Contingencies 001-645-00.5399

Beckwith
ELECTRONIC SYSTEMS, LLC

Work Order Estimate: 503

Serv. Site: Hays County Government Center
Address: 610 Stagecoach Trail
San Marcos, TX 78666 US

Req. By: Chris Deichmann **On:**
Phone: 512-554-9261

Customer: Hays County Government Center
Address: 712 S. Stagecoach Trail
San Marcos, TX 78666 US

Contact: Chris Deichmann
Phone: 512-554-9261
Email: chris.deichmann@co.hays.tx.us

Scope Seq: 1 **Equipment Installation**

Repair of the Crestron System in Courtroom # 7.

Labor

Seq.	Qty.	Craft Description	Class Description		
1	18.00			115.00	2,070.00

Misc.

Seq.	Qty.	Description		
1	4.00	<30 Miles Trip Fee	55.00	220.00
2	4.00	DM-TX-201-C	1,300.00	5,200.00
3	1.00	DM-RMC-4k-100-C	900.00	900.00

Estimate Flat Price Details

Taxable		Non Taxable		Totals	
Equipment:	0.00	**Equipment:**	0.00	**Equipment:**	0.00
Labor:	0.00	**Labor:**	2,290.00	**Labor:**	2,290.00
Material:	0.00	**Material:**	0.00	**Material:**	0.00
Subcontract:	0.00	**Subcontract:**	0.00	**Subcontract:**	0.00
Other:	6,100.00	**Other:**	0.00	**Other:**	6,100.00

Sub Total:	8,390.00
Tax Basis:	6,100.00
Tax Total:	0.00
Price Total:	8,390.00

Notes: **a)** The recent influx of activity surrounding the Covid-19 Pandemic may have an impact on supply chain disruption due to related transport restrictions and delays. This includes but is not limited to Fire Alarm, Public Address, Nurse Call, ERRC/DAS and Security Equipment. We will work diligently with you and any affiliated contractors to minimize the impact on the construction project. Should this become an issue, Beckwith will contact you to discuss the status of the project and the plan moving forward.

b) Beckwith does not assume liability nor warranty any existing equipment or cabling
b) The prices within this estimate are subject to change.
c) All Beckwith work will be done during normal working hours
- **i)** Monday thru Friday
- **ii)** 7:30am-4:30pm.
- **iii)** If Overtime is required for any reason, Beckwith's additional labor costs shall be considered an additional charge and charged to the customer

d) Beckwith shall schedule this service based on first come first serve basis
e) This proposal is valid for 30 days from the date herein

Terms: **a)** This proposal does not provide retainage
b) All invoices are due upon receipt
c) Return goods are subject to 25% restocking charges and no credit will be allowed on goods returned without written authorization from Beckwith
d) 1.5% per month (18% annually) will be charged on all past due invoices

Signature: _____ Date: _____

Printed Name: _____ Title: _____

PO#: _____

1620A Grand Avenue Parkway, Pflugerville, TX 78660 - Tel 512.275.1441 - Fax 512.275.1443

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Authorize payment to Austin Extreme Graphics in the amount of $998.22 for the Constable Pct. 2 Office in which no purchase order was issued as required per the Hays County Purchasing Policy.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
CONSENT	November 2, 2021	$998.22

LINE ITEM NUMBER

001-636-00.5413

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: NO **AUDITOR REVIEW:** MARISOL VILLARREAL-ALONZO

REQUESTED BY	SPONSOR	CO-SPONSOR
Constable Michael Torres	JONES	N/A

SUMMARY

The Constable's Office had decals placed on two patrol vehicles and failed to request a purchase order as required per the County Purchasing Policy. Funds are available within the FY21 operating budget to cover this purchase.

Attachment: Austin Extreme Graphics Invoice #2733

Court 2

AUSTIN EXTREME GRAPHICS
174 Distribution Cove
Buda, Texas 78610
512-312-2715

Invoice # 2733

4/23/2021

Customer PO

Terms Due on receipt

Prepared By KG

Order Details:

2021 Ford Explorer Decals- for 2 units

Bill To:

Hays County Constable Precinct 2

Description	Quantity	Price Each	Amount
3M 1080 Wrap Film Per Yard- Gloss Sterling Silver	10	40.50	405.00
Installation at our Shop	4	100.00	400.00
Badges: 40.00 in x 15.00 in Oralite 650RA Reflective Top laminated with 3M 8518	2	96.61	193.22

RECEIVED IN THE OFFICE OF
HAYS COUNTY AUDITOR
SEP 28 2021

Total $998.22

Payments/Credits $0.00

Balance Due $998.22

OCT 5 2021

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Approve renewal of IFB 2020-B02 Hauling Solid Waste with Central Waste & Recycling and Texas Disposal Systems for one (1) additional year as stated in the original bid, effective November 5, 2021.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
CONSENT	November 2, 2021	

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
Tammy Crumley	BECERRA	N/A

SUMMARY

Texas Disposal Systems would like to renew their contract for one additional year. Central Waste & Recycling would also like to renew their contract for one additional year with a proposed $75.00 increase. All other terms and conditions remain unchanged and in full force and effect as stated in the original bid. The Countywide Operations Department utilizes this contract for hauling solid waste throughout the County as needed.

Attachments:
Central Waste & Recycling Renewal
Texas Disposal Systems Renewal

OFFICE OF THE COUNTY AUDITOR

Hays County Purchasing
712 S. Stagecoach Trail, Ste. 1071
San Marcos, Texas 78666
512-393-2271

Marisol Villarreal-Alonzo, CPA
County Auditor
marisol.alonzo@co.hays.tx.us

Vickie Dorsett
First Assistant County Auditor
vickie.dorsett@co.hays.tx.us

October 18, 2021

Texas Disposal Systems, Inc.
PO Box 17126
Austin, TX 78760

RE: Annual contract renewal

The annual contract for Hauling Solid Waste, IFB 2020-B02 will expire on November 5, 2021. This letter will serve as official notice that Hays County would like to exercise our 2nd option to renew the existing contract for one (1) additional year effective November 5, 2021 – November 4, 2022, provided all terms and conditions remain unchanged and in full force and effect as provided in the original bid. If you are in agreement with the renewal terms, please acknowledge below and return one original to the Hays County Purchasing Office at the address listed above.

Please email purchasing@co.hays.tx.us if you have any questions or need additional information. Thank you.

Sincerely,

Marisol Villarreal-Alonzo, CPA
Hays County Auditor

Signature

Texas Disposal Systems, Inc.
Company

Stefanie Lumby
Printed Name

10.20.21
Date

Approved by the Hays County Commissioners Court on:

Date

Ruben Becerra, Hays C

OFFICE OF THE COUNTY AUDITOR

Hays County Purchasing
712 S. Stagecoach Trail, Ste. 1071
San Marcos, Texas 78666
512-393-2273

Marisol Villarreal-Alonzo, CPA
County Auditor
marisol.alonzo@co.hays.tx.us

Vickie G. Dorsett
Assistant County Auditor
vickie.dorsett@co.hays.tx.us

October 18, 2021

Central Waste & Recycling
2301 W. Whitestone Blvd. Ste. E1
Cedar Park, TX 78613

RE: Annual contract renewal

The annual contract for Hauling Solid Waste, IFB 2020-B02 will expire on November 5, 2021. This letter will serve as official notice that Hays County would like to exercise our 2nd option to renew the existing contract for one (1) additional year effective November 5, 2021 – November 4, 2022, provided all terms and conditions remain unchanged and in full force and effect as provided in the current contract with the attached proposed price changes. If you are in agreement with the renewal terms, please acknowledge below and return a signed version to the Hays County Purchasing Office email address listed below. Upon approval by the Hays County Commissioners Court, a fully executed copy will be returned to you for your files.

Please email purchasing@co.hays.tx.us if you wish to make modifications to the contract or have any questions. Thank you.

Sincerely,

Marisol Villarreal-Alonzo, CPA
Hays County Auditor

Signature

Central Waste
Company

Michael Moran
Printed Name

10-19-21
Date

Approved by the Hays County
Commissioners Court on: _____

Ruben Becerra
Hays County Judge

IFB 2020-B02 HAULING OF SOLID WASTE - BID TABULATION														
		Central Waste & Recycling (Original Pricing)						Central Waste & Recycling (New Proposed Pricing)						
HAULING AND DISPOSAL														
		Citizen's Collection Station Location		Overage Charges				Citizen's Collection Station Location		Overage Charges				
		1691 Carney Lane Wimberley, TX	20290 FM 150 W Driftwood, TX	Container weight limit (tons)		Overage Charge (per ton over limit)		1691 Carney Lane Wimberley, TX	20290 FM 150 W Driftwood, TX	Container weight limit (tons)		Overage Charge (per ton over limit)		
B02.1	Hauling and disposal of 42 cubic yard compactor/receiver (per haul)				tons		per ton				tons		per ton	
B02.2	Hauling and disposal of 40 cubic yard open top container (per haul)				tons		per ton				tons		per ton	
B02.3	Hauling and disposal of 30 cubic yard open top container (per haul)				tons		per ton				tons		per ton	
B02.4	Hauling and disposal/recycling of 30 cubic yard open top container (per haul, glass only)	$ 425.00	$ 425.00	10	tons	$ -	per ton	$ 500.00	$ 500.00	10	tons	$ -	per ton	
EQUIPMENT RENTAL - INCLUDES SERVICE AND REPAIRS														
		Monthly Rate						Monthly Rate						
B02.5	Rental and required service/repair of 42 cubic yard compactor/receiver (per month)	$ 675.00												
ITEM DISPOSAL FEES														
		Price per item						Price per item						
B02.6	Mattresses and Box Springs	$ 25.00												
B02.7	Tires (off rim)	$ 25.00												

*Historical data on the container weights and hauling frequency of the 42 cubic yard compactor/receiver was analyzed for each location. Although the hauling rates from Texas Disposal Systems, Inc. are not the lowest bid, the higher allowable weight (and the associated rental/service/repair fee required for the Wimberley location) makes this bid the best value to Hays County.

Award Summary		
Vendor	Item Number	Description
Texas Disposal Systems, Inc.	B02.1	Hauling and disposal of 42 cu yd compactor/receiver (both locations)*
	B02.2	Hauling and disposal of 40 cu yd open top container (Wimberley only)
	B02.3	Hauling and disposal of 30 cu yd open top container (both locations)
	B02.5	Rental and service/repair of 42 cu yd compactor/receiver (Wimberley only)*
	B02.6	Disposal of mattresses and box springs
Central Waste & Recycling	B02.4	Hauling and disposal/recycling of 30 cu yd open top container (glass only, both locations)

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Call for a Public Hearing at the regular session of Commissioners Court on November 9, 2021 starting at 9 a.m., related to the redistricting of justice of the peace (and constable) and commissioners precincts within Hays County, Texas.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
CONSENT	November 2, 2021	N/A

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
	BECERRA	N/A

SUMMARY

Notice of the Public Hearing on Nov.9th has also been published in a paper of general circulation within Hays County.

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Hold a public hearing with possible action to establish 3-way stop locations on Old Bastrop Highway at the intersections of Posey Road and Francis Harris Lane.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
ACTION-ROADS	November 2, 2021	

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
Jerry Borcherding	INGALSBE	N/A

SUMMARY

As a result of a recent traffic study, it is recommended that two 3-way stop locations are necessary to control vehicle traffic at these intersections on Old Bastrop Hwy for the safety of local residents, and in lieu of possible speed bump installations. New stop signs would only be installed on Old Bastrop Hwy, as there are currently stop signs on Posey Road and Francis Harris Lane.

Old Bastrop Hwy
3-way stop locations:
Posey Road
Francis Harris Lane
Legend
? ?Rodriguez Elementary School
? ?San Pedro Cemetery
TRACE - Pacesetter New Homes San Marcos TX
Esplanade Pkwy
Buffington Homes - Tra
Sage Meadows Dr
Rodriguez Elementary School
TRACE - Waterloo Homes by Brohn
Gray Wolf Dr
Posey Rd
265
Posey Road
Old Bastrop Hwy
New
San Pedro Cemetery
STOP
Existing
STOP
STOP
New
Old Bastrop Rd
Old Bastrop Hwy
New
STOP
Old Bastrop Hwy
265
Old Bastrop Rd
266
STOP
New
STOP
Existing
Francis Harris Ln
S Harris Ln
288
Google Earth
© 2021 Google
N
2000 ft

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Discussion and possible action to consider the release of the maintenance bond #58S211340-001 in the amount of $174,546.55, and the acceptance of roads into the county road maintenance system for Crosswinds subdivision, Phase 2.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
ACTION-ROADS	November 2, 2021	

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
Jerry Borcherding	INGALSBE	N/A

SUMMARY

Staff recommends acceptance of these roads into the county road maintenance system. Roads include: Bay Breeze Drive (144 ft.), Billowing Way (734 ft.), Biscayne Bay Bend (1,332 ft.), Coral Gate Trail (643 ft.), Crosswinds Parkway (980 ft.), Gulfstream Trail (536 ft.), Pelican Bay Circle (1,486 ft.), Spinnaker Loop (4,226 ft.), and Treasure Trove Path (1,235 ft.).

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Discussion and possible action to consider the acceptance of road construction & drainage improvements, release of the performance bond #9933969 in the amount of $345,571.00, and acceptance of the 2-year maintenance bond #146805D in the amount of $29,557.10 for Northridge subd., Phase 3.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
ACTION-ROADS	November 2, 2021	

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
Jerry Borcherding	SMITH	N/A

SUMMARY

Staff recommends acceptance of construction of roads and drainage improvements within the County ROW, and all regulatory signage as posted. An engineer's concurrence letter and as-built construction plans have been received. The Transportation Department has inspected and approved the improvements and will monitor the revegetation efforts for all disturbed areas within County ROW.

HAYS COUNTY
TRANSPORTATION DEPARTMENT

P.O. BOX 906
San Marcos, TX 78667

512/393-7385
FAX: 512/393-7393

October 18, 2021

Honorable Ruben Becerra
111 E. San Antonio Street
San Marcos, Texas 78666

RE: Northridge subdivision, Phase 3

Dear Commissioners and Judge:

Dennis Givens, P.E. with Moody Engineering, Inc., is requesting that Hays County accept construction of the roads and drainage improvements for Northridge subdivision, Phase 3, release the performance bond #9933969 in the amount of $345,571.00, and accept the 2-year maintenance bond #146805D in the amount of $29,557.10. A concurrence letter and as-built plans have been received as required by Hays County.

I recommend that construction be accepted per staff recommendations under Hays County specifications.

Respectfully,

Jerry W. Borcherding

Jerry Borcherding, P.E.
Director
Hays County Transportation

Moody Engineering, Inc.

9225 Bee Caves Road
Bldg. A, Suite 200
Austin, Texas 78733

Telephone: (512)502-8333
Toll Free: (800)821-9112
Fax: (512)502-8334
MOODYENGINEERING.COM

March 3, 2021

Grant Fisher
J.L. Gray Construction Inc.
408 Fannin Avenue
Round Rock, TX 78664

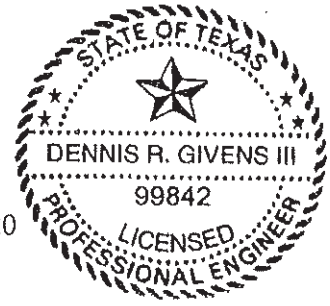
Re: Engineer Concurrence Letter
Northridge Phase III
2021-503

Dear Mr. Fisher:

On February 2, 2021, Moody Engineering, Inc. (MEI) made a final visual inspection of the above referenced project. During this site visit, MEI visually observed that the constructed facilities were built per the provided plans with insignificant deviation. I, therefore, verify the adequate completion of the following items:

Streets, culvert, and similar construction items.

Sincerely,



F-18320

03/03/2021

Denny Givens, P.E.

cc: Josh Henke, P.E., Moody Engineering, Inc.

P:\Active Projects\2021-503 Northridge Engineering Concurrence\Documents\210212 Northridge Concurrence Letter.docx

MAINTENANCE BOND

Bond No.: **146805D**

KNOW ALL PERSONS BY THESE PRESENTS, that we, JL Gray Construction, Inc., as Principal and Westfield Insurance Company, a corporation organized and doing business under and by virtue of the laws of the State of Ohio and duly licensed to conduct surety business in the State of Texas, as Surety, are held and firmly bound unto Hays County as Obligee, in the sum of Twenty-nine Thousand Five Hundred Fifty-seven And 10/100 ($29,557.10) Dollars, for which payment, will and truly to be made, we bind ourselves, our heirs, executors and successors, jointly and severally firmly by these presents.

THE CONDITIONS OF THE OBLIGATION IS SUCH THAT:

WHEREAS, the above named Principal entered into an agreement or agreements with said Obligee(s) to: Northridge Subdivision Phase III

WHEREAS, said agreement provided that Principal shall guarantee replacement and repair of improvements as described therein for a period of 2 year(s) following final acceptance of said improvements: Northridge Subdivision Phase III

NOW THEREFORE, if the above Principal shall indemnify the Obligee for all loss that Obligee may sustain by reason of any defective materials or workmanship which become apparent during the period of 2 year (s) from and after acceptance of said improvements by Obligee, then this obligation shall be void; otherwise to remain in full force and effect.

IN WITNESS WHEREOF, the seal and signature of said Principal is hereto affixed and the corporate seal and the name of the said Surety is hereto affixed and attested by its duly authorized Attorney-in-Fact.

This 30th day of April, 2021.

DUPLICATE ORIGINAL

JL Gray Construction, Inc.
Principal

By: _____

Westfield Insurance Company
Surety

Seal

By: _____
Jack Nottingham, Attorney-in-fact

Local Recording Agency:
K & S Insurance
P O Box 277
Rockwall, TX 75087

General
Power
of Attorney

CERTIFIED COPY

POWER NO. **4220012 14**

Westfield Insurance Co.
Westfield National Insurance Co.
Ohio Farmers Insurance Co.

Westfield Center, Ohio

Know All Men by These Presents, That WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY, corporations, hereinafter referred to individually as a "Company" and collectively as "Companies," duly organized and existing under the laws of the State of Ohio, and having its principal office in Westfield Center, Medina County, Ohio, do by these presents make, constitute and appoint

TONY FIERRO, JOHNNY MOSS, JAY JORDAN, MISTIE BECK, JEREMY BARNETT, JADE PORTER, ROBERT G. KANUTH, JARRETT WILLSON, JACK NOTTINGHAM, JOINTLY OR SEVERALLY

of **ROCKWALL** and State of **TX** its true and lawful Attorney(s)-in-Fact, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver **any and all bonds, recognizances, undertakings, or other instruments or contracts of suretyship.**

LIMITATION: THIS POWER OF ATTORNEY CANNOT BE USED TO EXECUTE NOTE GUARANTEE, MORTGAGE DEFICIENCY, MORTGAGE GUARANTEE, OR BANK DEPOSITORY BONDS.

and to bind any of the Companies thereby as fully and to the same extent as if such bonds were signed by the President, sealed with the corporate seal of the applicable Company and duly attested by its Secretary, hereby ratifying and confirming all that the said Attorney(s)-in-Fact may do in the premises. Said appointment is made under and by authority of the following resolution adopted by the Board of Directors of each of the WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY:

"Be It Resolved, that the President, any Senior Executive, any Secretary or any Fidelity & Surety Operations Executive or other Executive shall be and is hereby vested with full power and authority to appoint any one or more suitable persons as Attorney(s)-in-Fact to represent and act for and on behalf of the Company subject to the following provisions:

The Attorney-in-Fact. may be given full power and authority for and in the name of and on behalf of the Company, to execute, acknowledge and deliver, any and all bonds, recognizances, contracts, agreements of indemnity and other conditional or obligatory undertakings and any and all notices and documents canceling or terminating the Company's liability thereunder, and any such instruments so executed by any such Attorney-in-Fact shall be as binding upon the Company as if signed by the President and sealed and attested by the Corporate Secretary."

"Be It Further Resolved, that the signature of any such designated person and the seal of the Company heretofore or hereafter affixed to any power of attorney or any certificate relating thereto by facsimile, and any power of attorney or certificate bearing facsimile signatures or facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attached." (Each adopted at a meeting held on February 8, 2000).

In Witness Whereof, WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY have caused these presents to be signed by their **National Surety Leader** and **Senior Executive** and their corporate seals to be hereto affixed this **02nd** day of **JANUARY** A.D., **2020** .

Corporate Seals Affixed

WESTFIELD INSURANCE COMPANY
WESTFIELD NATIONAL INSURANCE COMPANY
OHIO FARMERS INSURANCE COMPANY

By: **Gary W. Stumper,** *National Surety Leader* and *Senior Executive*

State of Ohio
County of Medina ss.:

On this **02nd** day of **JANUARY** A.D., **2020** , before me personally came **Gary W. Stumper** to me known, who, being by me duly sworn, did depose and say, that he resides in **Hartford, CT;** that he is **National Surety Leader** and **Senior Executive** of WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY, the companies described in and which executed the above instrument; that he knows the seals of said Companies; that the seals affixed to said instrument are such corporate seals; that they were so affixed by order of the Boards of Directors of said Companies; and that he signed his name thereto by like order.

Notarial Seal Affixed

State of Ohio
County of Medina ss.:

David A. Kotnik, Attorney at Law, *Notary Public*
My Commission Does Not Expire (Sec. 147.03 Ohio Revised Code)

I, **Frank A. Carrino,** Secretary of WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney, executed by said Companies, which is still in full force and effect; and furthermore, the resolutions of the Boards of Directors, set out in the Power of Attorney are in full force and effect.

In Witness Whereof, I have hereunto set my hand and affixed the seals of said Companies at Westfield Center, Ohio, this 30th day of April A.D., 2021 .

Frank A. Carrino, *Secretary*

BPOAC2 (combined) (06-02)

IMPORTANT NOTICE
STATE OF TEXAS
COMPLAINT PROCEDURES

1. IMPORTANT NOTICE

To obtain information or make a complaint:

2. You may contact your agent.

3. You may call **Westfield Insurance Company, Westfield National Insurance Company, and/or Ohio Farmers Insurance Company's** toll-free telephone number for information or to make a complaint at:

1-800-243-0210

4. You may also write to **Westfield Insurance Company, Westfield National Insurance Company, and/or Ohio Farmers Insurance Company** at:

Attn: Bond Claims
One Park Circle
P O Box 5001
Westfield Center, OH 44251-5001
Fax #330-887-0840

5. You may contact the Texas Department of Insurance to obtain information on companies, coverages, rights or complaints at:

1-800-252-3439

6. You may write to the Texas Department of Insurance, Consumer Protection Section (MC 111-1A):

P.O. Box 149091
Austin, TX 78714-9091
Fax: (512) 490-1007
Web: www.tdi.texas.gov
E-mail: ConsumerProtection@tdi.texas.gov

7. **PREMIUM OR CLAIM DISPUTES:**
Should you have a dispute concerning your premium or about a claim, you should contact the agent, Westfield Insurance Company, Westfield National Insurance Company, or Ohio Farmers Insurance Company first. If the dispute is not resolved, you may contact the Texas Department of Insurance.

8. **ATTACH THIS NOTICE TO YOUR POLICY:**
This notice is for information only and does not become a part or condition of the attached document.

AVISO IMPORTANTE

Para obtener informacion o para someter una queja:

Puede comunicarse con su (title) al (telephone number).

Usted puede llamar al numero de telefono gratis de **Westfield Insurance Company, Westfield National Insurance Company, and/or Ohio Farmers Insurance Company's** para informacion o para someter una queja al:

1-800-243-0210

Usted tambien puede escribir a **Westfield Insurance Company, Westfield National Insurance Company, and/or Ohio Farmers Insurance Company:**

Attn: Bond Claims
One Park Circle
P O Box 5001
Westfield Center, OH 44251-5001
Fax #330-887-0840

Puede comunicarse con el Departamento de Sequros de Texas para obtener informacion acerca de companies, coberturas, derechos o quejas al:

1-800-252-3439

Puede escribir al Departamento de Seguros de Texas, Consumer Protection Section (MC 111-1A):

P.O. Box 149091
Austin, TX 78714-9091
Fax: (512) 490-1007
Web: www.tdi.texas.gov
E-mail: ConsumerProtection@tdi.texas.gov

DISPUTAS SOBRE PRIMAS O RECLAMOS:
Si tiene una disputa concerniente a su prima o a un reclamo, debe comunicarse con el agente, Westfield Insurance Company, Westfield National Insurance Company, o Ohio Farmers Insurance Company primero. Si no se resuelve la disputa, puede entonces comunicarse con el departamento (TDI).

UNA ESTE AVISO A SU POLIZA: Este aviso es solo para proposito de informacion y no se convierte en parte o condicion del documento adjunto.

BD5430 (06-15)

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Discussion and possible action to consider the acceptance of road construction & drainage improvements, acceptance of the 2-year maintenance bond #PB03016800693M in the amount of $49,235.54, and acceptance of the 1-year revegetation bond #PB03016800693M in the amount of $19,781.95 for 6 Creeks subd., Phase 1, Section 4A.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
ACTION-ROADS	November 2, 2021	

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
Jerry Borcherding	SMITH	N/A

SUMMARY

Staff recommends acceptance of construction of roads and drainage improvements within the County ROW, and all regulatory signage as posted. An engineer's concurrence letter and as-built construction plans have been received. The Transportation Department has inspected and approved the improvements and will monitor the revegetation efforts for all disturbed areas within County ROW. A construction bond was not issued for this project, so there isn't anything to release.

HAYS COUNTY
TRANSPORTATION DEPARTMENT

P.O. BOX 906
San Marcos, TX 78667

512/393-7385
FAX: 512/393-7393

October 22, 2021

Honorable Ruben Becerra
111 E. San Antonio Street
San Marcos, Texas 78666

RE: 6 Creeks subdivision, Phase 1, Section 4A

Dear Commissioners and Judge:

Becky Carroll, P.E. with Pape-Dawson Engineers, Inc., is requesting that Hays County accept construction of the roads and drainage improvements for 6 Creeks subdivision, Phase 1, Section 4A, accept the 2-year maintenance bond #PB03016800693M in the amount of $49,235.54, and accept the 1-year revegetation bond #PB03016800693M in the amount of $19,781.95. A concurrence letter and as-built plans have been received as required by Hays County.

I recommend that construction be accepted per staff recommendations under Hays County specifications.

Respectfully,

Jerry W. Borcherding

Jerry Borcherding, P.E.
Director
Hays County Transportation

PAPE-DAWSON ENGINEERS

October 14, 2021

Mr. Jim Parman
Hays County Transportation Department
2171 Yarrington Rd
Kyle, TX 78640

Re: Engineer's Concurrence for Project Acceptance

Dear Mr. Parman:

Project:	6 Creeks-Phase 1, Section 4A
Date:	October 14, 2021
Owner:	HMBRR Development, Inc. 1011 N. Lamar Austin, TX 78703
Consultant Engineer:	Pape-Dawson Engineers, Inc. Attn: Becky Carroll, P.E. 2000 NW Loop 410 San Antonio, TX 78213

On this date, I, the undersigned Professional Engineer in the State of Texas, confirm that a member of my staff had met with the Project Contractor, City of Kyle and Hays County and made a final visual observation of the above referenced project. The items noted during the final Hays County walk-though on September 28, 2021 have been addressed and no other discrepancies from the approved plans were found other than those identified on the Plan of Record. I, therefore recommend acceptance of this project by the City of Kyle and Hays County.

Sincerely,
Pape-Dawson Engineers, Inc.

Becky Carroll, P.E.
Vice President

P:\81\41\19\Word\Letters\210930a1.docx

Philadelphia Indemnity Insurance Company

One Bala Plaza, Suite 100
Bala Cynwyd, PA 19004
877-438-7459

Bond No. PB03016800693M

MAINTENANCE BOND

KNOW ALL MEN BY THESE PRESENTS, that we DNT Construction, LLC as Principal, and Philadelphia Indemnity Insurance Company, a corporation organized under the laws of the State of Pennsylvania, and duly authorized to do business in the State of Texas as Surety, are held and firmly bound unto Hays County as Obligee, in the penal sum of Forty Nine Thousand Two Hundred Thirty Five and 54/100 ($49,235.54) to which payment well and truly to be made we do bind ourselves, and each of our heirs, executors, administrators, successors and assigns jointly and severally, firmly by these presents.

WHEREAS, the said Principal has entered into a contract with Hays County dated September 15, 2021 for 6 Creeks Section 4A Hays County, Maintenance Bond, which contract is hereinafter referred to as the "Contract."

WHEREAS, said Obligee requires that the Principal furnish a bond conditioned to guarantee for the period of Two year (s) from date of acceptance of the work performed under the Contract against all defects in workmanship and materials which would have been the responsibility under the Contract for which written notice is made to Surety during said period

NOW THEREFORE, THE CONDITIONS OF THIS OBLIGATION IS SUCH that, if the Principal shall indemnify the Obligee for all loss that the Obligee may sustain by reason of any defective materials or workmanship which may become apparent and with respect to which notice is delivered to Surety in writing during the period of Two year (s) from and after date of acceptance of the work under the Contract, then this obligation shall be void, otherwise to remain in full force and effect.

No right of action shall accrue hereunder to or for the benefit of any person or entity other the Obligee named herein, nor shall any suit be filed or action maintained on this bond more than twenty five (25) months after the date of the earliest timely notice of defect by Obligee to Surety.

SIGNED, SEALED AND DATED THIS 4th day of October, 2021.

DNT Construction, LLC
Principal

By: _____
Robert Sladek, Accounting Manager

Philadelphia Indemnity Insurance Company

By: _____
Jeremy Farque, Attorney-in-Fact

PHILADELPHIA INDEMNITY INSURANCE COMPANY
One Bala Plaza, Suite 100
Bala Cynwyd, PA 19004-0950

Power of Attorney

KNOW ALL PERSONS BY THESE PRESENTS: That **PHILADELPHIA INDEMNITY INSURANCE COMPANY** (the Company), a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, does hereby constitute and appoint **Tom Mulanax, Michael Whorton, David Whorton, Rachel Martinez, Rosemarie Lopez, Jeremy Farque and/or Noe Moreno of Whorton Insurance Services,** its true and lawful Attorney-in-fact with full authority to execute on its behalf bonds, undertakings, recognizances and other contracts of indemnity and writings obligatory in the nature thereof, issued in the course of its business and to bind the Company thereby, in an amount not to exceed **$50,000,000.**

This Power of Attorney is granted and is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of PHILADELPHIA INDEMNITY INSURANCE COMPANY on the 14th of November, 2016.

RESOLVED: That the Board of Directors hereby authorizes the President or any Vice President of the Company: (1) Appoint Attorney(s) in Fact and authorize the Attorney(s) in Fact to execute on behalf of the Company bonds and undertakings, contracts of indemnity and other writings obligatory in the nature thereof and to attach the seal of the Company thereto; and (2) to remove, at any time, any such Attorney-in-Fact and revoke the authority given. And, be it

FURTHER RESOLVED: That the signatures of such officers and the seal of the Company may be affixed to any such Power of Attorney or certificate relating thereto by facsimile, and any such Power of Attorney so executed and certified by facsimile signatures and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking to which it is attached.

IN TESTIMONY WHEREOF, PHILADELPHIA INDEMNITY INSURANCE COMPANY HAS CAUSED THIS INSTRUMENT TO BE SIGNED AND ITS CORPORATE SEALTO BE AFFIXED BY ITS AUTHORIZED OFFICE THIS 5TH DAY OF MARCH, 2021.

(Seal)

John Glomb, President & CEO
Philadelphia Indemnity Insurance Company

On this 5th day of March, 2021 before me came the individual who executed the preceding instrument, to me personally known, and being by me duly sworn said that he is the therein described and authorized officer of the **PHILADELPHIA INDEMNITY INSURANCE COMPANY**; that the seal affixed to said instrument is the Corporate seal of said Company; that the said Corporate Seal and his signature were duly affixed.

Commonwealth of Pennsylvania - Notary Seal
Vanessa Mckenzie, Notary Public
Montgomery County
My commission expires November 3, 2024
Commission number 1366394
Member, Pennsylvania Association of Notaries

Notary Public: Vanessa McKenzie

residing at: Bala Cynwyd, PA

My commission expires: November 3, 2024

I, Edward Sayago, Corporate Secretary of PHILADELPHIA INDEMNITY INSURANCE COMPANY, do hereby certify that the foregoing resolution of the Board of Directors and the Power of Attorney issued pursuant thereto on the 5th day March, 2021 are true and correct and are still in full force and effect. I do further certify that John Glomb, who executed the Power of Attorney as President, was on the date of execution of the attached Power of Attorney the duly elected President of PHILADELPHIA INDEMNITY INSURANCE COMPANY.

In Testimony Whereof I have subscribed my name and affixed the facsimile seal of each Company this 4th day of October, 2021.

Edward Sayago, Corporate Secretary
PHILADELPHIA INDEMNITY INSURANCE COMPANY

MAINTENANCE - REVEGETATION BOND

Bond No. PB03016800693M

KNOW ALL MEN BY THESE PRESENTS,

That we DNT Construction, LLC, as Principal, and PHILADELPHIA INDEMNITY INSURANCE COMPANY, a corporation organized under the laws of the State of Pennsylvania, and authorized to do business in the State of Texas, as Surety, are held and firmly bound unto Hays County, Texas as Obligee in the penal sum of Nineteen Thousand Seven Hundred Eighty One and 95/100 ($19,781.95) to which payment well and truly to be made we do bind ourselves, and each of our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the said Principal has completed that certain work (herein referred to as the "Work") described as:
Non-Native Seeding for Erosion Control, Hydro Mulch Improvements – 6 Creeks Section 4A Hays County, Revegetation Bond

WHEREAS, the Obligee requires that the Principal furnish a bond conditioned to guarantee the Work against defects in workmanship and materials which are the responsibility of the Principal under the contract under which the Work was constructed, and which did not appear prior to the final completion of the Work.

NOW THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the Principal shall indemnify the Obligee for all loss that the obligee may sustain by reason of defective materials or workmanship which may first become apparent, and with respect to which written notice is delivered to Surety, at the expiration of the period of sixty days from the date of substantial completion, being the establishment of grass/vegetation at 70% in areas of hydro mulch, then this obligation shall be void, otherwise to remain in full force and effect for a period of up to One Year. However, such termination shall not discharge the Surety from any liability previously accrued pursuant to this bond.

This obligation does not cover normal wear and tear of materials, misuse or abuse by the Obligee or third parties, failure of Obligee to perform oblige-required maintenance, nor any defects known to Obligee prior to final completion of the Work nor any defects discovered or occurring after the expiration of the period set forth above.

Signed, Sealed and Dated this September 17, 2021.

DNT Construction, LLC
Principal

By: _____
Dean Tomme, President

PHILADELPHIA INDEMNITY INSURANCE COMPANY
Surety

By: _____
Jeremy Farque, Attorney-In-Fact

PHILADELPHIA INDEMNITY INSURANCE COMPANY
One Bala Plaza, Suite 100
Bala Cynwyd, PA 19004-0950

Power of Attorney

KNOW ALL PERSONS BY THESE PRESENTS: That **PHILADELPHIA INDEMNITY INSURANCE COMPANY** (the Company), a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, does hereby constitute and appoint **Tom Mulanax, Michael Whorton, David Whorton, Rachel Martinez, Rosemarie Lopez, Jeremy Farque and/or Noe Moreno of Whorton Insurance Services,** its true and lawful Attorney-in-fact with full authority to execute on its behalf bonds, undertakings, recognizances and other contracts of indemnity and writings obligatory in the nature thereof, issued in the course of its business and to bind the Company thereby, in an amount not to exceed **$50,000,000.**

This Power of Attorney is granted and is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of PHILADELPHIA INDEMNITY INSURANCE COMPANY on the 14th of November, 2016.

RESOLVED: That the Board of Directors hereby authorizes the President or any Vice President of the Company: (1) Appoint Attorney(s) in Fact and authorize the Attorney(s) in Fact to execute on behalf of the Company bonds and undertakings, contracts of indemnity and other writings obligatory in the nature thereof and to attach the seal of the Company thereto; and (2) to remove, at any time, any such Attorney-in-Fact and revoke the authority given. And, be it

FURTHER RESOLVED: That the signatures of such officers and the seal of the Company may be affixed to any such Power of Attorney or certificate relating thereto by facsimile, and any such Power of Attorney so executed and certified by facsimile signatures and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking to which it is attached.

IN TESTIMONY WHEREOF, PHILADELPHIA INDEMNITY INSURANCE COMPANY HAS CAUSED THIS INSTRUMENT TO BE SIGNED AND ITS CORPORATE SEALTO BE AFFIXED BY ITS AUTHORIZED OFFICE THIS 5TH DAY OF MARCH, 2021.

(Seal)

John Glomb, President & CEO
Philadelphia Indemnity Insurance Company

On this 5th day of March, 2021 before me came the individual who executed the preceding instrument, to me personally known, and being by me duly sworn said that he is the therein described and authorized officer of the **PHILADELPHIA INDEMNITY INSURANCE COMPANY**; that the seal affixed to said instrument is the Corporate seal of said Company; that the said Corporate Seal and his signature were duly affixed.

Commonwealth of Pennsylvania - Notary Seal
Vanessa Mckenzie, Notary Public
Montgomery County
My commission expires November 3, 2024
Commission number 1366394
Member, Pennsylvania Association of Notaries

Notary Public: Vanessa McKenzie

residing at: Bala Cynwyd, PA

My commission expires: November 3, 2024

I, Edward Sayago, Corporate Secretary of PHILADELPHIA INDEMNITY INSURANCE COMPANY, do hereby certify that the foregoing resolution of the Board of Directors and the Power of Attorney issued pursuant thereto on the 5th day March, 2021 are true and correct and are still in full force and effect. I do further certify that John Glomb, who executed the Power of Attorney as President, was on the date of execution of the attached Power of Attorney the duly elected President of PHILADELPHIA INDEMNITY INSURANCE COMPANY.

In Testimony Whereof I have subscribed my name and affixed the facsimile seal of each Company this 17th day of September, 2021.

Edward Sayago, Corporate Secretary
PHILADELPHIA INDEMNITY INSURANCE COMPANY

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Discussion and possible action to authorize the County Judge to execute Change Order No. 3 in the amount of $58,577.04 to the Construction Contract between Hays County and Cox Commercial Construction for the RM 3237 at RM 150 Roundabout (IFB-2021-B06) project as part of the Hays County Road Bond Program.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
ACTION-ROADS	November 2, 2021	$58,577.04

LINE ITEM NUMBER

035-803-96-772.5611_400

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: YES **AUDITOR REVIEW:** MARISOL VILLARREAL-ALONZO

REQUESTED BY	SPONSOR	CO-SPONSOR
Jerry Borcherding, Transportation Director	SHELL	N/A

SUMMARY

Change Order No. 3 is necessary to compensate the Contractor for additional work requested for the RM 3237 at RM 150 Roundabout [16-772-034] project. The additional work includes replacing the illumination system in the plans for the requested illumination system to address light pollution, which requires an additional item and an increase in quantity of current bid items.

This Change Order results in a net increase of $58,577.04 to the contract amount, for an adjusted total contract amount of $1,728,236.84. The original contract amount was $1,654,710.80. As a result of this and all Change Orders to date, $73,526.04 has been added to the Contract, resulting in a 4.44% net increase in the Contract cost. The adjusted contract amount includes two previously approved Change Orders in the total amount of $14,949.00. No additional days will be added or deducted at this time as a result of this Change Order.

Hays County Transportation Department Change Order Request Form

Date: October 21, 2021 Contract Performance Date: September 13, 2021

Project Name: RM 3237 Roundabout Project

Contract number: CSJ No. 0805-04-034 - Bid No. IFB 2021-B06

Contractor/Consultant: Cox Commercial Construction

Change Order Number: 3

Change in Scope Necessitating Change-Order:

This Change Order is necessary in order to compensate Contractor for replacing the required illumination system on the plans for an illumination system requested by Hays County to address light pollution; lighting spilling off the project.

Attach Supporting Documentation for Change Order to this Form

Original Contract Amount:	$1,654,710.80
Net Amount of Previously Authorized Change Order:	~~$1,404.00~~ $14,949.00
Net Amount for this requested change order:	$58,577.04
Total Contract Amount with all change orders:	$1,728,236.84
Original Contract Performance Length:	240 Calendar Days
Net previous schedule change orders:	N/A Days
Net Schedule adjustment requested this change order:	N/A Days
Total performance days with change orders:	N/A Days

BACKCHECK COMPLETE 10/22/21 - FWK

Contractor: Darren Okruhlik Sign: Darren Okruhlik Date: 10/21/21

CEI HDR: Donald A. Peterson, P.E. Sign: Date: 10/21/2021

Hays County: Sign: Date:

(Hays County Employee-attach to agenda request form, CO approval contingent on Commissioners Court)

HAYS COUNTY, TEXAS

CHANGE ORDER NUMBER: 3

Project:	*RM 3237 ROUNDABOUT*
Roadway:	*RM 3237*
CSJ Number:	*0805-04-034*

1. CONTRACTOR: **COX COMMERCIAL CONSTRUCTION**
2. Change Order Work Limits: Sta. **485+00** to Sta. **491+00**
3. Type of Change(on federal-aid non-exempt projects): **MINOR** (Major/Minor)
4. Reasons: **3F** (3 Max. - In order of importance - Primary first)
5. Describe the work being revised:

THIS CHANGE ORDER IS NECESSARY IN ORDER TO COMPENSATE CONTRACTOR FOR REPLACING THE REQUIRED ILLUMINATION SYSTEM ON THE PLANS FOR AN ILLUMINATION SYSTEM REQUESTED BY HAYS COUNTY TO ADDRESS LIGHT POLLUTION; LIGHTING SPILLING OFF THE PROJECT.

6. Work to be performed in accordance with Items: **416, 610, 618, 620**
7. New or revised plan sheet(s) are attached and numbered: **YES**
8. New Special Provisions/Specifications to the contract are attached: ☐ Yes ☑ No
9. New Special Provisions to Item N/A No. N/A, Special Specification Item N/A are attached.

Each signatory hereby warrants that each has the authority to execute this Change Order (CO).

The contractor must sign the Change Order and, by doing so, agrees to waive any and all claims for additional compensation due to any and all other expenses: additional changes for time, overhead and profit; or loss of compensation as a result of this change.

THE CONTRACTOR Date _____

By _____

Typed/Printed Name _____

Typed/Printed Title _____

The following information must be provided

Time Ext. #: **0** Days added on this CO: **0**

Amount added by this change order: **$58,577.04**

RECOMMENDED FOR EXECUTION:

_____
Construction Engineering Inspector Date

_____
Transportation Director Date

Donald C Blount PE 10/22/21
General Engineering Consultant Date

N/A
County Commissioner Precinct 1 Date
☐ APPROVED ☐ REQUEST APPROVAL

N/A
County Commissioner Precinct 2 Date
☐ APPROVED ☐ REQUEST APPROVAL

County Commissioner Precinct 3 Date
☐ APPROVED ☐ REQUEST APPROVAL

N/A
County Commissioner Precinct 4 Date
☐ APPROVED ☐ REQUEST APPROVAL

County Judge Date
☐ APPROVED

HAYS COUNTY, TEXAS

CHANGE ORDER NUMBER: 3 *Project # RM 3237 ROUNDABOUT*

TABLE A: Force Account Work and Materials Placed into Stock

	LABOR	HOURLY RATE			HOURLY RATE

TABLE B: Contract Items:

				ORIGINAL + PREVIOUSLY REVISED		ADD or (DEDUCT)	NEW		
ITEM	DESCRIPTION	UNIT	UNIT PRICE	QUANTITY	ITEM COST	QUANTITY	QUANTITY	ITEM COST	OVERRUN/ UNDERRUN
416-6029	DRILL SHAFT (RDWY ILL POLE)(30 IN)	LF	$275.00	88.00	$24,200.00	8.00	96.00	$26,400.00	$2,200.00
610-6286	IN RD IL (TY SA) 50T-8(400W EQ) LED	EA	$3,000.00	11.00	$33,000.00	(11.00)	0.00	$0.00	($33,000.00)
610-6162	IN RD IL (TY SA) 30T-8(250W EQ) IED	EA	$4,545.19	-	$0.00	16.00	16.00	$72,723.04	$72,723.04
618-6023	CONDT (PVC) (SCH 40)(2")	LF	$20.00	1,559.00	$31,180.00	593.00	2,152.00	$43,040.00	$11,860.00
620-6007	ELEC CONDR (No. 8) BARE	LF	$2.00	1,629.00	$3,258.00	618.00	2,247.00	$4,494.00	$1,236.00
620-6008	ELEC CONDR (No. 8) INSULATED	LF	$3.00	3,118.00	$9,354.00	1,186.00	4,304.00	$12,912.00	$3,558.00
TOTALS					$100,992.00			$159,569.04	$58,577.04

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Discussion and possible action to authorize the County Judge to execute a Professional Services Agreement (Contract) between Hays County and Cobb Fendley & Associates, Inc. to provide utility coordination services for the low water crossing projects in Precinct 4.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
ACTION-ROADS	November 2, 2021	$130,000.00

LINE ITEM NUMBER

035-804-96-870.5623_700

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: YES **AUDITOR REVIEW:** MARISOL VILLARREAL-ALONZO

REQUESTED BY	SPONSOR	CO-SPONSOR
Jerry Borcherding, P.E., Transportation Director	SMITH	N/A

SUMMARY

The Precinct 4 Low Waters Crossing Improvements [25-870-034] project Sycamore Creek Drive at Sycamore Creek and Bear Creek Pass (CR 367) at Bear Creek is currently under design and requires utility coordination services. Cobb Fendley & Associates, Inc. has been pre-qualified by Hays County for the requested services and was selected by Commissioners Court action on September 21, 2021 to provide the requested services for the Precinct 4 Low Water Crossing Improvements project. Work Authorization #1 in the amount of $126,781.00 will authorize utility adjustment coordination with six (6) utility companies, including Subsurface Utility Engineering (SUE) work funded by the Road Bond Program.

The process to initially select an engineering consultant to negotiate a scope of work and fee proposal, with subsequent action by the Hays County Commissioners Court to approve the contract integrating the negotiated scope of work and fee proposal, follows the process set forth in the Hays County Purchasing Policy and Procedures Manual, revised May 30, 2017.

HAYS COUNTY
CONTRACT FOR ENGINEERING SERVICES

FIRM: **Cobb, Fendley & Associates, Inc.** **("Engineer")**
ADDRESS: **505 E. Huntland Drive, Suite 100, Austin, Texas 78752**
PROJECT: **Utility Coordination Services for Precinct 4 Low Water Crossing Projects – Sycamore Creek Drive at Sycamore Creek and Bear Creek Pass (CR 367) at Bear Creek ("Project")**

THE STATE OF TEXAS §
§
COUNTY OF HAYS §

THIS CONTRACT FOR ENGINEERING SERVICES ("Contract") is made and entered into, effective as the date of the last party's execution hereinbelow, by and between Hays County, Texas, a political subdivision of the State of Texas, whose offices are located at 111 E. San Antonio Street, Suite 300, San Marcos, Texas, 78666 (hereinafter referred to as "County"), and Engineer, and such Contract is for the purpose of contracting for professional engineering services.

RECITALS:

WHEREAS, V.T.C.A., Government Code §2254.002(2)(A)(vii) under Subchapter A entitled "Professional Services Procurement Act" provides for the procurement by counties of services of professional engineers; and

WHEREAS, County and Engineer desire to contract for such professional engineering services; and

WHEREAS, County and Engineer wish to document their agreement concerning the requirements and respective obligations of the parties;

NOW, THEREFORE, WITNESSETH:

That for and in consideration of the mutual promises contained herein and other good and valuable considerations, and the covenants and agreements hereinafter contained to be kept and performed by the respective parties hereto, it is agreed as follows:

ARTICLE 1
CONTRACT DOCUMENTS AND APPLICABLE PROJECT DOCUMENTS

A. Contract Documents. The Contract Documents consist of this Contract, any exhibits attached hereto (which exhibits are hereby incorporated into and made a part of this Contract), any fully executed Work Authorizations; any fully executed Supplemental Work Authorizations and all fully executed Contract Amendments (as defined herein in Article 14) which are subsequently issued. These form the entire contract, and all are as fully a part of this Contract as if attached to this Contract or repeated herein.

B. Project Documents. In addition to any other pertinent and necessary Project documents, the following documents shall be used in the development of the Project:

A. TxDOT 2011 Texas Manual of Uniform Traffic Control Devices for Streets and Highways, including latest revisions
B. Texas Department of Transportation's Standard Specifications for Construction of Highways, Streets, and Bridges, 2014 (English units)
C. National Environmental Policy Act (NEPA)
D. Texas Accessibility Standards (TAS) of the Architectural Barriers Act, Article 9102, Texas Civil Statutes, Effective April 4, 1994, including latest revisions
E. Americans with Disabilities Act (ADA) Regulations
F. U.S. Army Corps Regulations
G. International Building Code, current edition as updated
H. Hays County Design Criteria & Project Development Manual, latest edition
I. Hays County Multi-Corridor Transportation Plan Project Level Environmental Review and Compliance Protocol, latest edition
J. Hays County Protocol for Sustainable Roadsides, latest edition
K. TxDOT Bridge Design Manual - LRFD, latest edition
L. TxDOT Geotechnical Manual, latest edition

ARTICLE 2
NON-COLLUSION; DEBARMENT; AND FINANCIAL INTEREST PROHIBITED

A. Non-collusion. Engineer warrants that he/she/it has not employed or retained any company or persons, other than a bona fide employee working solely for Engineer, to solicit or secure this Contract, and that he/she/it has not paid or agreed to pay any company or engineer any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, County reserves and shall have the right to annul this Contract without liability or, in its discretion and at its sole election, to deduct from the contract price or compensation, or to otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

B. Debarment Certification. Engineer must sign the Debarment Certification enclosed herewith as **Exhibit A**.

C. Financial Interest Prohibited. Engineer covenants and represents that Engineer, his/her/its officers, employees, agents, consultants and subcontractors will have no financial interest, direct or indirect, in the purchase or sale of any product, materials or equipment that will be recommended or required for the construction of the Project.

ARTICLE 3
ENGINEERING SERVICES

Engineer shall perform Engineering Services as identified in **Exhibit B** entitled "Engineering Services."

County will prepare and issue Work Authorizations, in substantially the same form identified and attached hereto as **Exhibit C** and entitled "Work Authorization No. ____", to authorize the Engineer to perform one or more tasks of the Engineering Services. Each Work Authorization will include a description of the work to be performed, a description of the tasks and milestones, a work schedule for the tasks, definite review times by County and Engineer of all Engineering Services and a fee amount agreed upon by the County and Engineer. The amount payable for a Work Authorization shall be supported by the estimated cost of each work task as described in the Work Authorization. The Work Authorization will not waive the Engineer's responsibilities and obligations established in this Contract. The executed Work Authorizations shall become part of this Contract.

All work must be completed on or before the date specified in the Work Authorization. The Engineer shall promptly notify the County of any event which will affect completion of the Work Authorization, although such notification shall not relieve the Engineer from costs or liabilities resulting from delays in completion of the Work Authorization. Should the review times or Engineering Services take longer than shown on the Work Authorization, through no fault of Engineer, Engineer may submit a timely written request for additional time, which shall be subject to the approval of the County. Any changes in a Work Authorization shall be enacted by a written Supplemental Work Authorization before additional costs may be incurred. Any Supplemental Work Authorization must be executed by both parties within the period specified in the Work Authorization.

ARTICLE 4
CONTRACT TERM

A. Term. The Engineer is expected to complete the Engineering Services described herein in accordance with the above described Work Authorizations or any Supplemental Work Authorization related thereto. If Engineer does not perform the Engineering Services in accordance with each applicable Work Authorization or any Supplemental Work Authorization related thereto, then County shall have the right to terminate this Contract as set forth below in Article 20. So long as the County elects not to terminate this Contract, it shall continue from day to day until such time as the Engineering Services are completed in accordance with each applicable Work Authorization

or any Supplemental Work Authorization related thereto. Any Engineering Services performed or costs incurred after the date of termination shall not be eligible for reimbursement. Engineer shall notify County in writing as soon as possible if he/she/it determines, or reasonably anticipates, that the Engineering Services will not be completed in accordance with an applicable Work Authorization or any Supplemental Work Authorization related thereto.

B. Work Authorizations. Engineer acknowledges that each Work Authorization is of critical importance, and agrees to undertake all reasonably necessary efforts to expedite the performance of Engineering Services required herein so that construction of the Project will be commenced and completed as scheduled. In this regard, and subject to adjustments in a particular Work Authorization, as provided in Article 3 herein, Engineer shall proceed with sufficient qualified personnel and consultants necessary to fully and timely accomplish all Engineering Services required under this Contract in a professional manner.

C. Commencement of Engineering Services. After execution of this Contract, Engineer shall not proceed with Engineering Services until Engineer has been thoroughly briefed on the scope of the Project and has been notified in writing by the County to proceed, as provided in Article 8.

ARTICLE 5
COMPENSATION AND EXPENSES

County shall pay and Engineer agrees to accept up to the amount shown below as full compensation for the Engineering Services performed and to be performed under this Contract. The basis of compensation for the services of principals and employees engaged in the performance of the Engineering Services shall be based on the Rate Schedule set forth in the attached **Exhibit D**.

The maximum amount payable under this Contract, without modification, is **One hundred and thirty thousand and zero Dollars ($130,000.00)** (the "Compensation Cap"), provided that any amounts paid or payable shall be solely pursuant to a validly issued Work Authorization or any Supplemental Work Authorization related thereto. In no event may the aggregate amount of compensation authorized under Work Authorizations and Supplemental Work Authorizations exceed the Compensation Cap. The Compensation Cap shall be revised equitably only by written Contract Amendments executed by both parties in the event of a change the overall scope of the Engineering Services set forth in **Exhibit B**, as authorized by County.

The Compensation Cap is based upon all labor and non-labor costs estimated to be required in the performance of the Engineering Services provided for under this Contract. Should the actual costs of all labor and non-labor costs rendered under this Contract be less than the above stated Compensation Cap, then Engineer shall receive compensation for only actual fees and costs of the Engineering Services actually rendered and incurred, which may be less than the above stated Compensation Cap.

The Compensation Cap herein referenced may be adjusted for Additional Engineering Services requested and performed only if approved by a written Contract Amendment signed by both parties.

Engineer shall prepare and submit to County monthly progress reports in sufficient detail to support the progress of the Engineering Services and to support invoices requesting monthly payment. The format for such monthly progress reports and invoices must be in a format acceptable to County. Satisfactory progress of Engineering Services shall be an absolute condition of payment.

Engineer shall be reimbursed for actual non-labor and subcontract expenses incurred in the performance of the services under this Contract at the Engineer's invoice cost. Invoices requesting reimbursement for costs and expenditures related to the Project (reimbursables) must be accompanied by copies of the provider's invoice. The copies of the provider's invoice must evidence the actual costs billed to Engineer without mark-up.

ARTICLE 6
METHOD OF PAYMENT

Payments to Engineer shall be made while Engineering Services are in progress. Engineer shall prepare and submit to County's Road Bond Program Manager, not more frequently than once per month, a progress report as referenced in Article 5 above. Such progress report shall state the percentage of completion of Engineering Services accomplished for an applicable Work Authorization or any Supplemental Work Authorization related thereto during that billing period and to date. This submittal shall also include a progress assessment report in a form acceptable to the County Auditor.

Simultaneous with submission of such progress report, Engineer shall prepare and submit one (1) original of a certified invoice to the County Auditor in a form acceptable to the County Auditor. All invoices submitted to County must, at a minimum, be accompanied by an original complete packet of supporting documentation and time sheets detailing hours worked by staff persons with a description of the work performed by such persons. For Additional Engineering Services performed pursuant to this Contract, a separate invoice or itemization of the Additional Engineering Services must be presented with the same aforementioned requirements.

Payments shall be made by County based upon Engineering Services actually provided and performed. Upon timely receipt and approval of each statement, County shall make a good faith effort to pay the amount which is due and payable within thirty (30) days of the County Auditor's receipt. County reserves the right to reasonably withhold payment pending verification of satisfactory Engineering Services performed. Engineer has the responsibility to submit proof to County, adequate and sufficient in its determination, that tasks of an applicable Work Authorization or any Supplemental Work Authorization related thereto were completed.

The certified statements shall show the total amount earned to the date of submission and shall show the amount due and payable as of the date of the current statement. Final payment does not relieve Engineer of the responsibility of correcting any errors and/or omissions resulting from his/her/its negligence.

Upon submittal of the initial invoice, Engineer shall provide the County Auditor with an Internal Revenue Form W-9, Request for Taxpayer Identification Number and Certification that is complete in compliance with the Internal Revenue Code, its rules and regulations.

ARTICLE 7
PROMPT PAYMENT POLICY

In accordance with Chapter 2251, V.T.C.A., Texas Government Code, payment to Engineer will be made within thirty (30) days of the day on which the performance of services was complete, or within thirty (30) days of the day on which the County Auditor receives a correct invoice for services, whichever is later.

Engineer may charge a late fee (fee shall not be greater than that which is permitted by Texas law) for payments not made in accordance with this prompt payment policy; however, this policy does not apply in the event:

A. There is a bona fide dispute between County and Engineer concerning the supplies, materials, or equipment delivered or the services performed that causes the payment to be late; or

B. The terms of a federal contract, grant, regulation, or statute prevent County from making a timely payment with federal funds; or

C. There is a bona fide dispute between Engineer and a subcontractor/subconsultant or between a subcontractor/subconsultant and its supplier concerning supplies, materials, or equipment delivered or the Engineering Services performed which causes the payment to be late; or

D. The invoice is not mailed to the County Auditor in strict accordance with instructions, if any, on the purchase order, or this Contract or other such contractual agreement.

The County Auditor shall document to Engineer the issues related to disputed invoices within ten (10) calendar days of receipt of such invoice. Any non-disputed invoices shall be considered correct and payable per the terms of Chapter 2251, V.T.C.A., Texas Government Code.

ARTICLE 8
COMMENCEMENT OF ENGINEERING SERVICES

The Engineer shall not proceed with any task of the Engineering Services until Engineer has been thoroughly briefed on the scope of the Project and instructed, in writing by the County, to proceed with the applicable Engineering Services. The County shall not be responsible for work performed or costs incurred by Engineer related to any task for which a Work Authorization or a Supplemental Work Authorization related thereto has not been issued and signed by both parties. Engineer shall not be required to perform any work for which a Work Authorization or a Supplemental Work Authorization related thereto has not been issued and signed by both parties.

ARTICLE 9
PROJECT TEAM

County's Designated Representative for purposes of this Contract is as follows:

County's Road Bond Program Manager
Attn: Michael Weaver
HNTB Corporation
701 Brazos, Suite 450
Austin, Texas 78701

County shall have the right, from time to time, to change the County's Designated Representative by giving Engineer written notice thereof. With respect to any action, decision or determination which is to be taken or made by County under this Contract, the County's Designated Representative may take such action or make such decision or determination or shall notify Engineer in writing of an individual responsible for and capable of taking such action, decision or determination and shall forward any communications and documentation to such individual for response or action. Actions, decisions or determinations by the County's Designated Representative on behalf of County shall be done in his or her reasonable business judgment unless express standards or parameters therefor are included in this Contract, in which case, actions taken by the County's Designated Representative shall be in accordance with such express standards or parameters. Any consent, approval, decision or determination hereunder by the County's Designated Representative shall be binding on County; *provided, however,* the County's Designated Representative shall not have any right to modify, amend or terminate this Contract, an Executed Work Authorization, an executed Supplemental Work Authorization or executed Contract Amendment. County's Designated Representative shall not have any authority to execute a Contract Amendment, Work Authorization or any Supplemental Work Authorization unless otherwise granted such authority by the Hays County Commissioners Court.

Engineer's Designated Representative for purposes of this Contract is as follows:

Brad Carabajal, P.E.
Project Manager
Cobb, Fendley & Associates, Inc.
505 E. Huntland Drive, Suite 100
Austin, Texas 78752

Engineer shall have the right, from time to time, to change the Engineer's Designated Representative by giving County written notice thereof. With respect to any action, decision or determination which is to be taken or made by Engineer under this Contract, the Engineer's Designated Representative may take such action or make such decision or determination or shall notify County in writing of an individual responsible for and capable of taking such action, decision or determination and shall forward any communications and documentation to such individual for response or action. Actions, decisions or determinations by the Engineer's Designated Representative on behalf of Engineer shall be done in his or her reasonable business judgment unless express standards or parameters therefor are included in this Contract, in which

case, actions taken by the Engineer's Designated Representative shall be in accordance with such express standards or parameters. Any consent, approval, decision or determination hereunder by the Engineer's Designated Representative shall be binding on Engineer. Engineer's Designated Representative shall have the right to modify, amend and execute Work Authorizations, Supplemental Work Authorizations and Contract Amendments on behalf of Engineer.

ARTICLE 10
PROGRESS EVALUATION

Engineer shall, from time to time during the progress of the Engineering Services, confer with County at County's election. Engineer shall prepare and present such information as may be pertinent and necessary, or as may be reasonably requested by County, in order for County to evaluate features of the Engineering Services. At the request of County or Engineer, conferences shall be provided at Engineer's office, the offices of County, or at other locations designated by County. When requested by County, such conferences shall also include evaluation of the Engineering Services. County may, from time to time, require Engineer to appear and provide information to the Hays County Commissioners Court.

Should County determine that the progress in Engineering Services does not satisfy an applicable Work Authorization or any Supplemental Work Authorization related thereto, then County shall review same with Engineer to determine corrective action required.

Engineer shall promptly advise County in writing of events which have or may have a significant impact upon the progress of the Engineering Services, including but not limited to the following:

A. Problems, delays, adverse conditions which may materially affect the ability to meet the objectives of an applicable Work Authorization or any Supplemental Work Authorization related thereto, or preclude the attainment of Project Engineering Services units by established time periods; and such disclosure shall be accompanied by statement of actions taken or contemplated, and County assistance needed to resolve the situation, if any; and

B. Favorable developments or events which enable meeting goals sooner than anticipated in relation to an applicable Work Authorization's or any Supplemental Work Authorization related thereto.

ARTICLE 11
SUSPENSION

Should County desire to suspend the Engineering Services, but not to terminate this Contract, then such suspension may be effected by County giving Engineer thirty (30) calendar days' verbal notification followed by written confirmation to that effect. Such thirty-day notice may be waived in writing by agreement and signature of both parties. The Engineering Services may be reinstated and resumed in full force and effect within sixty (60) days of receipt of written notice from County to resume the Engineering Services. Such sixty-day (60) notice may be waived in writing by agreement and signature of both parties. If this Contract is suspended for more than thirty (30) days, Engineer shall have the option of terminating this Contract and, in the event, Engineer shall be compensated for all Engineering Services performed and reimbursable expenses incurred, provided such Engineering Services and reimbursable expenses have been previously authorized and approved by County, to the effective date of suspension.

If County suspends the Engineering Services, the contract period as determined in Article 4, and the Work Authorization or any Supplemental Work Authorization related thereto, shall be extended for a time period equal to the suspension period.

County assumes no liability for Engineering Services performed or costs incurred prior to the date authorized by County for Engineer to begin Engineering Services, and/or during periods when Engineering Services is suspended, and/or subsequent to the completion date.

ARTICLE 12
ADDITIONAL ENGINEERING SERVICES

If Engineer forms a reasonable opinion that any work he/she/it has been directed to perform is beyond the overall scope of this Contract, as set forth in **Exhibit B,** and as such constitutes extra work ("Additional Engineering Services"), he/she/it shall promptly notify County in writing. In the event County finds that such work does constitute Additional Engineering Services, County shall so advise Engineer and a written Contract Amendment will be executed between the parties as provided in Article 14. Any increase to the Compensation Cap due to Additional Engineering Services must be set forth in such Contract Amendment. Engineer shall not perform any proposed Additional Engineering Services nor incur any additional costs prior to the execution, by both parties, of a written Contract Amendment. Following the execution of a Contract Amendment that provides for Additional Engineering Services, a written Work Authorization, which sets forth the Additional Engineering Services to be performed, must be executed by the parties. County shall not be responsible for actions by Engineer nor for any costs incurred by Engineer relating to Additional Engineering Services not directly associated with the performance of the Engineering Services authorized in this Contract, by a fully executed Work Authorization or a fully executed Contract Amendment thereto.

ARTICLE 13
CHANGES IN COMPLETED ENGINEERING SERVICES

If County deems it necessary to request changes to previously satisfactorily completed

Engineering Services or parts thereof which involve changes to the original Engineering Services or character of Engineering Services under this Contract, then Engineer shall make such revisions as requested and as directed by County. Such revisions shall be considered as Additional Engineering Services and paid for as specified under Article 12.

Engineer shall make revisions to Engineering Services authorized hereunder as are necessary to correct errors appearing therein, when required to do so by County. No additional compensation shall be due for such Engineering Services.

ARTICLE 14
CONTRACT AMENDMENTS

The terms set out in this Contract may be modified by a written fully executed Contract Amendment. Changes and modifications to a fully executed Work Authorization shall be made in the form of a Supplemental Work Authorization. To the extent that such changes or modifications to a Work Authorization do not also require modifications to the terms of this Contract (i.e. changes to the overall scope of Engineering Services set forth in **Exhibit B**, modification of the Compensation Cap, etc.) a Contract Amendment will not be required.

ARTICLE 15
USE OF DOCUMENTS

All documents, including but not limited to drawings, specifications and data or programs stored electronically, (hereinafter referred to as "Engineering Work Products") prepared by Engineer and its subcontractors/subconsultants are related exclusively to the services described in this Contract and are intended to be used with respect to this Project. However, it is expressly understood and agreed by and between the parties hereto that all of Engineer's designs under this Contract (including but not limited to tracings, drawings, estimates, specifications, investigations, studies and other documents, completed or partially completed), shall be the property of County to be thereafter used in any lawful manner as County elects. Any such subsequent use made of documents by County shall be at County's sole risk and without liability to Engineer.

By execution of this Contract and in confirmation of the fee for services to be paid under this Contract, Engineer hereby conveys, transfers and assigns to County all rights under the Federal Copyright Act of 1976 (or any successor copyright statute), as amended, all common law copyrights and all other intellectual property rights acknowledged by law in the Project Designs and work product developed under this Contract. Copies may be retained by Engineer. Engineer shall be liable to County for any loss or damage to any such documents while they are in the possession of or while being worked upon by Engineer or anyone connected with Engineer, including agents, employees, Engineers or subcontractors/subconsultants. All documents so lost or damaged shall be replaced or restored by Engineer without cost to County.

Upon execution of this Contract, Engineer grants to County permission to reproduce Engineer's work and documents for purposes of constructing, using and maintaining the Project, provided that County shall comply with its obligations, including prompt payment of all sums when due, under this Contract. Engineer shall obtain similar permission from Engineer's

subcontractors/subconsultants consistent with this Contract. If and upon the date Engineer is adjudged in default of this Contract, County is permitted to authorize other similarly credentialed design professionals to reproduce and, where permitted by law, to make changes, corrections or additions to the work and documents for the purposes of completing, using and maintaining the Project.

County shall not assign, delegate, sublicense, pledge or otherwise transfer any permission granted herein to another party without the prior written consent of Engineer. However, County shall be permitted to authorize the contractor, subcontractors and material or equipment suppliers to reproduce applicable portions of the Engineering Work Products appropriate to and for use in the execution of the Work. Submission or distribution of Engineering Work Products to meet official regulatory requirements or for similar purposes in connection with the Project is permitted. Any unauthorized use of the Engineering Work Products shall be at County's sole risk and without liability to Engineer and its Engineers.

Prior to Engineer providing to County any Engineering Work Products in electronic form or County providing to Engineer any electronic data for incorporation into the Engineering Work Products, County and Engineer shall by separate written contract set forth the specific conditions governing the format of such Engineering Work Products or electronic data, including any special limitations not otherwise provided in this Contract. Any electronic files are provided by Engineer for the convenience of County, and use of them is at County's sole risk. In the case of any defects in electronic files or any discrepancies between them and any hardcopy of the same documents prepared by Engineer, the hardcopy shall prevail. Only printed copies of documents conveyed by Engineer shall be relied upon.

Engineer shall have no liability for changes made to the drawings by other engineers subsequent to the completion of the Project. Any such change shall be sealed by the engineer making that change and shall be appropriately marked to reflect what was changed or modified.

ARTICLE 16
PERSONNEL, EQUIPMENT AND MATERIAL

Engineer shall furnish and maintain, at its own expense, quarters for the performance of all Engineering Services, and adequate and sufficient personnel and equipment to perform the Engineering Services as required. All employees of Engineer shall have such knowledge and experience as will enable them to perform the duties assigned to them. Any employee of Engineer who, in the reasonable opinion of County, is incompetent or whose conduct becomes detrimental to the Engineering Services shall immediately be removed from association with the Project when so instructed by County. Engineer certifies that it presently has adequate qualified personnel in its employment for performance of the Engineering Services required under this Contract, or will obtain such personnel from sources other than County. Engineer may not change the Project Manager without prior written consent of County.

ARTICLE 17
SUBCONTRACTING

Engineer shall not assign, subcontract or transfer any portion of the Engineering Services under this Contract without prior written approval from County. All subcontracts shall include the provisions required in this Contract. No subcontract shall relieve Engineer of any responsibilities under this Contract.

ARTICLE 18
REVIEW OF ENGINEERING SERVICES

Engineer's Engineering Services will be reviewed by County under its applicable technical requirements and procedures.

A. Completion. Reports, plans, specifications, and supporting documents shall be submitted by Engineer on or before the dates specified in the applicable Work Authorization or Supplemental Work Authorization related thereto. Upon receipt of same, the submission shall be checked for completion. "Completion" or “Complete” shall be defined as all of the required items, as set out in the applicable Work Authorization, have been included in compliance with the requirements of this Contract. The completeness of any Engineering Services submitted to County shall be determined by County within thirty (30) days of such submittal and County shall notify Engineer in writing within such thirty (30) day period if such Engineering Services have been found to be incomplete. If the submission is Complete, County shall notify Engineer and County’s technical review process will begin.

If the submission is not Complete, County shall notify Engineer, who shall perform such professional services as are required to complete the Engineering Services and resubmit it to County. This process shall be repeated until a submission is Complete.

B. Acceptance. County shall review the completed Engineering Services for compliance with this Contract. If necessary, the completed Engineering Services shall be returned to Engineer, who shall perform any required Engineering Services and resubmit it to County. This process shall be repeated until the Engineering Services are Accepted. "Acceptance" or “Accepted” shall mean that in the County’s reasonable opinion, substantial compliance with the requirements of this Contract has been achieved.

C. Final Approval. After Acceptance, Engineer shall perform any required modifications, changes, alterations, corrections, redesigns, and additional work necessary to receive Final Approval by the County. "Final Approval" in this sense shall mean formal recognition that the Engineering Services have been fully carried out.

D. Errors and Omissions. After Final Approval, Engineer shall, without additional compensation, perform any work required as a result of Engineer's development of the work which is found to be in error or omission due to Engineer’s negligence. However, any work required or

occasioned for the convenience of County after Final Approval shall be paid for as Additional Engineering Services.

E. Disputes Over Classifications. In the event of any dispute over the classification of Engineer's Engineering Services as Complete, Accepted, or having attained Final Approved under this Contract, the decision of the County shall be final and binding on Engineer, subject to any civil remedy or determination otherwise available to the parties and deemed appropriate by the parties.

F. County's Reliance on Engineer. ENGINEER'S DUTIES AS SET FORTH HEREIN SHALL AT NO TIME BE IN ANY WAY DIMINISHED BY REASON OF ANY REVIEW, EVALUATION OR APPROVAL BY THE COUNTY NOR SHALL THE ENGINEER BE RELEASED FROM ANY LIABILITY BY REASON OF SUCH REVIEW, EVALUATION OR APPROVAL BY THE COUNTY, IT BEING UNDERSTOOD THAT THE COUNTY AT ALL TIMES IS ULTIMATELY RELYING UPON THE ENGINEER'S SKILL, ABILITY AND KNOWLEDGE IN PERFORMING THE ENGINEERING SERVICES REQUIRED HEREUNDER.

ARTICLE 19
VIOLATION OF CONTRACT TERMS/BREACH OF CONTRACT

Violation of contract terms or breach of contract by Engineer shall be grounds for termination of this Contract, and any increased costs arising from Engineer's default, breach of contract, or violation of contract terms shall be paid by Engineer.

ARTICLE 20
TERMINATION

This Contract may be terminated as set forth below.

A. By mutual agreement and consent, in writing, of both parties.

B. By County, by notice in writing to Engineer, as a consequence of failure by Engineer to perform the Engineering Services set forth herein in a satisfactory manner.

C. By either party, upon the failure of the other party to fulfill its obligations as set forth herein.

D. By County, for reasons of its own and not subject to the mutual consent of Engineer, upon not less than thirty (30) days' written notice to Engineer.

E. By satisfactory completion of all Engineering Services and obligations described herein.

Should County terminate this Contract as herein provided, no fees other than fees due and payable at the time of termination plus reimbursable expenses incurred shall thereafter be paid to Engineer. In determining the value of the Engineering Services performed by Engineer prior to termination, County shall be the sole judge. Compensation for Engineering Services at termination will be based on a percentage of the Engineering Services completed at that time. Should County terminate this Contract under Subsection (D) immediately above, then the amount

charged during the thirty-day notice period shall not exceed the amount charged during the preceding thirty (30) days.

If Engineer defaults in the performance of this Contract or if County terminates this Contract for fault on the part of Engineer, then County shall give consideration to the actual costs incurred by Engineer in performing the Engineering Services to the date of default, the amount of Engineering Services required which was satisfactorily completed to date of default, the value of the Engineering Services which are usable to County, the cost to County of employing another firm to complete the Engineering Services required and the time required to do so, and other factors which affect the value to County of the Engineering Services performed at the time of default.

The termination of this Contract and payment of an amount in settlement as prescribed above shall extinguish all rights, duties, and obligations of County under this Contract. If the termination of this Contract is due to the failure of Engineer to fulfill his/her/its contractual obligations, then County may take over the Project and prosecute the Engineering Services to completion. In such case, Engineer shall be liable to County for any additional and reasonable costs incurred by County.

Engineer shall be responsible for the settlement of all contractual and administrative issues arising out of any procurements made by Engineer in support of the Engineering Services under this Contract.

ARTICLE 21
COMPLIANCE WITH LAWS

A. Compliance. Engineer shall comply with all applicable federal, state and local laws, statutes, codes, ordinances, rules and regulations, and the orders and decrees of any court, or administrative bodies or tribunals in any manner affecting the performance of this Contract, including without limitation, minimum/maximum salary and wage statutes and regulations, and licensing laws and regulations. Engineer shall furnish County with satisfactory proof of his/her/its compliance.

Engineer shall further obtain all permits and licenses required in the performance of the Engineering Services contracted for herein.

B. Taxes. Engineer will pay all taxes, if any, required by law arising by virtue of the Engineering Services performed hereunder. County is qualified for exemption pursuant to the provisions of Section 151.309 of the Texas Limited Sales, Excise, and Use Tax Act.

ARTICLE 22
INDEMNIFICATION

ENGINEER AGREES, TO THE FULLEST EXTENT PERMITTED BY LAW, TO INDEMNIFY AND HOLD THE COUNTY HARMLESS FROM AND AGAINST ANY AND ALL LIABILITIES, LOSSES, PENALTIES, JUDGMENTS, CLAIMS, LAWSUITS, DAMAGES, COSTS AND EXPENSES, INCLUDING, BUT NOT LIMITED

TO, ATTORNEYS' FEES, ("LOSSES") TO THE EXTENT SUCH LOSSES ARE CAUSED BY OR RESULTS FROM A NEGLIGENT ACT OR OMISSION, NEGLIGENCE, OR INTENTIONAL TORT COMMITTED BY ENGINEER, ENGINEER'S EMPLOYEES, AGENTS, OR ANY OTHER PERSON OR ENTITY UNDER CONTRACT WITH ENGINEER INCLUDING, WITHOUT LIMITATION, ENGINEER'S SUBCONSULTANTS, OR ANY OTHER ENTITY OVER WHICH ENGINEER EXERCISES CONTROL.

ENGINEER FURTHER AGREES, TO THE FULLEST EXTENT PERMITTED BY LAW, TO INDEMNIFY AND HOLD THE COUNTY HARMLESS FROM ANY AND ALL LIABILITIES, LOSSES, PENALTIES, JUDGMENTS, CLAIMS, LAWSUITS, DAMAGES, COSTS AND EXPENSES, INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES, ("LOSSES") TO THE EXTENT SUCH LOSSES ARE CAUSED BY OR RESULTS FROM ENGINEER'S FAILURE TO PAY ENGINEER'S EMPLOYEES, SUBCONTRACTORS, SUBCONSULTANTS, OR SUPPLIERS, IN CONNECTION WITH ANY OF THE WORK PERFORMED OR TO BE PERFORMED UNDER THIS CONTRACT BY ENGINEER.

ENGINEER FURTHER AGREES TO INDEMNIFY AND HOLD THE COUNTY HARMLESS FROM ANY AND ALL LIABILITIES, LOSSES, PENALTIES, CLAIMS, LAWSUITS, DAMAGES, COSTS AND EXPENSES, INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES, ("LOSSES") TO THE EXTENT SUCH LOSSES ARE CAUSED BY OR RESULTS FROM THE INFRINGEMENT OF ANY INTELLECTUAL PROPERTY ARISING OUT OF THE USE OF ANY PLANS, DESIGN, DRAWINGS, OR SPECIFICATIONS FURNISHED BY ENGINEER IN THE PERFORMANCE OF THIS CONTRACT.

THE LIMITS OF INSURANCE REQUIRED IN THIS CONTRACT AND/OR THE CONTRACT DOCUMENTS SHALL NOT LIMIT ENGINEER'S OBLIGATIONS UNDER THIS SECTION. THE TERMS AND CONDITIONS CONTAINED IN THIS SECTION SHALL SURVIVE THE TERMINATION OF THE CONTRACT AND/OR CONTRACT DOCUMENTS OR THE SUSPENSION OF THE WORK HEREUNDER. TO THE EXTENT THAT ANY LIABILITIES, PENALTIES, DEMANDS, CLAIMS, LAWSUITS, LOSSES, DAMAGES, COSTS AND EXPENSES ARE CAUSED IN PART BY THE ACTS OF THE COUNTY OR THIRD PARTIES FOR WHOM ENGINEER IS NOT LEGALLY LIABLE, ENGINEER'S OBLIGATIONS SHALL BE IN PROPORTION TO ENGINEER'S FAULT. THE OBLIGATIONS HEREIN SHALL ALSO EXTEND TO ANY ACTIONS BY THE COUNTY TO ENFORCE THIS INDEMNITY OBLIGATION.

IN THE EVENT THAT CONTRACTORS INITIATE LITIGATION AGAINST THE COUNTY IN WHICH THE CONTRACTOR ALLEGES DAMAGES AS A RESULT OF ANY NEGLIGENT ACTS, ERRORS OR OMISSIONS OF ENGINEER, ITS EMPLOYEES, AGENTS, SUBCONTRACTORS, SUBCONSULTANTS, OR SUPPLIERS, OR OTHER ENTITIES OVER WHICH ENGINEER EXERCISES CONTROL, INCLUDING, BUT NOT LIMITED TO, DEFECTS, ERRORS, OR OMISSIONS, THEN THE COUNTY SHALL HAVE THE RIGHT TO JOIN ENGINEER IN ANY SUCH PROCEEDINGS AT THE COUNTY'S COST. ENGINEER SHALL ALSO HOLD THE COUNTY HARMLESS AND INDEMNIFY THE COUNTY TO THE EXTENT THAT ENGINEER, ANY OF ITS EMPLOYEES, AGENTS, SUBCONTRACTORS, SUBCONSULTANTS, OR SUPPLIERS, OR OTHER ENTITIES OVER WHICH ENGINEER EXERCISES CONTROL, CAUSED SUCH DAMAGES TO CONTRACTOR, INCLUDING ANY AND ALL COSTS AND ATTORNEYS' FEES INCURRED BY THE COUNTY IN CONNECTION WITH THE DEFENSE OF ANY CLAIMS WHERE ENGINEER, ITS EMPLOYEES, AGENTS, SUBCONTRACTORS, SUBCONSULTANTS, OR SUPPLIERS, OR OTHER ENTITIES OVER WHICH ENGINEER EXERCISES CONTROL, ARE ADJUDICATED AT FAULT.

ARTICLE 23
ENGINEER'S RESPONSIBILITIES

Engineer shall be responsible for the accuracy of his/her/its Engineering Services and shall promptly make necessary revisions or corrections to its work product resulting from errors, omissions, or negligent acts, and same shall be done without compensation. County shall determine Engineer's responsibilities for all questions arising from design errors and/or omissions, subject to the dispute resolution provisions of Article 33. Engineer shall not be relieved of responsibility for subsequent correction of any such errors or omissions in its work product, or for clarification of any ambiguities until after the construction phase of the Project has been completed.

ARTICLE 24
ENGINEER'S SEAL

The responsible engineer shall sign, seal and date all appropriate engineering submissions to County in accordance with the Texas Engineering Practice Act and the rules of the State Board of Registration for Professional Engineers.

ARTICLE 25
INSURANCE

Engineer must comply with the following insurance requirements at all times during this Contract:

A. Coverage Limits. Engineer, at Engineer's sole cost, shall purchase and maintain during the entire term while this Contract is in effect the following insurance:

1. Worker's Compensation in accordance with statutory requirements.
2. Commercial General Liability Insurance with a combined minimum Bodily Injury and Property Damage limits of $1,000,000.00 per occurrence and $2,000,000.00 in the aggregate.
3. Automobile Liability Insurance for all owned, non-owned, and hired vehicles with combined minimum limits for Bodily Injury and Property Damage limits of $500,000.00 per occurrence and $1,000,000.00 in the aggregate.
4. Professional Liability Errors and Omissions Insurance in the amount of $2,000,000.00 per claim.

B. Additional Insureds; Waiver of Subrogation. County, its directors, officers and employees shall be added as additional insureds under policies listed under (2) and (3) above, and on those policies where County, its directors, officers and employees are additional insureds, such insurance shall be primary and any insurance maintained by County shall be excess and not contribute with it. Such policies shall also include waivers of subrogation in favor of County.

C. Premiums and Deductible. Engineer shall be responsible for payment of premiums for all of the insurance coverages required under this section. Engineer further agrees

that for each claim, suit or action made against insurance provided hereunder, with respect to all matters for which the Engineer is responsible hereunder, Engineer shall be solely responsible for all deductibles and self-insured retentions. Any deductibles or self-insured retentions over $50,000 in the Engineer's insurance must be declared and approved in writing by County in advance.

D. Commencement of Work. Engineer shall not commence any field work under this Contract until he/she/it has obtained all required insurance and such insurance has been approved by County. As further set out below, Engineer shall not allow any subcontractor/subconsultant(s) to commence work to be performed in connection with this Contract until all required insurance has been obtained and approved and such approval shall not be unreasonably withheld. Approval of the insurance by County shall not relieve or decrease the liability of Engineer hereunder.

E. Insurance Company Rating. The required insurance must be written by a company approved to do business in the State or Texas with a financial standing of at least an A-rating, as reflected in Best's insurance ratings or by a similar rating system recognized within the insurance industry at the time the policy is issued.

F. Certification of Coverage. Engineer shall furnish County with a certification of coverage issued by the insurer. Engineer shall not cause any insurance to be canceled nor permit any insurance to lapse. **In addition to any other notification requires set forth hereunder, Engineer shall also notify County, within twenty-four (24) hours of receipt, of any notices of expiration, cancellation, non-renewal, or material change in coverage it receives from its insurer.**

G. No Arbitration. It is the intention of the County and agreed to and hereby acknowledged by the Engineer, that no provision of this Contract shall be construed to require the County to submit to mandatory arbitration in the settlement of any claim, cause of action or dispute, except as specifically required in direct connection with an insurance claim or threat of claim under an insurance policy required hereunder or as may be required by law or a court of law with jurisdiction over the provisions of this Contract.

H. Subcontractor/Subconsultant's Insurance. Without limiting any of the other obligations or liabilities of Engineer, Engineer shall require each subcontractor/subconsultant performing work under this Contract (to the extent a subcontractor/subconsultant is allowed by County) to maintain during the term of this Contract, at the subcontractor/subconsultant's own expense, the same stipulated minimum insurance required in this Article above, including the required provisions and additional policy conditions as shown below in this Article.

Engineer shall obtain and monitor the certificates of insurance from each subcontractor/subconsultant in order to assure compliance with the insurance requirements. Engineer must retain the certificates of insurance for the duration of this Contract, and shall have the responsibility of enforcing these insurance requirements among its subcontractor/subconsultants. County shall be entitled, upon request and without expense, to receive copies of these certificates of insurance.

I. Insurance Policy Endorsements. Each insurance policy shall include the following conditions by endorsement to the policy:

1. County shall be notified thirty (30) days prior to the expiration, cancellation, non-renewal or any material change in coverage, and such notice thereof shall be given to County by certified mail to:

   Hays County Auditor
   c/o: Vickie G. Dorsett
   712 S. Stagecoach Trail, Suite 1071
   San Marcos, Texas 78666

   With copy to: HNTB Corporation
   Attn: Michael Weaver
   701 Brazos, Suite 450
   Austin, Texas 78701

2. The policy clause "Other Insurance" shall not apply to any insurance coverage currently held by County, to any such future coverage, or to County's Self-Insured Retentions of whatever nature.

J. Cost of Insurance. The cost of all insurance required herein to be secured and maintained by Engineer shall be borne solely by Engineer, with certificates of insurance evidencing such minimum coverage in force to be filed with County. Such Certificates of Insurance are evidenced as **Exhibit F** herein entitled "Certificates of Insurance."

ARTICLE 26
COPYRIGHTS

County shall have the royalty-free, nonexclusive and irrevocable right to reproduce, publish or otherwise use, and to authorize others to use, any reports developed by Engineer for governmental purposes.

ARTICLE 27
SUCCESSORS AND ASSIGNS

This Contract shall be binding upon and inure to the benefit of the parties hereto, their successors, lawful assigns, and legal representatives. Engineer may not assign, sublet or transfer any interest in this Contract, in whole or in part, by operation of law or otherwise, without obtaining the prior written consent of County.

ARTICLE 28
SEVERABILITY

In the event any one or more of the provisions contained in this Contract shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such invalidity, illegality or unenforceability shall not affect any other provision thereof and this Contract shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

ARTICLE 29
PRIOR AGREEMENTS SUPERSEDED

This Contract constitutes the sole agreement of the parties hereto, and supersedes any prior understandings or written or oral contracts between the parties respecting the subject matter defined herein. This Contract may only be amended or supplemented by mutual agreement of the parties hereto in writing.

ARTICLE 30
ENGINEER'S ACCOUNTING RECORDS

Engineer agrees to maintain, for a period of three (3) years after final payment under this Contract, detailed records identifying each individual performing the Engineering Services, the date or dates the services were performed, the applicable hourly rates, the total amount billed for each individual and the total amount billed for all persons, records of reimbursable costs and expenses of other providers and provide such other details as may be requested by the County Auditor for verification purposes. Engineer agrees that County or its duly authorized representatives shall, until the expiration of three (3) years after final payment under this Contract, have access to and the right to examine and photocopy any and all books, documents, papers and records of Engineer which are directly pertinent to the services to be performed under this Contract for the purposes of making audits, examinations, excerpts, and transcriptions. Engineer further agrees that County shall have access during normal working hours to all necessary Engineer facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. County shall give Engineer reasonable advance notice of intended audits.

ARTICLE 31
NOTICES

All notices to either party by the other required under this Contract shall be personally delivered or mailed to such party at the following respective addresses:

County: Hays County Judge
111 E. San Antonio Street, Suite 300
San Marcos, Texas 78666

With copy to:	HNTB Corporation 701 Brazos, Suite 450 Austin, Texas 78701 Attn: Michael Weaver
and to:	Office of General Counsel Hays County 111 E. San Antonio Street, Room 202 San Marcos, Texas 78666
Engineer:	Sandra Khoury, P.E. Senior Vice President Cobb, Fendley & Associates, Inc. 505 E. Huntland Drive, Suite 100 Austin, Texas 78752

ARTICLE 32
GENERAL PROVISIONS

A. Time is of the Essence. Subject to Article 3 hereof, Engineer understands and agrees that time is of the essence and that any failure of Engineer to complete the Engineering Services for each phase of this Contract within the agreed work schedule set out in the applicable Work Authorization may constitute a material breach of this Contract. Engineer shall be fully responsible for his/her/its delays or for failures to use his/her/its reasonable efforts in accordance with the terms of this Contract and the Engineer's standard of performance as defined herein. Where damage is caused to County due to Engineer's negligent failure to perform County may accordingly withhold, to the extent of such damage, Engineer's payments hereunder without waiver of any of County's additional legal rights or remedies.

B. Force Majeure. Neither County nor Engineer shall be deemed in violation of this Contract if prevented from performing any of their obligations hereunder by reasons for which they are not responsible or circumstances beyond their control. However, notice of such impediment or delay in performance must be timely given, and all reasonable efforts undertaken to mitigate its effects.

C. Enforcement and Venue. This Contract shall be enforceable in San Marcos, Hays County, Texas, and if legal action is necessary by either party with respect to the enforcement of any or all of the terms or conditions herein, exclusive venue for same shall lie in Hays County, Texas. This Contract shall be governed by and construed in accordance with the laws and court decisions of the State of Texas excluding, however, its choice of law rules.

D. Standard of Performance. The standard of care for all professional engineering, consulting and related services performed or furnished by Engineer and its employees under this Contract will be the care and skill ordinarily used by members of Engineer's profession practicing

under the same or similar circumstances at the same time and in the same locality.

E. Opinion of Probable Cost. Any opinions of probable Project cost or probable construction cost provided by Engineer are made on the basis of information available to Engineer and on the basis of Engineer's experience and qualifications and represents its judgment as an experienced and qualified professional engineer. However, since Engineer has no control over the cost of labor, materials, equipment or services furnished by others, or over the contractor(s') methods of determining prices, or over competitive bidding or market conditions, Engineer does not guarantee that proposals, bids or actual Project or construction cost will not vary from opinions of probable cost Engineer prepares.

F. Opinions and Determinations. Where the terms of this Contract provide for action to be based upon opinion, judgment, approval, review, or determination of either party hereto, such terms are not intended to be and shall never be construed as permitting such opinion, judgment, approval, review, or determination to be arbitrary, capricious, or unreasonable.

G. Reports of Accidents. Within 24 hours after Engineer becomes aware of the occurrence of any accident or other event which results in, or might result in, injury to the person or property of any third person (other than an employee of the Engineer), whether or not it results from or involves any action or failure to act by the Engineer or any employee or agent of the Engineer and which arises in any manner from the performance of this Contract, the Engineer shall send a written report of such accident or other event to the County, setting forth a full and concise statement of the facts pertaining thereto. The Engineer shall also immediately send the County a copy of any summons, subpoena, notice, or other documents served upon the Engineer, its agents, employees, or representatives, or received by it or them, in connection with any matter before any court arising in any manner from the Engineer's performance of work under this Contract.

H. Gender, Number and Headings. Words of any gender used in this Contract shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires. The headings and section numbers are for convenience only and shall not be considered in interpreting or construing this Contract.

I. Construction. Each party hereto acknowledges that it and its counsel have reviewed this Contract and that the normal rules of construction are not applicable and there will be no presumption that any ambiguities will be resolved against the drafting party in the interpretation of this Contract.

J. Independent Contractor Relationship. Both parties hereto, in the performance of this Contract, shall act in an individual capacity and not as agents, employees, partners, joint ventures or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever.

K. No Waiver of Immunities. Nothing in this Contract shall be deemed to waive, modify or amend any legal defense available at law or in equity to County, its past or present officers, employees, or agents or employees, nor to create any legal rights or claim on behalf of

any third party. County does not waive, modify, or alter to any extent whatsoever the availability of the defense of governmental immunity under the laws of the State of Texas and of the United States.

L. Texas Public Information Act. To the extent, if any, that any provision in this Contract is in conflict with Tex. Gov't Code 552.001 et seq., as amended (the "Public Information Act"), the same shall be of no force or effect. Furthermore, it is expressly understood and agreed that County, its officers and employees may request advice, decisions and opinions of the Attorney General of the State of Texas in regard to the application of the Public Information Act to any items or data furnished to County as to whether or not the same are available to the public. It is further understood that County's officers and employees shall have the right to rely on the advice, decisions and opinions of the Attorney General, and that County, its officers and employees shall have no liability or obligation to any party hereto for the disclosure to the public, or to any person or persons, of any items or data furnished to County by a party hereto, in reliance of any advice, decision or opinion of the Attorney General of the State of Texas.

M. Governing Terms and Conditions. If there is an irreconcilable conflict between the terms and conditions set forth in this Contract or any Contract Amendment and the terms and conditions set forth in any Exhibit, Appendix, Work Authorization or Supplemental Work Authorization to this Contract, the terms and conditions set forth in this Contract or any Contract Amendment shall control over the terms and conditions set forth in any Exhibit, Appendix, Work Authorization or Supplemental Work Authorization to this Contract.

N. Meaning of Day. For purposes of this Contract, all references to a "day" or "days" shall mean a calendar day or calendar days.

O. Appropriation of Funds by County. County believes it has sufficient funds currently available and authorized for expenditure to finance the costs of this Contract. Engineer understands and agrees that County's payment of amounts under this Contract is contingent on the County receiving appropriations or other expenditure authority sufficient to allow the County, in the exercise of reasonable administrative discretion, to continue to make payments under this Contract. It is further understood and agreed by Engineer that County shall have the right to terminate this Contract at the end of any County fiscal year if the governing body of County does not appropriate sufficient funds as determined by County's budget for the fiscal year in question. County may effect such termination by giving written notice of termination to Engineer.

ARTICLE 33
DISPUTE RESOLUTION

Except as otherwise specifically set forth herein, County and Engineer shall work together in good faith to resolve any controversy, dispute or claim between them which arises out of or relates to this Contract, whether stated in tort, contract, statute, claim for benefits, bad faith, professional liability or otherwise ("Claim"). If the parties are unable to resolve the Claim within thirty (30) days following the date in which one party sent written notice of the Claim to the other party, and if a party wishes to pursue the Claim, such Claim shall be addressed through non-binding mediation. A single mediator engaged in the practice of law, who is knowledgeable about subject matter of this Contract, shall be selected by agreement of the parties and serve as the mediator.

Any mediation under this Contract shall be conducted in Hays County, Texas. The mediator's fees shall be borne equally between the parties. Such non-binding mediation is a condition precedent to seeking redress in a court of competent jurisdiction, but this provision shall not preclude either party from filing a lawsuit in a court of competent jurisdiction prior to completing a mediation if necessary to preserve the statute of limitations, in which case such lawsuit shall be stayed pending completion of the mediation process contemplated herein. This provision shall survive the termination of the Contract.

ARTICLE 34
EQUAL OPPORTUNITY IN EMPLOYMENT

During the performance of this Contract and to the extent the Project is a federally funded project, Engineer, for itself, its assignees and successors in interest agrees as follows:

A. Compliance with Regulations. The Engineer shall comply with the Regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Contract.

B. Nondiscrimination. The Engineer, with regard to the work performed by it during the Contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors/subconsultants, including procurements of materials and leases of equipment. The Engineer shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

C. Solicitations for Subcontracts, Including Procurements of Materials and Equipment. In all solicitations either by competitive bidding or negotiation made by the Engineer for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor/subconsultant or supplier shall be notified by the Engineer of the Engineer's obligations under this Contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

D. Information and Reports. The Engineer shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the County (referred to in this Article as the "Recipient") or the Texas Department of Transportation to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the Engineer shall so certify to the Recipient, or the Texas Department of Transportation as appropriate, and shall set forth what efforts it has made to obtain the information.

E. Sanctions for Noncompliance. In the event of the Engineer's noncompliance with the nondiscrimination provisions of this contract, the Recipient shall impose such contract

sanctions as it or the Texas Department of Transportation may determine to be appropriate, including, but not limited to:

1. withholding of payments to the Engineer under the contract until the Engineer complies, and/or;
2. cancellation, termination or suspension of the Contract, in whole or in part.

F. Incorporation of Provisions. The Engineer shall include the provisions of Subsections (A) through (F) above in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The Engineer shall take such action with respect to any subcontract or procurement as the Recipient or the Texas Department of Transportation may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor/subconsultant or supplier as a result of such direction, the Engineer may request the Recipient to enter into such litigation to protect the interests of the Recipient, and, in addition, the Engineer may request the United States to enter into such litigation to protect the interests of the United States.

SIGNATORY WARRANTY

The undersigned signatory for Engineer hereby represents and warrants that the signatory is an officer of the organization for which he/she has executed this Contract and that he/she has full and complete authority to enter into this Contract on behalf of the firm. The above-stated representations and warranties are made for the purpose of inducing County to enter into this Contract.

IN WITNESS WHEREOF, County has caused this Contract to be signed in its name by its duly authorized County Judge, as has Engineer, signing by and through its duly authorized representative(s), thereby binding the parties hereto, their successors, assigns and representatives for the faithful and full performance of the terms and provisions hereof, to be effective as of the date of the last party's execution below. NO OFFICIAL, EMPLOYEE, AGENT, OR REPRESENTATIVE OF THE COUNTY HAS ANY AUTHORITY, EITHER EXPRESS OR IMPLIED, TO AMEND, TERMINATE OR MODIFY THIS CONTRACT, EXCEPT PURSUANT TO SUCH EXPRESS AUTHORITY AS MAY BE GRANTED BY THE HAYS COUNTY COMMISSIONERS COURT.

COUNTY

HAYS COUNTY, TEXAS

By: _____
Ruben Becerra, County Judge

Date: _____ ____, 20_____

Carlos A. Lopez, P.E.
10/25/2021

ENGINEER

Cobb, Fendley & Associates, Inc.

By _____

Printed Name: _Sandra G. Khoury, P.E.____

Title: __Senior Vice President

Date: October 22, 2022

LIST OF EXHIBITS ATTACHED

(1) **Exhibit A** Debarment Certification

(2) **Exhibit B** Engineering Services

(3) **Exhibit C** Work Authorization

(4) **Exhibit D** Rate Schedule

(5) **Exhibit E** Certificates of Insurance

EXHIBIT A
DEBARMENT CERTIFICATION

STATE OF TEXAS §
§
COUNTY OF HAYS §

I, the undersigned, being duly sworn or under penalty of perjury under the laws of the United States and the State of Texas, certifies that Engineer and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any federal department or agency:

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public* transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity* with commission of any of the offenses enumerated in paragraph (1)(b) of this certification;

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions* terminated for cause or default; and

(e) Have not been disciplined or issued a formal reprimand by any State agency for professional accreditation within the past three years.

Cobb, Fendley & Associates, Inc.
Name of Firm

Signature of Certifying Official

Sandra G. Khoury, P.E.
Printed Name of Certifying Official

Senior Vice President
Title of Certifying Official

October 20, 2021
Date

(2) Where the PROVIDER is unable to certify to any of the statements in this certification, such PROVIDER shall attach an explanation to this certification.

* federal, state, or local

SUBSCRIBED and sworn to before me the undersigned authority by Sandra Khoury, PE _____ the 20th _____ of October, 2021 ,on behalf of said firm.

Megan Lesher
Notary Public in and for the
State of Texas

My commission expires: 10/16/2023

EXHIBIT B

ENGINEERING SERVICES

SERVICES TO BE PROVIDED BY THE ENGINEER

UTILITY COORDINATION SERVICES FOR PRECINCT 4 LOW WATER CROSSING PROJECTS - SYCAMORE CREEK DRIVE AT SYCAMORE CREEK AND BEAR CREEK PASS (CR 367) AT BEAR CREEK

The Engineer may perform the following including but not limited to the tasks below, as described in detail in each Work Authorization:

- PROJECT MANAGEMENT AND COORDINATION
- UTILITY PLANNING & RESEARCH
- SUBSURFACE UTILITY ENGINEERING (SUE)
- FIELD SURVEYING
- UTILITY ADJUSTMENT COORDINATION
- UTILITY ENGINEERING & DESIGN
- UTILITY CONSTRUCTION MANAGEMENT AND VERIFICATION

EXHIBIT C

WORK AUTHORIZATION

(To Be Completed and Executed After Contract Execution)

WORK AUTHORIZATION NO. _____
PROJECT: _____

This Work Authorization is made pursuant to the terms and conditions of the Hays County Contract for Engineering Services, being dated _____ ____, 20____ and entered into by and between Hays County, Texas, a political subdivision of the State of Texas, (the "County") and _____ (the "Engineer").

Part1. The Engineer will provide the following Engineering Services set forth in Attachment "B" of this Work Authorization.

Part 2. The maximum amount payable for services under this Work Authorization without modification is _____.

Part 3. Payment to the Engineer for the services established under this Work Authorization shall be made in accordance with the Contract.

Part 4. This Work Authorization shall become effective on the date of final acceptance and full execution of the parties hereto and shall terminate on _____ ____, 20_____. The Engineering Services set forth in Attachment "B" of this Work Authorization shall be fully completed on or before said date unless extended by a Supplemental Work Authorization.

Part 5. This Work Authorization does not waive the parties' responsibilities and obligations provided under the Contract.

Part 6. County believes it has sufficient funds currently available and authorized for expenditure to finance the costs of this Work Authorization. Engineer understands and agrees that County's payment of amounts under this Work Authorization is contingent on the County receiving appropriations or other expenditure authority sufficient to allow the County, in the exercise of reasonable administrative discretion, to continue to make payments under this Contract. It is further understood and agreed by Engineer that County shall have the right to terminate this Contract at the end of any County fiscal year if the governing body of County does not appropriate sufficient funds as determined by County's budget for the fiscal year in question. County may effect such termination by giving written notice of termination to Engineer.

Part 7. This Work Authorization is hereby accepted and acknowledged below.

EXECUTED this ____ day of _____, 20___.

ENGINEER:	COUNTY:
[Insert Company Name HERE]	Hays County, Texas
By:_____	By:_____
Signature	Signature
_____	_____
Printed Name	Printed Name
_____	_____
Title	Title

LIST OF ATTACHMENTS

Attachment A - Services to be Provided by County

Attachment B - Services to be Provided by Engineer

Attachment C - Work Schedule

Attachment D - Fee Schedule

EXHIBIT D

Fee/Rate Schedule

FEE SCHEDULE SHALL BE INSERTED AT THE TIME OF AGREEMENT/CONTRACT EXECUTION

EXHIBIT E

CERTIFICATES OF INSURANCE

ATTACHED BEHIND THIS PAGE

Client#: 153896 COBBFEND

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 10/18/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer any rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME: Shelly Brandman/Michelle Weweh	
USI Southwest 9811 Katy Freeway, Suite 500 Houston, TX 77024 713 490-4600	PHONE (A/C, No, Ext): 713 490-4600	FAX (A/C, No):
	E-MAIL ADDRESS: shelly.brandman@usi.com	

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Valley Forge Insurance Company	20508
INSURER B : Travelers Property Cas. Co. of America	25674
INSURER C : National Fire Insurance Co. of Hartford	20478
INSURER D : Berkley Insurance Company	32603
INSURER E :	
INSURER F :	

INSURED
Cobb, Fendley & Associates, Inc.
13430 Northwest Frwy, Suite 1100
Houston, TX 77040

COVERAGES **CERTIFICATE NUMBER: 33776951** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE / X OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY / X PRO-JECT / LOC OTHER:			6072140890	07/10/2021	07/10/2022	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG 	$1,000,000 $1,000,000 $15,000 $1,000,000 $2,000,000 $2,000,000 $
C	AUTOMOBILE LIABILITY X ANY AUTO OWNED AUTOS ONLY / SCHEDULED AUTOS X HIRED AUTOS ONLY / X NON-OWNED AUTOS ONLY			6072140873	07/10/2021	07/10/2022	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) 	$1,000,000 $ $ $ $
B	X UMBRELLA LIAB / X OCCUR EXCESS LIAB / CLAIMS-MADE DED / X RETENTION $10,000			ZUP21P28800	07/10/2021	07/10/2022	EACH OCCURRENCE AGGREGATE 	$12,000,000 $12,000,000 $
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N: N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N / A		6072140842	07/10/2021	07/10/2022	X PER STATUTE / OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $1,000,000 $1,000,000 $1,000,000
D	Professional Liability			AEC904578206	07/10/2021	07/10/2022	$5,000,000 Per Caim $5,000,000 Annl Aggr.	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The General Liability and Automobile Liability policies includes an automatic Additional Insured endorsement that provides Additional Insured status only when there is a written contract that requires such status, and only with regard to work performed on behalf of the named insured (GL: CNA74858XX 1/15 ongoing and completed operations, CNA75079XX 10/16 A&E; AL: CNA71527XX 10/12).

(See Attached Descriptions)

CERTIFICATE HOLDER

Hays County Auditor c/o Vickie G. Dorsett
712 S. Stagecoach Trail #1071
San Marcos, TX 78666

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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DESCRIPTIONS (Continued from Page 1)

The General, Automobile, and Umbrella Liability policies contain a special endorsement with "Primary and Noncontributory" wording (GL: CNA74858XX 1/15; AL: CNA71527XX 10/12; UL: EU0001 7/16).

The General Liability, Automobile, Workers Compensation, and Professional Liability policies provide a Blanket Waiver of Subrogation when required by written contract (GL: CNA74858XX 1/15; AL: CA0444 10/13; WC: WC000313 04/84; BDP0417001).

The General Liability, Automobile, Workers Compensation, Umbrella Liability, and Professional Liability policies include an endorsement providing that 30 days notice of cancellation for reasons other than non-payment of premium and 10 days notice of cancellation for nonpayment of premium will be given to the Certificate Holder by the Insurance Carrier.

The Umbrella Liability policy contains Excess Follows Form (EU0001 7/16). The Umbrella policy sits over the General, Auto, and Employers Liability coverages.

Contractual Liability for Railroads permitting work within 50 is included (CNA74858XX 1/15).

Professional Engineering Services - Project Management and Coordination, Utility Planning and Research, Subsurface Utility Engineering, Field Surveying, Utility Adjustment Coordination, Utility Engineering and Design, Utility Construction Management and Verification; Precinct 4 Low Water Crossing Projects - Sycamore Creek Drive at Sycamore Creek and Bear Creek Pass (CR 367) at Bear Creek.

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Discussion and possible action to authorize the County Judge to execute a Professional Services Agreement between Hays County and LJA Engineering, Inc. to provide right-of-way acquisition services for the FM 2001 West project in Precinct 2.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
ACTION-ROADS	November 2, 2021	$20,000.00

LINE ITEM NUMBER

035-802-96-643.5632_400

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: YES **AUDITOR REVIEW:** MARISOL VILLARREAL-ALONZO

REQUESTED BY	SPONSOR	CO-SPONSOR
Jerry Borcherding, P.E., Transportation Director	JONES	N/A

SUMMARY

The FM 2001 West project is currently under design and requires right-of-way (ROW) acquisition services. LJA has been pre-qualified by Hays County for the requested services and has an existing On-Call contract funded by the Transportation Department to provide the requested services executed October 1, 2019. This new project specific FM 2001 West contract will be funded by the Road Bond Program to complete the identified ROW services needed for the project. The PSA Contract Compensation Cap has been set at $20,000.00. The Work Authorization #1, in the amount of $15,300.00, will authorize Title Services, Negotiation/Closing Services, Purchase Agreement Services as well as any condemnation support services needed for the remaining parcels on the project above what has been budgeted by the Transportation Dept.

HAYS COUNTY
CONTRACT FOR ENGINEERING SERVICES

FIRM: **LJA Engineering, Inc. ("Engineer")**

ADDRESS: **2700 La Frontera Blvd., Ste. 150 Round Rock, Texas 78681**

PROJECT: **FM 2001 West ("Project")**

THE STATE OF TEXAS §
§
COUNTY OF HAYS §

THIS CONTRACT FOR ENGINEERING SERVICES ("Contract") is made and entered into, effective as the date of the last party's execution hereinbelow, by and between Hays County, Texas, a political subdivision of the State of Texas, whose offices are located at 111 E. San Antonio Street, Suite 300, San Marcos, Texas, 78666 (hereinafter referred to as "County"), and Engineer, and such Contract is for the purpose of contracting for professional engineering services.

RECITALS:

WHEREAS, V.T.C.A., Government Code §2254.002(2)(A)(vii) under Subchapter A entitled "Professional Services Procurement Act" provides for the procurement by counties of services of professional engineers; and

WHEREAS, County and Engineer desire to contract for such professional engineering services; and

WHEREAS, County and Engineer wish to document their agreement concerning the requirements and respective obligations of the parties;

NOW, THEREFORE, WITNESSETH:

That for and in consideration of the mutual promises contained herein and other good and valuable considerations, and the covenants and agreements hereinafter contained to be kept and performed by the respective parties hereto, it is agreed as follows:

ARTICLE 1
CONTRACT DOCUMENTS AND APPLICABLE PROJECT DOCUMENTS

A. Contract Documents. The Contract Documents consist of this Contract, any exhibits attached hereto (which exhibits are hereby incorporated into and made a part of this Contract), any fully executed Work Authorizations; any fully executed Supplemental Work Authorizations and all fully executed Contract Amendments (as defined herein in Article 14) which are subsequently issued. These form the entire contract, and all are as fully a part of this Contract as if attached to this Contract or repeated herein.

B. Project Documents. In addition to any other pertinent and necessary Project documents, the following documents shall be used in the development of the Project:

A. TxDOT 2011 Texas Manual of Uniform Traffic Control Devices for Streets and Highways, including latest revisions
B. Texas Department of Transportation's Standard Specifications for Construction of Highways, Streets, and Bridges, 2014 (English units)
C. National Environmental Policy Act (NEPA)
D. Texas Accessibility Standards (TAS) of the Architectural Barriers Act, Article 9102, Texas Civil Statutes, Effective April 4, 1994, including latest revisions
E. Americans with Disabilities Act (ADA) Regulations
F. U.S. Army Corps Regulations
G. International Building Code, current edition as updated
H. Hays County Design Criteria & Project Development Manual, latest edition
I. Hays County Multi-Corridor Transportation Plan Project Level Environmental Review and Compliance Protocol, latest edition
J. Hays County Protocol for Sustainable Roadsides, latest edition
K. TxDOT Bridge Design Manual - LRFD, latest edition
L. TxDOT Geotechnical Manual, latest edition

ARTICLE 2
NON-COLLUSION; DEBARMENT; AND FINANCIAL INTEREST PROHIBITED

A. Non-collusion. Engineer warrants that he/she/it has not employed or retained any company or persons, other than a bona fide employee working solely for Engineer, to solicit or secure this Contract, and that he/she/it has not paid or agreed to pay any company or engineer any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, County reserves and shall have the right to annul this Contract without liability or, in its discretion and at its sole election, to deduct from the contract price or compensation, or to otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

B. Debarment Certification. Engineer must sign the Debarment Certification enclosed herewith as **Exhibit A**.

C. Financial Interest Prohibited. Engineer covenants and represents that Engineer, his/her/its officers, employees, agents, consultants and subcontractors will have no financial interest, direct or indirect, in the purchase or sale of any product, materials or equipment that will be recommended or required for the construction of the Project.

ARTICLE 3
ENGINEERING SERVICES

Engineer shall perform Engineering Services as identified in **Exhibit B** entitled "Engineering Services."

County will prepare and issue Work Authorizations, in substantially the same form identified and attached hereto as **Exhibit C** and entitled "Work Authorization No. 1 ", to authorize the Engineer to perform one or more tasks of the Engineering Services. Each Work Authorization will include a description of the work to be performed, a description of the tasks and milestones, a work schedule for the tasks, definite review times by County and Engineer of all Engineering Services and a fee amount agreed upon by the County and Engineer. The amount payable for a Work Authorization shall be supported by the estimated cost of each work task as described in the Work Authorization. The Work Authorization will not waive the Engineer's responsibilities and obligations established in this Contract. The executed Work Authorizations shall become part of this Contract.

All work must be completed on or before the date specified in the Work Authorization. The Engineer shall promptly notify the County of any event which will affect completion of the Work Authorization, although such notification shall not relieve the Engineer from costs or liabilities resulting from delays in completion of the Work Authorization. Should the review times or Engineering Services take longer than shown on the Work Authorization, through no fault of Engineer, Engineer may submit a timely written request for additional time, which shall be subject to the approval of the County. Any changes in a Work Authorization shall be enacted by a written Supplemental Work Authorization before additional costs may be incurred. Any Supplemental Work Authorization must be executed by both parties within the period specified in the Work Authorization.

ARTICLE 4
CONTRACT TERM

A. Term. The Engineer is expected to complete the Engineering Services described herein in accordance with the above described Work Authorizations or any Supplemental Work Authorization related thereto. If Engineer does not perform the Engineering Services in accordance with each applicable Work Authorization or any Supplemental Work Authorization related thereto, then County shall have the right to terminate this Contract as set forth below in Article 20. So long as the County elects not to terminate this Contract, it shall continue from day to day until such time as the Engineering Services are completed in accordance with each applicable Work Authorization or any Supplemental Work Authorization related thereto. Any Engineering Services performed or costs incurred after the date of termination shall not be eligible for reimbursement. Engineer shall

notify County in writing as soon as possible if he/she/it determines, or reasonably anticipates, that the Engineering Services will not be completed in accordance with an applicable Work Authorization or any Supplemental Work Authorization related thereto.

B. Work Authorizations. Engineer acknowledges that each Work Authorization is of critical importance, and agrees to undertake all reasonably necessary efforts to expedite the performance of Engineering Services required herein so that construction of the Project will be commenced and completed as scheduled. In this regard, and subject to adjustments in a particular Work Authorization, as provided in Article 3 herein, Engineer shall proceed with sufficient qualified personnel and consultants necessary to fully and timely accomplish all Engineering Services required under this Contract in a professional manner.

C. Commencement of Engineering Services. After execution of this Contract, Engineer shall not proceed with Engineering Services until Engineer has been thoroughly briefed on the scope of the Project and has been notified in writing by the County to proceed, as provided in Article 8.

ARTICLE 5
COMPENSATION AND EXPENSES

County shall pay and Engineer agrees to accept up to the amount shown below as full compensation for the Engineering Services performed and to be performed under this Contract. The basis of compensation for the services of principals and employees engaged in the performance of the Engineering Services shall be based on the Rate Schedule set forth in the attached **Exhibit D**.

The maximum amount payable under this Contract, without modification is **Twenty Thousand Dollars ($20,000.00)** (the "Compensation Cap"), provided that any amounts paid or payable shall be solely pursuant to a validly issued Work Authorization or any Supplemental Work Authorization related thereto. In no event may the aggregate amount of compensation authorized under Work Authorizations and Supplemental Work Authorizations exceed the Compensation Cap. The Compensation Cap shall be revised equitably only by written Contract Amendments executed by both parties in the event of a change the overall scope of the Engineering Services set forth in **Exhibit B**, as authorized by County.

The Compensation Cap is based upon all labor and non-labor costs estimated to be required in the performance of the Engineering Services provided for under this Contract. Should the actual costs of all labor and non-labor costs rendered under this Contract be less than the above stated Compensation Cap, then Engineer shall receive compensation for only actual fees and costs of the Engineering Services actually rendered and incurred, which may be less than the above stated Compensation Cap.

The Compensation Cap herein referenced may be adjusted for Additional Engineering Services requested and performed only if approved by a written Contract Amendment signed by both parties.

Engineer shall prepare and submit to County monthly progress reports in sufficient detail to support the progress of the Engineering Services and to support invoices requesting monthly payment. The format for such monthly progress reports and invoices must be in a format acceptable to County. Satisfactory progress of Engineering Services shall be an absolute condition of payment.

Engineer shall be reimbursed for actual non-labor and subcontract expenses incurred in the performance of the services under this Contract at the Engineer's invoice cost. Invoices requesting reimbursement for costs and expenditures related to the Project (reimbursables) must be accompanied by copies of the provider's invoice. The copies of the provider's invoice must evidence the actual costs billed to Engineer without mark-up.

ARTICLE 6
METHOD OF PAYMENT

Payments to Engineer shall be made while Engineering Services are in progress. Engineer shall prepare and submit to County's Road Bond Program Manager, not more frequently than once per month, a progress report as referenced in Article 5 above. Such progress report shall state the percentage of completion of Engineering Services accomplished for an applicable Work Authorization or any Supplemental Work Authorization related thereto during that billing period and to date. This submittal shall also include a progress assessment report in a form acceptable to the County Auditor.

Simultaneous with submission of such progress report, Engineer shall prepare and submit one (1) original of a certified invoice to the County Auditor in a form acceptable to the County Auditor. All invoices submitted to County must, at a minimum, be accompanied by an original complete packet of supporting documentation and time sheets detailing hours worked by staff persons with a description of the work performed by such persons. For Additional Engineering Services performed pursuant to this Contract, a separate invoice or itemization of the Additional Engineering Services must be presented with the same aforementioned requirements.

Payments shall be made by County based upon Engineering Services actually provided and performed. Upon timely receipt and approval of each statement, County shall make a good faith effort to pay the amount which is due and payable within thirty (30) days of the County Auditor's receipt. County reserves the right to reasonably withhold payment pending verification of satisfactory Engineering Services performed. Engineer has the responsibility to submit proof to County, adequate and sufficient in its determination, that tasks of an applicable Work Authorization or any Supplemental Work Authorization related thereto were completed.

The certified statements shall show the total amount earned to the date of submission and shall show the amount due and payable as of the date of the current statement. Final payment does not relieve Engineer of the responsibility of correcting any errors and/or omissions resulting from his/her/its negligence.

Upon submittal of the initial invoice, Engineer shall provide the County Auditor with an Internal Revenue Form W-9, Request for Taxpayer Identification Number and Certification that is complete in compliance with the Internal Revenue Code, its rules and regulations.

ARTICLE 7
PROMPT PAYMENT POLICY

In accordance with Chapter 2251, V.T.C.A., Texas Government Code, payment to Engineer will be made within thirty (30) days of the day on which the performance of services was complete, or within thirty (30) days of the day on which the County Auditor receives a correct invoice for services, whichever is later.

Engineer may charge a late fee (fee shall not be greater than that which is permitted by Texas law) for payments not made in accordance with this prompt payment policy; however, this policy does not apply in the event:

A. There is a bona fide dispute between County and Engineer concerning the supplies, materials, or equipment delivered or the services performed that causes the payment to be late; or

B. The terms of a federal contract, grant, regulation, or statute prevent County from making a timely payment with federal funds; or

C. There is a bona fide dispute between Engineer and a subcontractor/subconsultant or between a subcontractor/subconsultant and its supplier concerning supplies, materials, or equipment delivered or the Engineering Services performed which causes the payment to be late; or

D. The invoice is not mailed to the County Auditor in strict accordance with instructions, if any, on the purchase order, or this Contract or other such contractual agreement.

The County Auditor shall document to Engineer the issues related to disputed invoices within ten (10) calendar days of receipt of such invoice. Any non-disputed invoices shall be considered correct and payable per the terms of Chapter 2251, V.T.C.A., Texas Government Code.

ARTICLE 8
COMMENCEMENT OF ENGINEERING SERVICES

The Engineer shall not proceed with any task of the Engineering Services until Engineer has been thoroughly briefed on the scope of the Project and instructed, in writing by the County, to proceed with the applicable Engineering Services. The County shall not be responsible for work performed or costs incurred by Engineer related to any task for which a Work Authorization or a Supplemental Work Authorization related thereto has not been issued and signed by both parties. Engineer shall not be required to perform any work for which a Work Authorization or a Supplemental Work Authorization related thereto has not been issued and signed by both parties.

ARTICLE 9
PROJECT TEAM

County's Designated Representative for purposes of this Contract is as follows:

County's Road Bond Program Manager
Attn: Michael Weaver
HNTB Corporation
701 Brazos, Suite 450
Austin, Texas 78701

County shall have the right, from time to time, to change the County's Designated Representative by giving Engineer written notice thereof. With respect to any action, decision or determination which is to be taken or made by County under this Contract, the County's Designated Representative may take such action or make such decision or determination or shall notify Engineer in writing of an individual responsible for and capable of taking such action, decision or determination and shall forward any communications and documentation to such individual for response or action. Actions, decisions or determinations by the County's Designated Representative on behalf of County shall be done in his or her reasonable business judgment unless express standards or parameters therefor are included in this Contract, in which case, actions taken by the County's Designated Representative shall be in accordance with such express standards or parameters. Any consent, approval, decision or determination hereunder by the County's Designated Representative shall be binding on County; *provided, however,* the County's Designated Representative shall not have any right to modify, amend or terminate this Contract, an Executed Work Authorization, an executed Supplemental Work Authorization or executed Contract Amendment. County's Designated Representative shall not have any authority to execute a Contract Amendment, Work Authorization or any Supplemental Work Authorization unless otherwise granted such authority by the Hays County Commissioners Court.

Engineer's Designated Representative for purposes of this Contract is as follows:

LJA Engineering, Inc.
Attn: Kenneth G. Schrock, P.E.
7500 Rialto Blvd., Building II, Suite 100
Austin, TX 78735

Engineer shall have the right, from time to time, to change the Engineer's Designated Representative by giving County written notice thereof. With respect to any action, decision or determination which is to be taken or made by Engineer under this Contract, the Engineer's Designated Representative may take such action or make such decision or determination or shall notify County in writing of an individual responsible for and capable of taking such action, decision or determination and shall forward any communications and documentation to such individual for response or action. Actions, decisions or determinations by the Engineer's Designated Representative on behalf of Engineer shall be done in his or her reasonable business judgment unless express standards or parameters therefor are included in this Contract, in which case, actions taken by the Engineer's Designated Representative shall be in accordance with such

express standards or parameters. Any consent, approval, decision or determination hereunder by the Engineer's Designated Representative shall be binding on Engineer. Engineer's Designated Representative shall have the right to modify, amend and execute Work Authorizations, Supplemental Work Authorizations and Contract Amendments on behalf of Engineer.

ARTICLE 10
PROGRESS EVALUATION

Engineer shall, from time to time during the progress of the Engineering Services, confer with County at County's election. Engineer shall prepare and present such information as may be pertinent and necessary, or as may be reasonably requested by County, in order for County to evaluate features of the Engineering Services. At the request of County or Engineer, conferences shall be provided at Engineer's office, the offices of County, or at other locations designated by County. When requested by County, such conferences shall also include evaluation of the Engineering Services. County may, from time to time, require Engineer to appear and provide information to the Hays County Commissioners Court.

Should County determine that the progress in Engineering Services does not satisfy an applicable Work Authorization or any Supplemental Work Authorization related thereto, then County shall review same with Engineer to determine corrective action required.

Engineer shall promptly advise County in writing of events which have or may have a significant impact upon the progress of the Engineering Services, including but not limited to the following:

A. Problems, delays, adverse conditions which may materially affect the ability to meet the objectives of an applicable Work Authorization or any Supplemental Work Authorization related thereto, or preclude the attainment of Project Engineering Services units by established time periods; and such disclosure shall be accompanied by statement of actions taken or contemplated, and County assistance needed to resolve the situation, if any; and

B. Favorable developments or events which enable meeting goals sooner than anticipated in relation to an applicable Work Authorization's or any Supplemental Work Authorization related thereto.

ARTICLE 11
SUSPENSION

Should County desire to suspend the Engineering Services, but not to terminate this Contract, then such suspension may be effected by County giving Engineer thirty (30) calendar days' verbal notification followed by written confirmation to that effect. Such thirty-day notice may be waived in writing by agreement and signature of both parties. The Engineering Services may be reinstated and resumed in full force and effect within sixty (60) days of receipt of written notice from County to resume the Engineering Services. Such sixty-day (60) notice may be waived in writing by agreement and signature of both parties. If this Contract is suspended for more than thirty (30) days, Engineer shall have the option of terminating this Contract and, in the event, Engineer shall be compensated for all Engineering Services performed and reimbursable expenses incurred, provided such Engineering Services and reimbursable expenses have been previously authorized and approved by County, to the effective date of suspension.

If County suspends the Engineering Services, the contract period as determined in Article 4, and the Work Authorization or any Supplemental Work Authorization related thereto, shall be extended for a time period equal to the suspension period.

County assumes no liability for Engineering Services performed or costs incurred prior to the date authorized by County for Engineer to begin Engineering Services, and/or during periods when Engineering Services is suspended, and/or subsequent to the completion date.

ARTICLE 12
ADDITIONAL ENGINEERING SERVICES

If Engineer forms a reasonable opinion that any work he/she/it has been directed to perform is beyond the overall scope of this Contract, as set forth in **Exhibit B,** and as such constitutes extra work ("Additional Engineering Services"), he/she/it shall promptly notify County in writing. In the event County finds that such work does constitute Additional Engineering Services, County shall so advise Engineer and a written Contract Amendment will be executed between the parties as provided in Article 14. Any increase to the Compensation Cap due to Additional Engineering Services must be set forth in such Contract Amendment. Engineer shall not perform any proposed Additional Engineering Services nor incur any additional costs prior to the execution, by both parties, of a written Contract Amendment. Following the execution of a Contract Amendment that provides for Additional Engineering Services, a written Work Authorization, which sets forth the Additional Engineering Services to be performed, must be executed by the parties. County shall not be responsible for actions by Engineer nor for any costs incurred by Engineer relating to Additional Engineering Services not directly associated with the performance of the Engineering Services authorized in this Contract, by a fully executed Work Authorization or a fully executed Contract Amendment thereto.

ARTICLE 13
CHANGES IN COMPLETED ENGINEERING SERVICES

If County deems it necessary to request changes to previously satisfactorily completed

Engineering Services or parts thereof which involve changes to the original Engineering Services or character of Engineering Services under this Contract, then Engineer shall make such revisions as requested and as directed by County. Such revisions shall be considered as Additional Engineering Services and paid for as specified under Article 12.

Engineer shall make revisions to Engineering Services authorized hereunder as are necessary to correct errors appearing therein, when required to do so by County. No additional compensation shall be due for such Engineering Services.

ARTICLE 14
CONTRACT AMENDMENTS

The terms set out in this Contract may be modified by a written fully executed Contract Amendment. Changes and modifications to a fully executed Work Authorization shall be made in the form of a Supplemental Work Authorization. To the extent that such changes or modifications to a Work Authorization do not also require modifications to the terms of this Contract (i.e. changes to the overall scope of Engineering Services set forth in **Exhibit B**, modification of the Compensation Cap, etc.) a Contract Amendment will not be required.

ARTICLE 15
USE OF DOCUMENTS

All documents, including but not limited to drawings, specifications and data or programs stored electronically, (hereinafter referred to as "Engineering Work Products") prepared by Engineer and its subcontractors/subconsultants are related exclusively to the services described in this Contract and are intended to be used with respect to this Project. However, it is expressly understood and agreed by and between the parties hereto that all of Engineer's designs under this Contract (including but not limited to tracings, drawings, estimates, specifications, investigations, studies and other documents, completed or partially completed), shall be the property of County, upon payment in full of all undisputed amounts owed to Engineer for services rendered, to be thereafter used in any lawful manner as County elects. Any such subsequent use made of documents by County shall be at County's sole risk and without liability to Engineer.

By execution of this Contract and in confirmation of the fee for services to be paid under this Contract, Engineer hereby conveys, transfers and assigns to County all rights under the Federal Copyright Act of 1976 (or any successor copyright statute), as amended, all common law copyrights and all other intellectual property rights acknowledged by law in the Project Designs and work product developed under this Contract. Copies may be retained by Engineer. Engineer shall be liable to County for any loss or damage to any such documents while they are in the possession of or while being worked upon by Engineer or anyone connected with Engineer, including agents, employees, Engineers or subcontractors/subconsultants. All documents so lost or damaged shall be replaced or restored by Engineer without cost to County.

Upon execution of this Contract, Engineer grants to County permission to reproduce Engineer's work and documents for purposes of constructing, using and maintaining the Project, provided that County shall comply with its obligations, including prompt payment of all sums when due, under this Contract. Engineer shall obtain similar permission from Engineer's

subcontractors/subconsultants consistent with this Contract. If and upon the date Engineer is adjudged in default of this Contract, County is permitted to authorize other similarly credentialed design professionals to reproduce and, where permitted by law, to make changes, corrections or additions to the work and documents for the purposes of completing, using and maintaining the Project. Any modification to documents will be evidenced on the plans and be signed and sealed by a licensed professional prior to re-use of the modified documents.

County shall not assign, delegate, sublicense, pledge or otherwise transfer any permission granted herein to another party without the prior written consent of Engineer. However, County shall be permitted to authorize the contractor, subcontractors and material or equipment suppliers to reproduce applicable portions of the Engineering Work Products appropriate to and for use in the execution of the Work. Submission or distribution of Engineering Work Products to meet official regulatory requirements or for similar purposes in connection with the Project is permitted. Any unauthorized use of the Engineering Work Products shall be at County's sole risk and without liability to Engineer and its Engineers.

Prior to Engineer providing to County any Engineering Work Products in electronic form or County providing to Engineer any electronic data for incorporation into the Engineering Work Products, County and Engineer shall by separate written contract set forth the specific conditions governing the format of such Engineering Work Products or electronic data, including any special limitations not otherwise provided in this Contract. Any electronic files are provided by Engineer for the convenience of County, and use of them is at County's sole risk. In the case of any defects in electronic files or any discrepancies between them and any hardcopy of the same documents prepared by Engineer, the hardcopy shall prevail. Only printed copies of documents conveyed by Engineer shall be relied upon.

Engineer shall have no liability for changes made to the drawings by other engineers subsequent to the completion of the Project. Any such change shall be sealed by the engineer making that change and shall be appropriately marked to reflect what was changed or modified.

ARTICLE 16
PERSONNEL, EQUIPMENT AND MATERIAL

Engineer shall furnish and maintain, at its own expense, quarters for the performance of all Engineering Services, and adequate and sufficient personnel and equipment to perform the Engineering Services as required. All employees of Engineer shall have such knowledge and experience as will enable them to perform the duties assigned to them. Any employee of Engineer who, in the reasonable opinion of County, is incompetent or whose conduct becomes detrimental to the Engineering Services shall immediately be removed from association with the Project when so instructed by County. Engineer certifies that it presently has adequate qualified personnel in its employment for performance of the Engineering Services required under this Contract, or will obtain such personnel from sources other than County. Engineer may not change the Project Manager without prior written consent of County.

ARTICLE 17
SUBCONTRACTING

Engineer shall not assign, subcontract or transfer any portion of the Engineering Services under this Contract without prior written approval from County. All subcontracts shall include the provisions required in this Contract. No subcontract shall relieve Engineer of any responsibilities under this Contract.

ARTICLE 18
REVIEW OF ENGINEERING SERVICES

Engineer's Engineering Services will be reviewed by County under its applicable technical requirements and procedures.

A. Completion. Reports, plans, specifications, and supporting documents shall be submitted by Engineer on or before the dates specified in the applicable Work Authorization or Supplemental Work Authorization related thereto. Upon receipt of same, the submission shall be checked for completion. "Completion" or “Complete” shall be defined as all of the required items, as set out in the applicable Work Authorization, have been included in compliance with the requirements of this Contract. The completeness of any Engineering Services submitted to County shall be determined by County within thirty (30) days of such submittal and County shall notify Engineer in writing within such thirty (30) day period if such Engineering Services have been found to be incomplete. If the submission is Complete, County shall notify Engineer and County’s technical review process will begin.

If the submission is not Complete, County shall notify Engineer, who shall perform such professional services as are required to complete the Engineering Services and resubmit it to County. This process shall be repeated until a submission is Complete.

B. Acceptance. County shall review the completed Engineering Services for compliance with this Contract. If necessary, the completed Engineering Services shall be returned to Engineer, who shall perform any required Engineering Services and resubmit it to County. This process shall be repeated until the Engineering Services are Accepted. "Acceptance" or “Accepted” shall mean that in the County’s reasonable opinion, substantial compliance with the requirements of this Contract has been achieved.

C. Final Approval. After Acceptance, Engineer shall perform any required modifications, changes, alterations, corrections, redesigns, and additional work necessary to receive Final Approval by the County. "Final Approval" in this sense shall mean formal recognition that the Engineering Services have been fully carried out.

D. Errors and Omissions. After Final Approval, Engineer shall, without additional compensation, perform any work required as a result of Engineer's development of the work which is found to be in error or omission due to Engineer’s negligence. However, any work required or

occasioned for the convenience of County after Final Approval shall be paid for as Additional Engineering Services.

E. Disputes Over Classifications. In the event of any dispute over the classification of Engineer's Engineering Services as Complete, Accepted, or having attained Final Approved under this Contract, the decision of the County shall be final and binding on Engineer, subject to any civil remedy or determination otherwise available to the parties and deemed appropriate by the parties.

F. County's Reliance on Engineer. ENGINEER'S DUTIES AS SET FORTH HEREIN SHALL AT NO TIME BE IN ANY WAY DIMINISHED BY REASON OF ANY REVIEW, EVALUATION OR APPROVAL BY THE COUNTY NOR SHALL THE ENGINEER BE RELEASED FROM ANY LIABILITY BY REASON OF SUCH REVIEW, EVALUATION OR APPROVAL BY THE COUNTY, IT BEING UNDERSTOOD THAT THE COUNTY AT ALL TIMES IS ULTIMATELY RELYING UPON THE ENGINEER'S SKILL, ABILITY AND KNOWLEDGE IN PERFORMING THE ENGINEERING SERVICES REQUIRED HEREUNDER.

ARTICLE 19
VIOLATION OF CONTRACT TERMS/BREACH OF CONTRACT

Violation of contract terms or breach of contract by Engineer shall be grounds for termination of this Contract, and any increased costs arising from Engineer's default, breach of contract, or violation of contract terms shall be paid by Engineer.

ARTICLE 20
TERMINATION

This Contract may be terminated as set forth below.

A. By mutual agreement and consent, in writing, of both parties.

B. By County, by notice in writing to Engineer, as a consequence of failure by Engineer to perform the Engineering Services set forth herein in a satisfactory manner.

C. By either party, upon the failure of the other party to fulfill its obligations as set forth herein.

D. By County, for reasons of its own and not subject to the mutual consent of Engineer, upon not less than thirty (30) days' written notice to Engineer.

E. By satisfactory completion of all Engineering Services and obligations described herein.

Should County terminate this Contract as herein provided, no fees other than fees due and payable at the time of termination plus reimbursable expenses incurred shall thereafter be paid to Engineer. In determining the value of the Engineering Services performed by Engineer prior to termination, County shall be the sole judge. Compensation for Engineering Services at termination will be based on a percentage of the Engineering Services completed at that time. Should County terminate this Contract under Subsection (D) immediately above, then the amount

charged during the thirty-day notice period shall not exceed the amount charged during the preceding thirty (30) days.

If Engineer defaults in the performance of this Contract or if County terminates this Contract for fault on the part of Engineer, then County shall give consideration to the actual costs incurred by Engineer in performing the Engineering Services to the date of default, the amount of Engineering Services required which was satisfactorily completed to date of default, the value of the Engineering Services which are usable to County, the cost to County of employing another firm to complete the Engineering Services required and the time required to do so, and other factors which affect the value to County of the Engineering Services performed at the time of default.

The termination of this Contract and payment of an amount in settlement as prescribed above shall extinguish all rights, duties, and obligations of County under this Contract. If the termination of this Contract is due to the failure of Engineer to fulfill his/her/its contractual obligations, then County may take over the Project and prosecute the Engineering Services to completion. In such case, Engineer shall be liable to County for any additional and reasonable costs incurred by County.

Engineer shall be responsible for the settlement of all contractual and administrative issues arising out of any procurements made by Engineer in support of the Engineering Services under this Contract.

ARTICLE 21
COMPLIANCE WITH LAWS

A. Compliance. Engineer shall comply with all applicable federal, state and local laws, statutes, codes, ordinances, rules and regulations, and the orders and decrees of any court, or administrative bodies or tribunals in any manner affecting the performance of this Contract, including without limitation, minimum/maximum salary and wage statutes and regulations, and licensing laws and regulations. Engineer shall furnish County with satisfactory proof of his/her/its compliance.

Engineer shall further obtain all permits and licenses required in the performance of the Engineering Services contracted for herein.

B. Taxes. Engineer will pay all taxes, if any, required by law arising by virtue of the Engineering Services performed hereunder. County is qualified for exemption pursuant to the provisions of Section 151.309 of the Texas Limited Sales, Excise, and Use Tax Act.

ARTICLE 22
INDEMNIFICATION

ENGINEER AGREES, TO THE FULLEST EXTENT PERMITTED BY LAW, TO INDEMNIFY AND HOLD THE COUNTY HARMLESS FROM AND AGAINST LIABILITIES, LOSSES, PENALTIES, JUDGMENTS, CLAIMS, LAWSUITS, DAMAGES, COSTS AND EXPENSES, INCLUDING, BUT NOT LIMITED

TO, REASONABLE ATTORNEYS' FEES, ("LOSSES") TO THE EXTENT SUCH LOSSES ARE CAUSED BY OR RESULTS FROM A NEGLIGENT ACT OR OMISSION, NEGLIGENCE, OR INTENTIONAL TORT COMMITTED BY ENGINEER, ENGINEER'S EMPLOYEES, AGENTS, OR ANY OTHER PERSON OR ENTITY UNDER CONTRACT WITH ENGINEER INCLUDING, WITHOUT LIMITATION, ENGINEER'S SUBCONSULTANTS, OR ANY OTHER ENTITY OVER WHICH ENGINEER EXERCISES CONTROL.

ENGINEER FURTHER AGREES, TO THE FULLEST EXTENT PERMITTED BY LAW, TO INDEMNIFY AND HOLD THE COUNTY HARMLESS FROM LIABILITIES, LOSSES, PENALTIES, JUDGMENTS, CLAIMS, LAWSUITS, DAMAGES, COSTS AND EXPENSES, INCLUDING, BUT NOT LIMITED TO, REASONABLE ATTORNEYS' FEES, ("LOSSES") TO THE EXTENT SUCH LOSSES ARE CAUSED BY OR RESULTS FROM ENGINEER'S FAILURE TO PAY ENGINEER'S EMPLOYEES, SUBCONTRACTORS, SUBCONSULTANTS, OR SUPPLIERS, IN CONNECTION WITH ANY OF THE WORK PERFORMED OR TO BE PERFORMED UNDER THIS CONTRACT BY ENGINEER.

ENGINEER FURTHER AGREES TO INDEMNIFY AND HOLD THE COUNTY HARMLESS FROM LIABILITIES, LOSSES, PENALTIES, CLAIMS, LAWSUITS, DAMAGES, COSTS AND EXPENSES, INCLUDING, BUT NOT LIMITED TO, REASONABLE ATTORNEYS' FEES, ("LOSSES") TO THE EXTENT SUCH LOSSES ARE CAUSED BY OR RESULTS FROM THE INFRINGEMENT OF ANY INTELLECTUAL PROPERTY ARISING OUT OF THE USE OF ANY PLANS, DESIGN, DRAWINGS, OR SPECIFICATIONS FURNISHED BY ENGINEER IN THEPERFORMANCE OF THIS CONTRACT.

THE LIMITS OF INSURANCE REQUIRED IN THIS CONTRACT AND/OR THE CONTRACT DOCUMENTS SHALL NOT LIMIT ENGINEER'S OBLIGATIONS UNDER THIS SECTION SUBJECT TO ARTICLE 25, SUBSECTION (K) ON LIMITATION OF LIABILITY. THE TERMS AND CONDITIONS CONTAINED IN THIS SECTION SHALL SURVIVE THE TERMINATION OF THE CONTRACT AND/OR CONTRACT DOCUMENTS OR THE SUSPENSION OF THE WORK HEREUNDER. TO THE EXTENT THAT ANY LIABILITIES, PENALTIES, DEMANDS, CLAIMS, LAWSUITS, LOSSES, DAMAGES, COSTS AND EXPENSES ARE CAUSED IN PART BY THE ACTS OF THE COUNTY OR THIRD PARTIES FOR WHOM ENGINEER IS NOT LEGALLY LIABLE, ENGINEER'S OBLIGATIONS SHALL BE IN PROPORTION TO ENGINEER'S FAULT. THE OBLIGATIONS HEREIN SHALL ALSO EXTEND TO ANY ACTIONS BY THE COUNTY TO ENFORCE THIS INDEMNITY OBLIGATION.

IN THE EVENT THAT CONTRACTORS INITIATE LITIGATION AGAINST THE COUNTY IN WHICH THE CONTRACTOR ALLEGES DAMAGES AS A RESULT OF ANY NEGLIGENT ACTS, ERRORS OR OMISSIONS OF ENGINEER, ITS EMPLOYEES, AGENTS, SUBCONTRACTORS, SUBCONSULTANTS, OR SUPPLIERS, OR OTHER ENTITIES OVER WHICH ENGINEER EXERCISES CONTROL, INCLUDING, BUT NOT LIMITED TO, DEFECTS, ERRORS, OR OMISSIONS, THEN THE COUNTY SHALL HAVE THE RIGHT TO JOIN ENGINEER IN ANY SUCH PROCEEDINGS AT THE COUNTY'S COST. ENGINEER SHALL ALSO HOLD THE COUNTY HARMLESS AND INDEMNIFY THE COUNTY TO THE EXTENT THAT ENGINEER, ANY OF ITS EMPLOYEES, AGENTS, SUBCONTRACTORS, SUBCONSULTANTS, OR SUPPLIERS, OR OTHER ENTITIES OVER WHICH ENGINEER EXERCISES CONTROL, CAUSED SUCH DAMAGES TO CONTRACTOR, INCLUDING ANY AND ALL COSTS AND REASONABLE ATTORNEYS' FEES INCURRED BY THE COUNTY IN CONNECTION WITH THE DEFENSE OF ANY CLAIMS WHERE ENGINEER, ITS EMPLOYEES, AGENTS, SUBCONTRACTORS, SUBCONSULTANTS, OR SUPPLIERS, OR OTHER ENTITIES OVER WHICH ENGINEER EXERCISES CONTROL, ARE ADJUDICATED AT FAULT.

ARTICLE 23
ENGINEER'S RESPONSIBILITIES

Engineer shall be responsible for the accuracy of his/her/its Engineering Services and shall promptly make necessary revisions or corrections to its work product resulting from errors, omissions, or negligent acts, and same shall be done without compensation. County shall determine Engineer's responsibilities for all questions arising from design errors and/or omissions, subject to the dispute resolution provisions of Article 33. Engineer shall not be relieved of responsibility for subsequent correction of any such errors or omissions in its work product, or for clarification of any ambiguities until after the construction phase of the Project has been completed.

ARTICLE 24
ENGINEER'S SEAL

The responsible engineer shall sign, seal and date all appropriate engineering submissions to County in accordance with the Texas Engineering Practice Act and the rules of the State Board of Registration for Professional Engineers.

ARTICLE 25
INSURANCE

Engineer must comply with the following insurance requirements at all times during this Contract:

A. Coverage Limits. Engineer, at Engineer's sole cost, shall purchase and maintain during the entire term while this Contract is in effect the following insurance:

1. Worker's Compensation in accordance with statutory requirements.
2. Commercial General Liability Insurance with a combined minimum Bodily Injury and Property Damage limits of $1,000,000.00 per occurrence and $2,000,000.00 in the aggregate.
3. Automobile Liability Insurance for all owned, non-owned, and hired vehicles with combined minimum limits for Bodily Injury and Property Damage limits of $500,000.00 per occurrence and $1,000,000.00 in the aggregate.
4. Professional Liability Errors and Omissions Insurance in the amount of $2,000,000.00 per claim.

B. Additional Insureds; Waiver of Subrogation. County, its directors, officers and employees shall be added as additional insureds (or such insurance should be satisfied through a blanket additional insured endorsement) under policies listed under (2) and (3) above, andon those policies where County, its directors, officers and employees are additional insureds, such insurance shall be primary and any insurance maintained by County shall be excess and not contribute with it. Such policies shall also include waivers of subrogation in favor of County.

C. Premiums and Deductible. Engineer shall be responsible for payment of premiums for all of the insurance coverages required under this section. Engineer further agrees

that for each claim, suit or action made against insurance provided hereunder, with respect to all matters for which the Engineer is responsible hereunder, Engineer shall be solely responsible for all deductibles and self-insured retentions. The deductibles will not exceed any amount which may impair the Engineer's ability to meet its financial obligations under the insurance policy.

D. Commencement of Work. Engineer shall not commence any field work under this Contract until he/she/it has obtained all required insurance and such insurance has been approved by County. As further set out below, Engineer shall not allow any subcontractor/subconsultant(s) to commence work to be performed in connection with this Contract until all required insurance has been obtained and approved and such approval shall not be unreasonably withheld. Approval of the insurance by County shall not relieve or decrease the liability of Engineer hereunder.

E. Insurance Company Rating. The required insurance must be written by a company approved to do business in the State or Texas with a financial standing of at least an A- rating, as reflected in Best's insurance ratings or by a similar rating system recognized within the insurance industry at the time the policy is issued.

F. Certification of Coverage. Engineer shall furnish County with a certification of coverage issued by the insurer. Engineer shall not cause any insurance to be canceled nor permit any insurance to lapse. **In addition to any other notification requires set forth hereunder, Engineer shall also notify County, within twenty-four (24) hours of receipt, of any notices of expiration, cancellation, non-renewal, or material change in coverage it receives from its insurer.**

G. No Arbitration. It is the intention of the County and agreed to and hereby acknowledged by the Engineer, that no provision of this Contract shall be construed to require the County to submit to mandatory arbitration in the settlement of any claim, cause of action or dispute, except as specifically required in direct connection with an insurance claim or threat of claim under an insurance policy required hereunder or as may be required by law or a court of law with jurisdiction over the provisions of this Contract.

H. Subcontractor/Subconsultant's Insurance. Without limiting any of the other obligations or liabilities of Engineer, Engineer shall require each subcontractor/subconsultant performing work under this Contract (to the extent a subcontractor/subconsultant is allowed by County) to maintain during the term of this Contract, at the subcontractor/subconsultant's own expense, the same stipulated minimum insurance required in this Article above, including the required provisions and additional policy conditions as shown below in this Article.

Engineer shall obtain and monitor the certificates of insurance from each subcontractor/subconsultant in order to assure compliance with the insurance requirements. Engineer must retain the certificates of insurance for the duration of this Contract, and shall have the responsibility of enforcing these insurance requirements among its subcontractor/subconsultants. County shall be entitled, upon request and without expense, to receive copies of these certificates of insurance.

I. Insurance Policy Endorsements. Each insurance policy shall include the following conditions by endorsement to the policy:

1. County shall be notified thirty (30) days prior to the cancellation or non- renewal of a policy and such notice thereof shall be givento County by certified mail to:

   Hays County Auditor
   c/o: Vickie G. Dorsett
   712 S. Stagecoach Trail, Suite 1071
   San Marcos, Texas 78666

   With copy to: HNTB Corporation
   Attn: Michael Weaver
   701 Brazos, Suite 450
   Austin, Texas 78701

2. The policy clause "Other Insurance" shall not apply to any insurance coverage currently held by County, to any such future coverage, or to County's Self-Insured Retentions of whatever nature.

J. Cost of Insurance. The cost of all insurance required herein to be secured and maintained by Engineer shall be borne solely by Engineer, with certificates of insurance evidencing such minimum coverage in force to be filed with County. Such Certificates of Insurance are evidenced as **Exhibit F** herein entitled "Certificates of Insurance."

K. Limitation of Liability. To the fullest extent permitted by law, Engineer's total liability to County for any and all injuries, claims, losses, expenses, or damages whatsoever arising out of or in any way related to the project or this Contract from any causes including, but not limited to, Engineer's negligence, errors, omissions, strict liability, or breach of contract and whether claimed directly or by way of contribution shall not exceed the proceeds of the Engineer's applicable insurance policies.

ARTICLE 26
COPYRIGHTS

County shall have the royalty-free, nonexclusive and irrevocable right to reproduce, publish or otherwise use, and to authorize others to use, any reports developed by Engineer for governmental purposes.

ARTICLE 27
SUCCESSORS AND ASSIGNS

This Contract shall be binding upon and inure to the benefit of the parties hereto, their successors, lawful assigns, and legal representatives. Engineer may not assign, sublet or transfer any interest in this Contract, in whole or in part, by operation of law or otherwise, without obtaining the prior written consent of County.

ARTICLE 28
SEVERABILITY

In the event any one or more of the provisions contained in this Contract shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such invalidity, illegality or unenforceability shall not affect any other provision thereof and this Contract shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

ARTICLE 29
PRIOR AGREEMENTS SUPERSEDED

This Contract constitutes the sole agreement of the parties hereto, and supersedes any prior understandings or written or oral contracts between the parties respecting the subject matter defined herein. This Contract may only be amended or supplemented by mutual agreement of the parties hereto in writing.

ARTICLE 30
ENGINEER'S ACCOUNTING RECORDS

Engineer agrees to maintain, for a period of three (3) years after final payment under this Contract, detailed records identifying each individual performing the Engineering Services, the date or dates the services were performed, the applicable hourly rates, the total amount billed for each individual and the total amount billed for all persons, records of reimbursable costs and expenses of other providers and provide such other details as may be requested by the County Auditor for verification purposes. Engineer agrees that County or its duly authorized representatives shall, until the expiration of three (3) years after final payment under this Contract, have access to and the right to examine and photocopy any and all books, documents, papers and records of Engineer which are directly pertinent to the services to be performed under this Contract for the purposes of making audits, examinations, excerpts, and transcriptions. Engineer further agrees that County shall have access during normal working hours to all necessary Engineer facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. County shall give Engineer reasonable advance notice of intended audits.

ARTICLE 31
NOTICES

All notices to either party by the other required under this Contract shall be personally delivered or mailed to such party at the following respective addresses:

County: Hays County Judge
111 E. San Antonio Street, Suite 300
San Marcos, Texas 78666

With copy to:	HNTB Corporation 701 Brazos, Suite 450 Austin, Texas 78701 Attn: Michael Weaver
and to:	Office of General Counsel Hays County 111 E. San Antonio Street, Room 202 San Marcos, Texas 78666
Engineer:	LJA Engineering, Inc. Attn: Kenneth G. Schrock, P.E. 7500 Rialto Blvd., Building II, Suite 100 Austin, TX 78735
With a copy to:	LJA Engineering, Inc. 3600 W. Sam Houston Pkwy S., Suite 600 Houston, Texas 77042 Attn: General Counsel

ARTICLE 32
GENERAL PROVISIONS

A. Time is of the Essence. Subject to Article 3 hereof, Engineer understands and agrees that time is of the essence and that any failure of Engineer to complete the Engineering Services for each phase of this Contract within the agreed work schedule set out in the applicable Work Authorization may constitute a material breach of this Contract. Notwithstanding the foregoing, it being acknowledged that Engineer shall perform the services as expeditiously as is prudent considering the ordinary professional skill and care of a competent engineer. Engineer shall be fully responsible for his/her/its delays or for failures to use his/her/its reasonable efforts in accordance with the terms of this Contract and the Engineer's standard of performance as defined herein. Where damage is caused to County due to Engineer's negligent failure to perform County may accordingly withhold, to the extent of such damage, Engineer's payments hereunder without waiver of any of County's additional legal rights or remedies.

B. Force Majeure. Neither County nor Engineer shall be deemed in violation of this Contract if prevented from performing any of their obligations hereunder by reasons for which they are not responsible or circumstances beyond their control. However, notice of such impediment or delay in performance must be timely given, and all reasonable efforts undertaken to mitigate its effects.

C. Enforcement and Venue. This Contract shall be enforceable in San Marcos, Hays County, Texas, and if legal action is necessary by either party with respect to the enforcement of any or all of the terms or conditions herein, exclusive venue for same shall lie in Hays County, Texas. This Contract shall be governed by and construed in accordance with the laws and court decisions of the State of Texas excluding, however, its choice of law rules. Notwithstanding

any provision of this Contract to the contrary, anything to In no event shall either party be liable to the other for consequential, incidental, punitive, special, or exemplary damages, including lost revenues, profits, delays, or other economic loss arising from any cause including breach of warranty, breach of contract, tort, strict liability or any other cause whatsoever. To the extent permitted by law, any statutory remedies that are inconsistent with this provision of the Contract are waived.

D. Standard of Performance. The standard of care for all professional engineering, consulting and related services performed or furnished by Engineer and its employees under this Contract will be the care and skill ordinarily used by members of Engineer's profession practicing under the same or similar circumstances at the same time and in the same locality.

E. Opinion of Probable Cost. Any opinions of probable Project cost or probable construction cost provided by Engineer are made on the basis of information available to Engineer and on the basis of Engineer's experience and qualifications and represents its judgment as an experienced and qualified professional engineer. However, since Engineer has no control over the cost of labor, materials, equipment or services furnished by others, or over the contractor(s') methods of determining prices, or over competitive bidding or market conditions, Engineer does not guarantee that proposals, bids or actual Project or construction cost will not vary from opinions of probable cost Engineer prepares.

F. Opinions and Determinations. Where the terms of this Contract provide for action to be based upon opinion, judgment, approval, review, or determination of either party hereto, such terms are not intended to be and shall never be construed as permitting such opinion, judgment, approval, review, or determination to be arbitrary, capricious, or unreasonable.

G. Reports of Accidents. Within 24 hours after Engineer becomes aware of the occurrence of any accident or other event which results in, or might result in, injury to the person or property of any third person (other than an employee of the Engineer), whether or not it results from or involves any action or failure to act by the Engineer or any employee or agent of the Engineer and which arises in any manner from the performance of this Contract, the Engineer shall send a written report of such accident or other event to the County, setting forth a full and concise statement of the facts pertaining thereto. The Engineer shall also immediately send the County a copy of any summons, subpoena, notice, or other documents served upon the Engineer, its agents, employees, or representatives, or received by it or them, in connection with any matter before any court arising in any manner from the Engineer's performance of work under this Contract.

H. Gender, Number and Headings. Words of any gender used in this Contract shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires. The headings and section numbers are for convenience only and shall not be considered in interpreting or construing this Contract.

I. Construction. Each party hereto acknowledges that it and its counsel have reviewed this Contract and that the normal rules of construction are not applicable and there will be no presumption that any ambiguities will be resolved against the drafting party in the interpretation of this Contract.

J. Independent Contractor Relationship. Both parties hereto, in the performance of this Contract, shall act in an individual capacity and not as agents, employees, partners, joint ventures or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever.

K. No Waiver of Immunities. Nothing in this Contract shall be deemed to waive, modify or amend any legal defense available at law or in equity to County, its past or present officers, employees, or agents or employees, nor to create any legal rights or claim on behalf of any third party. County does not waive, modify, or alter to any extent whatsoever the availability of the defense of governmental immunity under the laws of the State of Texas and of the United States.

L. Texas Public Information Act. To the extent, if any, that any provision in this Contract is in conflict with Tex. Gov't Code 552.001 et seq., as amended (the "Public Information Act"), the same shall be of no force or effect. Furthermore, it is expressly understood and agreed that County, its officers and employees may request advice, decisions and opinions of the Attorney General of the State of Texas in regard to the application of the Public Information Act to any items or data furnished to County as to whether or not the same are available to the public. It is further understood that County's officers and employees shall have the right to rely on the advice, decisions and opinions of the Attorney General, and that County, its officers and employees shall have no liability or obligation to any party hereto for the disclosure to the public, or to any person or persons, of any items or data furnished to County by a party hereto, in reliance of any advice, decision or opinion of the Attorney General of the State of Texas.

M. Governing Terms and Conditions. If there is an irreconcilable conflict between the terms and conditions set forth in this Contract or any Contract Amendment and the terms and conditions set forth in any Exhibit, Appendix, Work Authorization or Supplemental Work Authorization to this Contract, the terms and conditions set forth in this Contract or any Contract Amendment shall control over the terms and conditions set forth in any Exhibit, Appendix, Work Authorization or Supplemental Work Authorization to this Contract.

N. Meaning of Day. For purposes of this Contract, all references to a "day" or "days" shall mean a calendar day or calendar days.

O. Appropriation of Funds by County. County believes it has sufficient funds currently available and authorized for expenditure to finance the costs of this Contract. Engineer understands and agrees that County's payment of amounts under this Contract is contingent on the County receiving appropriations or other expenditure authority sufficient to allow the County, in the exercise of reasonable administrative discretion, to continue to make payments under this Contract. It is further understood and agreed by Engineer that County shall have the right to terminate this Contract at the end of any County fiscal year if the governing body of County does not appropriate sufficient funds as determined by County's budget for the fiscal year in question. County may effect such termination by giving written notice of termination to Engineer.

ARTICLE 33
DISPUTE RESOLUTION

Except as otherwise specifically set forth herein, County and Engineer shall work together in good faith to resolve any controversy, dispute or claim between them which arises out

of or relates to this Contract, whether stated in tort, contract, statute, claim for benefits, bad faith, professional liability or otherwise ("Claim"). If the parties are unable to resolve the Claim within thirty (30) days following the date in which one party sent written notice of the Claim to the other party, and if a party wishes to pursue the Claim, such Claim shall be addressed through non-binding mediation. A single mediator engaged in the practice of law, who is knowledgeable about subject matter of this Contract, shall be selected by agreement of the parties and serve as the mediator. Any mediation under this Contract shall be conducted in Hays County, Texas. The mediator's fees shall be borne equally between the parties. Such non-binding mediation is a condition precedent to seeking redress in a court of competent jurisdiction, but this provision shall not preclude either party from filing a lawsuit in a court of competent jurisdiction prior to completing a mediation if necessary to preserve the statute of limitations, in which case such lawsuit shall be stayed pending completion of the mediation process contemplated herein. This provision shall survive the termination of the Contract.

ARTICLE 34
EQUAL OPPORTUNITY IN EMPLOYMENT

During the performance of this Contract and to the extent the Project is a federally funded project, Engineer, for itself, its assignees and successors in interest agrees as follows:

A. Compliance with Regulations. The Engineer shall comply with the Regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Contract.

B. Nondiscrimination. The Engineer, with regard to the work performed by it during the Contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors/subconsultants, including procurements of materials and leases of equipment. The Engineer shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

C. Solicitations for Subcontracts, Including Procurements of Materials and Equipment. In all solicitations either by competitive bidding or negotiation made by the Engineer for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor/subconsultant or supplier shall be notified by the Engineer of the Engineer's obligations under this Contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

D. Information and Reports. The Engineer shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the County (referred to in this Article as the "Recipient") or the Texas Department of Transportation to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the Engineer shall so certify to the Recipient, or the Texas Department of Transportation as appropriate, and shall set forth what efforts it has made to obtain the information.

E. Sanctions for Noncompliance. In the event of the Engineer's noncompliance with the nondiscrimination provisions of this contract, the Recipient shall impose such contract sanctions as it or the Texas Department of Transportation may determine to be appropriate, including, but not limited to:

1. withholding of payments to the Engineer under the contract until the Engineer complies, and/or;
2. cancellation, termination or suspension of the Contract, in whole or in part.

F. Incorporation of Provisions. The Engineer shall include the provisions of Subsections (A) through (F) above in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The Engineer shall take such action with respect to any subcontract or procurement as the Recipient or the Texas Department of Transportation may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor/subconsultant or supplier as a result of such direction, the Engineer may request the Recipient to enter into such litigation to protect the interests of the Recipient, and, in addition, the Engineer may request the United States to enter into such litigation to protect the interests of the United States.

ARTICLE 35
STATUTORY TERMS APPLICABLE TO STATE POLITICAL SUBDIVISIONS

As required by Chapter 2270, Government Code, Engineer hereby verifies that it does not boycott Israel and will not boycott Israel through the term of this Agreement. For purposes of this verification, "boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

SIGNATORY WARRANTY

The undersigned signatory for Engineer hereby represents and warrants that the signatory is an officer of the organization for which he/she has executed this Contract and that he/she has full and complete authority to enter into this Contract on behalf of the firm. The above-stated representations and warranties are made for the purpose of inducing County to enter into this Contract.

IN WITNESS WHEREOF, County has caused this Contract to be signed in its name by its duly authorized County Judge, as has Engineer, signing by and through its duly authorized representative(s), thereby binding the parties hereto, their successors, assigns and representatives for the faithful and full performance of the terms and provisions hereof, to be effective as of the date of the last party's execution below. NO OFFICIAL, EMPLOYEE, AGENT, OR REPRESENTATIVE OF THE COUNTY HAS ANY AUTHORITY, EITHER EXPRESS OR IMPLIED, TO AMEND, TERMINATE OR MODIFY THIS CONTRACT, EXCEPT PURSUANT TO SUCH EXPRESS AUTHORITY AS MAY BE GRANTED BY THE HAYS COUNTY COMMISSIONERS COURT.

COUNTY

HAYS COUNTY, TEXAS

By:_____
Ruben Becerra, County Judge

Date: _____, 20_____

Carlos A. Lopez, P.E.
10/25/2021

ENGINEER

LJA ENGINEERING, INC.

By Kenneth G Schrock

Printed Name: Kenneth Schrock

Title: Senior Vice President

Date: October 22, 2021

LIST OF EXHIBITS ATTACHED

(1) **Exhibit A** Debarment Certification

(2) **Exhibit B** Engineering Services

(3) **Exhibit C** Work Authorization

(4) **Exhibit D** Rate Schedule

(5) **Exhibit E** Certificates of Insurance

EXHIBIT A
DEBARMENT CERTIFICATION

STATE OF TEXAS §
§
COUNTY OF HAYS §

I, the undersigned, being duly sworn or under penalty of perjury under the laws of the United States and the State of Texas, certifies that Engineer and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any federal department or agency:

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public* transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity* with commission of any of the offenses enumerated in paragraph (1)(b) of this certification;

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions* terminated for cause or default; and

(e) Have not been disciplined or issued a formal reprimand by any State agency for professional accreditation within the past three years.

LJA Engineering, Inc
Name of Firm

Signature of Certifying Official

Kenneth G. Schrock
Printed Name of Certifying Official

Senior Vice President
Title of Certifying Official

10-19, 2021
Date

(2) Where the PROVIDER is unable to certify to any of the statements in this certification, such PROVIDER shall attach an explanation to this certification.

* federal, state, or local

SUBSCRIBED and sworn to before me the undersigned authority by Kenneth Schrock the Senior VP of LJA Engineering, on behalf of said firm.

Notary Public in and for the
State of Texas

JULIE MITCHELL
NOTARY PUBLIC
ID# 125213053
State of Texas
Comm. Exp. 12-22-2021

My commission expires: 12.22.2021

EXHIBIT B

SERVICES TO BE PROVIDED BY THE Engineer
ROW ACQUISITION SERVICES FOR FM 2001 WEST

The Engineer may perform the following including but not limited to the tasks below, as described in detail in each Work Authorization:

- PROJECT MANAGEMENT AND COORDINATION
- APPRAISALS
- NEGOTIATIONS
- PREPARATION OF AGREEMENTS
- RIGHT OF WAY ACQUISITION
- RELOCATION ASSISTANCE

EXHIBIT C

WORK AUTHORIZATION

(To Be Completed and Executed After Contract Execution)

WORK AUTHORIZATION NO. _____
PROJECT: _____

This Work Authorization is made pursuant to the terms and conditions of the Hays County Contract for Engineering Services, being dated_____, 20___and entered intoby and between Hays County, Texas, a political subdivision of the State of Texas, (the "County") and _____(the "Engineer").

Part1. The Engineer will provide the following Engineering Services set forth in Attachment "B" of this Work Authorization.

Part 2. The maximum amount payable for services under this Work Authorization without modification is_____.

Part 3. Payment to the Engineer for the services established under this Work Authorization shall be made in accordance with the Contract.

Part 4. This Work Authorization shall become effective on the date of final acceptance and full execution of the parties hereto and shall terminate on_____, 20_. The Engineering Services set forth in Attachment "B" of this Work Authorization shall be fully completed on or before said date unless extended by a Supplemental Work Authorization.

Part 5. This Work Authorization does not waive the parties' responsibilities and obligations provided under the Contract.

Part 6. County believes it has sufficient funds currently available and authorized for expenditure to finance the costs of this Work Authorization. Engineer understands and agrees that County's payment of amounts under this Work Authorization is contingent on the County receiving appropriations or other expenditure authority sufficient to allow the County, in the exercise of reasonable administrative discretion, to continue to make payments under this Contract. It is further understood and agreed by Engineer that County shall have the right to terminate this Contract at the end of any County fiscal year if the governing body of County does not appropriate sufficient funds as determined by County's budget for the fiscal year in question. County may effect such termination by giving written notice of termination to Engineer.

Part 7. This Work Authorization is hereby accepted and acknowledged below.

EXECUTED this_____day of_____, 20___.

ENGINEER:	COUNTY:
LJA Engineering, Inc.	Hays County, Texas
By:_____	By:_____
Signature	Signature
_____	_____
Printed Name	Printed Name
_____	_____
Title	Title

LIST OF ATTACHMENTS

Attachment A - Services to be Provided by County

Attachment B - Services to be Provided by Engineer

Attachment C - Work Schedule

Attachment D - Fee Schedule

EXHIBIT B

Fee/Rate Schedule

FEE SCHEDULE SHALL BE INSERTED AT THE TIME OF AGREEMENT/CONTRACT EXECUTION

EXHIBIT E

CERTIFICATES OF INSURANCE

ATTACHED BEHIND THIS PAGE

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 9/17/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME: Jaye Reinertsen/Michelle Weweh
USI Southwest 9811 Katy Freeway, Suite 500 Houston TX 77024	PHONE (A/C, No, Ext): 713 490-4600 FAX (A/C, No): E-MAIL ADDRESS: Jaye.Reinertsen@usi.com

INSURED	INSURER(S) AFFORDING COVERAGE	NAIC #
LJA Engineering, Inc. **Additional Named Insureds Below** 3600 W Sam Houston Parkway S, Suite 600 Houston TX 77042 (LJAENGIN)	INSURER A : Hartford Casualty Insurance Company	29424
	INSURER B : Hartford Fire Insurance Company	19682
	INSURER C : Texas Mutual Insurance Company	22945
	INSURER D : Lexington Insurance Company	19437
	INSURER E : Argonaut Insurance Company	19801
	INSURER F :	

COVERAGES **CERTIFICATE NUMBER:** 1158622459 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	[X] COMMERCIAL GENERAL LIABILITY [ ] CLAIMS-MADE [X] OCCUR [X] 10,000 [ ] GEN'L AGGREGATE LIMIT APPLIES PER: [ ] POLICY [X] PRO-JECT [X] LOC [ ] OTHER:			61UUNOL5145	9/1/2021	9/1/2022	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG [ ]	$ 1,000,000 $ 300,000 $ 10,000 $ 1,000,000 $ 2,000,000 $ 2,000,000 $
B	AUTOMOBILE LIABILITY [X] ANY AUTO [ ] OWNED AUTOS ONLY [ ] SCHEDULED AUTOS [ ] HIRED AUTOS ONLY [X] NON-OWNED AUTOS ONLY [X] BI/PD Ded: [ ] $10,000			61UENOL5146	9/1/2021	9/1/2022	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) [ ]	$ 1,000,000 $ $ $ $
A	[X] UMBRELLA LIAB [X] OCCUR [ ] EXCESS LIAB [ ] CLAIMS-MADE [ ] DED [X] RETENTION $ 10,000			61XHUOL5147	9/1/2021	9/1/2022	EACH OCCURRENCE AGGREGATE [ ]	$ 10,000,000 $ 10,000,000 $
C E	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? [N] (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N / A		0002002511 928548620044	9/1/2021 9/1/2021	9/1/2022 9/1/2022	[X] PER STATUTE [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $ 1,000,000 $ 1,000,000 $ 1,000,000
D	Professional Liability			031565496	9/1/2021	9/1/2022	$5,000,000 $5,000,000	Per Claim Annl Aggr.

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Additional Named Insureds:

Berg-Oliver Associates, Inc.; 14701 St. Mary's Lane, Suite 400; Houston, TX 77079

Horizon Environmental Services, Inc.; 1507 South IH 35; Austin, TX 78741

LJA Infrastructure, Inc.; 3600 W Sam Houston Pkwy S, Suite 150; Houston, TX 77042

See Attached...

CERTIFICATE HOLDER

Hays County
111 E San Antonio Street
Suite 202
San Marcos TX 78666

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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AGENCY CUSTOMER ID: LJAENGIN

LOC #:

ADDITIONAL REMARKS SCHEDULE

AGENCY	NAMED INSURED
USI Southwest	LJA Engineering, Inc. **Additional Named Insureds Below** 3600 W Sam Houston Parkway S, Suite 600 Houston TX 77042
POLICY NUMBER	
CARRIER / NAIC CODE	EFFECTIVE DATE:

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: 25 FORM TITLE: CERTIFICATE OF LIABILITY INSURANCE

LJA Rail, LLC; 3600 W Sam Houston Pkwy S, Suite 150; Houston, TX 77042

LJA Surveying, Inc.; 3600 W Sam Houston Pkwy S, Suite 175; Houston, TX 77042

LJA Builds, Inc.; 3600 W Sam Houston Pkwy S, Suite 150; Houston, TX 77042

LJA Environmental Services, LLC; 14701 St. Mary's Lane, Suite 400; Houston, TX 77042

David C. Baldwin, Inc. dba DCBA Landscape Architecture; 730 E. Park Blvd; Plano, TX 75704

GXT, Ltd & GenerationNext Telecommunications, Inc.

Ramos Consulting , LLC; 6720 Vaught Ranch Road, Suite 140, Austin, TX 78730

KDM Acquisition Services, Inc.;3600 W Sam Houston Pkwy S, Suite 600; Houston, TX 77042

General Liability Maximum Annual Aggregate limit $10,000,000

All policies listed (except for Work Comp and Professional Liability) include an automatic Additional Insured that provides Additional Insured status to the Certificate Holder only when there is a written contract that requires such status, and only regarding work performed on behalf of the named insured per policy forms HG0001 09/16 (includes ongoing operations) & CG2038 04/13 (GL); HA9916 03/12 (AL); XL0003 09/16 (UL).

Coverage provided on the General and Auto Liability is primary and non-contributory if required by a written contract executed prior to a loss.

All policies listed provide a Blanket Waiver of Subrogation when required by written contract executed prior to a loss per policy forms HG0001 09/16 (GL); HA9916 03/12 (Auto); XL0003 09/16 (UL); and WC420304B (WC).

The Umbrella Liability policy follows form to the underlying General, Automobile and Employers Liability policies.

All policies listed include an endorsement providing that 30 days notice of cancellation for reasons other than nonpayment of premium and 10 days notice of cancellation for non-payment of premium will be given to the Certificate Holder by the Insurance Carrier, if required by written contract.

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CODE OF ETHICS FOR HAYS COUNTY

Public employment is a public trust. It is the policy of Hays County to promote and balance the objective of protecting government integrity and the objective of facilitating the recruitment and retention of personnel needed by Hays County. Such a policy implemented by prescribing essential standards of ethical conduct without creating unnecessary obstacles to entering public services.

Public servants must discharge their duties impartially so as to assure fair competitive access to governmental procurement by responsible contractors. Moreover, they should conduct themselves in such a manner as to foster public confidence in the integrity of the Hays County procurement organization.

To achieve the purpose of this article, it is essential that those doing business with Hays County also observe the ethical standards prescribed here.

1. It shall be a breach of ethics to attempt to influence any public employee, elected official or department head to breach the standards of ethical conduct set forth in this code.

2. It shall be a breach of ethics for any employee of Hays County or a vendor doing business with the county to participate directly or indirectly in a procurement when the employee or vendor knows that:

   A. The employee or any member of the employee's immediate family, or household has a substantial financial interest pertaining to the procurement. This means ownership of 10% or more of the company involved and/or ownership of stock or other interest or such valued at $2500.00 or more.

   B. A business or organization in which the employee, or any member of the employee's immediate family, has a financial interest pertaining to the procurement.

   C. Gratuities: It shall be a breach of ethics to offer, give or agree to give any employee of Hays County or for any employee to solicit, demand, accept or agree to accept from a vendor, a gratuity of consequence or any offer of employment in connection with any decision approval, disapproval, recommendation, preparation or any part of a program requirement or purchase request influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or controversy, any particular matter pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefore pending before this government.

D. Kickbacks: It shall be a breach of ethics for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor for any contract for Hays County as an inducement for the award of a contract or order.

E. Contract Clause: The prohibition against gratuities and kickbacks prescribed above shall be conspicuously set forth in every contract and solicitation therefore.

F. Any effort to influence any employee, elected official, or department head to violate the standards of the code is grounds to void the contract. Please certify, by your signature below, that you understand the ethics policy of Hays County and in no way will attempt to violate the code.

SIGNATURE: Kenneth G. Schrock

PRINT NAME & TITLE: Kenneth G. Schrock, Senior Vice President

COMPANY NAME: LJA Engineering, Inc.

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY
CERTIFICATION OF FILING

Certificate Number:
2021-806034

Date Filed:
09/24/2021

Date Acknowledged:

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.
LJA ENGINEERING, INC.
Houston, TX United States

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.
Hays County

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.
21-5890
Professional engineering services FM 2001 West

4 Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
		Controlling	Intermediary
McKee, Alan B.	Houston, TX United States	X	
Shackett, John D.	Houston, TX United States	X	
Collins, Jeff P.	Houston, TX United States	X	
Ross, James D.	Houston, TX United States	X	

5 Check only if there is NO Interested Party. ☐

6 UNSWORN DECLARATION

My name is Kenneth G. Schrock, and my date of birth is 4/27/1965.

My address is 7500 Rialto Blvd, Suite 100 (street), Austin (city), TX (state), 78735 (zip code), USA (country).

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Travis County, State of Texas, on the 27 day of Sept (month), 20 21 (year).

Kenneth G Schrock
Signature of authorized agent of contracting business entity
(Declarant)

Hays County
House Bill 89 Verification

I, Kenneth G. Schrock (Person name), the undersigned representative of (Company or Business name) LJA Engineering, Inc. (hereafter referred to as company) being an adult over the age of eighteen (18) years of age, after being duly sworn by the undersigned notary, do hereby depose and verify under oath that the company named-above, under the provisions of Subtitle F, Title 10, Government Code Chapter 2270:

1. Does not boycott Israel currently; and
2. Will not boycott Israel during the term of the contract.

Pursuant to Section 2270.001, Texas Government Code:

1. *"Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes; and*
2. *"Company" means a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or any limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of those entities or business associations that exist to make a profit.*

9/28/2021
DATE

SIGNATURE OF COMPANY REPRESENTATIVE

On this the 28 day of September, 2021, personally appeared Kenneth G. Schrock, the above-named person, who after by me being duly sworn, did swear and confirm that the above is true and correct.

NOTARY SEAL

JULIE MITCHELL
NOTARY PUBLIC
ID# 125213053
State of Texas
Comm. Exp. 12-22-2021

NOTARY SIGNATURE

9-28-21
Date

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Discussion and possible action to authorize the County Judge to execute Supplemental No. 10 to the Professional Services Agreement between Hays County and HNTB Corporation for the Hays County/TxDOT Partnership Program General Engineering Consultant (GEC)/Program Management services in Hays County, increasing the Compensation Cap by $336,800.00 from $7,205,491.30 to $7,542,291.30 and extending the termination date of the contract to September 30, 2022.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
ACTION-ROADS	November 2, 2021	$336,800.00

LINE ITEM NUMBER

Partnership Program

AUDITOR USE ONLY

AUDITOR COMMENTS:

Authorize the discretionary exemption pursuant to TX Local Govt Code 262.024 (a).

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
Jerry Borcherding, Transportation Director	JONES	N/A

SUMMARY

The execution of this supplemental to the program management contract assigned to HNTB Corporation on April 1, 2020 will extend the termination date for the next Fiscal Year. The time extension and budget will allow the Project Management/GEC team to continue moving the Hays County/TxDOT Partnership program project forward.

CONTRACT FOR ENGINEERING SERVICES
SUPPLEMENTAL AGREEMENT NO. 10
TO THE PROFESSIONAL SERVICES AGREEMENT

STATE OF TEXAS §
COUNTY OF HAYS §

THIS SUPPLEMENTAL AGREEMENT to contract for engineering services is by and between Hays County, Texas, a political subdivision of the State of Texas, *(the "County")* and HNTB Corporation *(the "Program Manager")* and becomes effective when fully executed by both parties.

WHEREAS, the *County* and the *Program Manager* executed a contract on July 23, 2013 and Supplemental #1 on November 12, 2013, Supplemental #2 on September 6, 2016, Supplemental #3 on September 30, 2016, Supplemental #4 on October 3, 2017, Supplemental #5 on February 5, 2019, and Supplemental #6 on September 24, 2019; and Supplement #7 on October 20, 2020; and Supplement #8 on June 22, 2021; and Supplement #9 on August 17, 2021; and,

WHEREAS, the not-to-exceed fee in Exhibit II, Section 1, Item 1.1 in the agreement is set at $250,000.00 and was amended to $2,474,000.00 through Supplemental #1 and was amended to $2,509,000.00 through Supplemental #2 and was amended to $3,696,500.00 through Supplemental #3 and was amended to $4,896,500.00 through Supplemental #4 and was amended to $5,973,500.00 through Supplemental #5 and was amended to $6,673,500.00 through Supplemental #6; and was amended to $7,193,500.00 through Supplemental #7; and was amended to $7,199,502.00 through Supplemental #8; and was amended to $7,205,491.30 through Supplemental #9; and,

WHEREAS, the contract for engineering services between Hays County, Texas and Prime Strategies, Inc. was assigned to HNTB Corporation on April 1, 2020; and,

WHEREAS, it has become necessary to amend the agreement.

AGREEMENT

NOW, THEREFORE, premises considered, the *County* and the *Engineer* agree that said contract is amended as follows:

I. The not-to-exceed fee in Exhibit 1, Section 1, Item 1. I is hereby increased from $7,205,491.30 to $7,542,291.30, reflecting an increase of $336,800

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

IN WITNESS WHEREOF, the ***County*** and the ***Program Manager*** have executed this supplemental agreement in duplicate,

PROGRAM MANAGER:
HNTB Corporation

By:_____
DocuSigned by:
Daniel J. Kellerman
6DAA031B30F74CA...
Signature

Daniel J. Kellerman, PE
Printed Name

Vice President
Title

10/27/2021
Date

COUNTY:
Hays County, Texas

By:_____
Signature

Ruben Becerra
Printed Name

Hays County Judge
Title

_____
Date

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Discussion and possible action to authorize the County Judge to execute Supplemental Agreement No. 8 to the Professional Services Agreement between Hays County and HNTB Corporation for the Pass-Through Finance Program Management effort in Hays County, increasing the Compensation Cap by $62,022.00 from $7,715,500.00 to $7,777,522.00 and extending the termination date of the contract to September 30, 2022.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
CONSENT	November 2, 2021	$62,022.00

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

Authorize the discretionary exemption pursuant to TX Local Govt Code 262.024 (a).

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
Jerry Borcherding, Transportation Director	JONES	N/A

SUMMARY

The execution of this supplemental to the program management contract assigned to HNTB Corporation on April 1, 2020 will extend the termination date for the next fiscal year. The time extension and budget will allow the Project Management/GEC team to continue close out and turnover efforts of the final pass through project (FM 1626 South) to TxDOT as well as assist the County Auditor in transferring TxDOT invoicing to their office.

CONTRACT FOR ENGINEERING SERVICES
SUPPLEMENTAL AGREEMENT NO. 8
TO THE PROFESSIONAL SERVICES AGREEMENT

STATE OF TEXAS §
COUNTY OF HAYS §

THIS SUPPLEMENTAL AGREEMENT to contract for engineering services is by and between Hays County, Texas, a political subdivision of the State of Texas, *(the "County")* and HNTB Corporation *(the "Program Manager")* and becomes effective when fully executed by both parties.

WHEREAS, the *County* and the *Program Manager* executed a contract on August 22, 2006 and Supplemental #1 on February 3, 2009, Supplemental #2 on May 15, 2012, Supplemental #3 on November 13, 2012, Supplemental #4 on February 17, 2015, Supplemental #5 on May 1, 2018, and Supplemental #6 on August 13, 2019; and Supplemental #7 on October 20, 2021; and,

WHEREAS, the not-to-exceed fee in Exhibit II, Section 1, Item 1.1 in the agreement is set at $1,000,000.00 and was amended to $3,845,000.00 through Supplemental #1 and was amended to $5,545,000.00 through Supplemental #2 and was amended to $5,865,000.00 through Supplemental #3 and was amended to $6,965,000.00 through Supplemental #4 and was amended to $7,390,500.00 through Supplemental #5 and was amended to $7,615,500.00 through Supplemental #6; and was amended to $7,715,500.00 through Supplemental #7; and,

WHEREAS, the contract for engineering services between Hays County, Texas and Prime Strategies, Inc. was assigned to HNTB Corporation on April 1, 2020; and,

WHEREAS, it has become necessary to amend the agreement.

AGREEMENT

NOW, THEREFORE, premises considered, the *County* and the *Program Manager* agree that said contract is amended as follows:

I. The not-to-exceed fee in Exhibit 1, Section 1, Item 1. I is hereby increased from $7,715,500.00 to $7,777,522.00 reflecting an increase of $62,022.00.

II. This Supplemental No. 8 to the Professional Service Agreement shall become effective on date of final signature and shall terminate on September 30, 2022, unless extended by a supplemental contract amendment.

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

IN WITNESS WHEREOF, the ***County*** and the ***Program Manager*** have executed this supplemental agreement in duplicate,

Program Manager:	**County:**
HNTB Corporation	Hays County, Texas
By: DocuSigned by: Daniel J. Kellerman 6DAA031B30F74CA...	By:
Signature	Signature
Daniel J. Kellerman, PE	
Printed Name	Printed Name
Vice President	
Title	Title
10/27/2021	
Date	Date

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Discussion and possible action to authorize the County Judge to execute a Professional Services Agreement (time & materials contract) between Hays County and HNTB Corporation for Fiscal Year Work Authorizations in the total amount of $2,635,006.00 to continue providing General Engineering Consultant (GEC)/Program Management services for the Hays County 2016 Road Bond Program projects.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
ACTION-ROADS	November 2, 2021	$2,635,006.00

LINE ITEM NUMBER

Road Bonds

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
Jerry Borcherding, Transportation Director	JONES	N/A

SUMMARY

This action would authorize a new HNTB Corporation contract and Fiscal Year Work Authorizations for 2016 Road Bond Projects through September 30, 2022. This request covers two work authorizations. One is for management of road bond projects and the other is for management of certain projects under the purview of the Transportation Department. The GEC is responsible for managing the development and implementation of the 2016 Road Bond Program projects, including preliminary engineering, environmental clearance, right-of-way determination and acquisition, utility relocation, construction engineering, and construction management where appropriate. The GEC is also responsible for coordination with the Texas Department of Transportation (TxDOT) and the Capital Area Metropolitan Planning Organization (CAMPO) on project scheduling, financing/funding, grant opportunities, and other matters where appropriate. The GEC is also responsible for consultant contract and work authorization management, and invoice processing, and providing on-going coordination with the County's Transportation Department.

AGREEMENT
FOR PROFESSIONAL SERVICES

THIS AGREEMENT is entered into between **HAYS COUNTY, TEXAS, a political subdivision of the State of Texas** (County) and **HNTB CORPORATION** (HNTB), for the following reasons:

1. County intends to continue to construct various road and drainage projects as part of the 2016 Road Bond Program (the Project); and,

2. County requires certain professional General Engineering Consultant (GEC), program management, planning, design and construction management/inspection services in connection with the Project (the Services); and,

3. HNTB is prepared to provide the Services.

In consideration of the promises contained in this Agreement, County and HNTB agree as follows:

ARTICLE 1 - EFFECTIVE DATE
The effective date of this Agreement shall be October 1st, 2021 and shall continue until such time as the Services are completed in accordance with the terms of each applicable Work Authorization.

ARTICLE 2 - WORK AUTHORIZATIONS
Work Authorizations shall be used to describe the parties' mutual agreement on the scope of the Services, schedule, compensation and other particulars as stated therein. Work Authorizations shall be in the general form shown in attached Exhibit A. Work Authorizations are binding only after acceptance and execution by duly authorized representatives of both parties. Each Task Order shall govern the parties' rights and obligations with respect to each assignment, but all within the framework of this Agreement.

ARTICLE 3 - SCOPE OF SERVICES
HNTB shall provide the Services described in Section A (Scope of Services) of each Work Authorization. HNTB shall notify the County in writing as soon as possible if it determines, or reasonably anticipates, that the Services will not be completed in accordance with an applicable Work Authorization.

ARTICLE 4 - SCHEDULE
HNTB shall exercise its reasonable efforts to perform those Services within the time frame set forth in Section B (Schedule) of each Work Authorization.

ARTICLE 5 - COMPENSATION
A. County shall pay HNTB in accordance with Section C (Compensation) of each Work Authorization. Notwithstanding anything to the contrary contained herein or in the Compensation section of a Work Authorization, HNTB may alter the compensation distribution between individual phases, tasks or work assignments to be consistent with the Services actually rendered, within the total authorized amount set forth under such Work Authorization.
B. HNTB shall invoice County at a minimum on a monthly basis for Services rendered. Invoices shall be due and payable within thirty (30) days after receipt of the invoice. If County objects to any invoice submitted by HNTB, County shall so advise HNTB in writing giving reasons therefor within twenty-one (21) days of receipt of such invoice. If any invoice submitted by HNTB is disputed by County, only that portion so disputed may be withheld from payment at which time County shall immediately reimburse HNTB for any outstanding amounts due with respect thereto.
C. The County's payment for goods and services shall be governed by Chapter 2251 of the Texas Government Code. An invoice shall be deemed overdue the 31st day after the later of (1) the date County receives the goods under the contract; (2) the date the performance of the Service under the Agreement is completed; or (3) the date the Hays County Auditor receives an invoice for the goods or services. Interest charges for any overdue payments shall be paid by County in accordance with Texas Government Code Section 2251.025. More specifically, the rate of interest that shall accrue on a late payment is the rate in effect on September 1 of County's fiscal year in which the payment becomes due. The said rate in effect on September 1 shall be equal to the sum of one percent (1%); and (2) the prime rate published in the Wall Street Journal on the first day of July of the preceding fiscal year that does not fall on a Saturday or Sunday.

D. All payments made to HNTB hereunder shall be in U.S. currency and shall be made by electronic funds transfer account or by delivery of other immediately available funds to such other account or accounts as

specified in writing by HNTB's Treasury Department, and shall not be reduced by any wire transfer fee, bank processing fee, or other fee pertaining to the rendering of payment.

E. Notwithstanding anything to the contrary in this Agreement or any Work Authorization, should the Services under this Agreement or subsequent Work Authorization include products or services that are commercially priced by HNTB, such amounts shall be invoiced to County at the catalog price(s) offered by HNTB and are not subject to audit on the basis of costs incurred.

ARTICLE 6 – CHANGE MANAGEMENT

A. The parties may at any time agree to a written Change Order within the general scope of this Agreement or any respective Work Authorization. If any Change Order should result in an increase or decrease in the cost of, or the time required for, performance of a Work Authorization under this Agreement, or otherwise affects any other provision of this Agreement, an equitable adjustment shall be made in the compensation, delivery schedule, or both if applicable under such Work Authorization, and/or in such other provisions of this Agreement as may be so affected prior to HNTB's obligation to begin any such changed services. HNTB shall submit written notice of such impacts to County. County shall take action on such notice within ten (10) days of submittal and a mutually agreed upon Amendment to the applicable Work Authorization shall be issued in writing executed by both parties prior to HNTB's performance of such changed services.

B. If HNTB believes County has requested out of scope work that is not identified in a currently contracted and active Work Authorization, HNTB shall submit a written request for change in writing to County outlining the nature of the out-of-scope work involved, the reasons for which HNTB believes additional compensation will or may be due, with a statement of estimated changes in fee or time schedule. County shall take action on such request within ten (10) days of submittal and a mutually agreed upon Change Order or Amendment to the applicable Work Authorization shall be issued in writing executed by both parties prior to HNTB's performance of such out of scope work.

C. It is the intention of this Article that any notice or claim for out-of-scope work for whatever reason be brought to the attention of County at the earliest possible time in order that matters related to any such work can be settled in a prompt manner but in no event later than the time limits set forth in this Article. HNTB shall not be required to perform out-of-scope or Change Order work unless such work and any applicable change has been approved in writing by Change Order or Amendment to this Agreement or subject Work Authorization executed by both parties.

D. Change Orders and Amendments shall be governed by the terms and conditions of this Agreement unless otherwise expressly set forth therein.

ARTICLE 7 - COUNTY'S RESPONSIBILITIES

A. County shall be responsible for all matters described in Section D (County's Responsibilities), of each Work Authorization. In addition, County shall perform and provide the following in a timely manner so as not to delay the Services of HNTB:

(1) Place at HNTB's disposal all available information pertinent to the Project, including previous reports, drawings, specifications or any other data as may be reasonably required by HNTB to perform its Services.

(2) Give prompt written notice to HNTB whenever County becomes aware of any development that affects the scope or timing of HNTB's Services, or any defect in the Services of HNTB.

(3) Advise HNTB of the identity and scope of services of any independent consultants retained by County to provide services in regard to the Project.

B. County hereby represents that it owns the intellectual property rights in any plans, documents or other materials provided by County to HNTB. If County does not own the intellectual property rights in such plans, documents or other materials, prior to providing same to HNTB, County shall obtain a license or right to use, including the right to sublicense to HNTB. County hereby grants HNTB the right to use the intellectual property associated with plans, documents or other materials it owns or has the right to use for the limited purpose of performing the Services. County represents that HNTB's use of such documents will not infringe upon any third parties' rights and County will indemnify and protect HNTB from any infringement claims arising from HNTB's use of any plans, documents or other materials provided to HNTB in the performance of its Services hereunder.

ARTICLE 8 - STANDARD OF CARE

The standard of care for all professional engineering, consulting, and related services performed or furnished by HNTB and its employees and subconsultants under this Agreement shall be the same degree of care, skill, and diligence shall be exercised in the performance of the Services as is ordinarily possessed and exercised by a member of the same profession, currently practicing, under similar circumstances.

ARTICLE 9 - INDEMNIFICATION AND LIABILITY

A. Having considered the potential liabilities that may exist during the performance of the Services, the relative benefits and risks of the Project, and HNTB's fee for the Services, and in consideration of the promises contained in this Agreement, County and HNTB agree to allocate and limit such liabilities in accordance with this Article.

B. HNTB agrees to indemnify and hold the County harmless from and against legal liability for all judgments, losses, damages, and expenses to the extent such judgments, losses, damages, or expenses are caused by HNTB's negligent acts, errors, or omissions arising out of its performance of the Services. In the event judgments, losses, damages, or expenses are caused by the joint or concurrent negligence of HNTB and County, they shall be borne by each party in proportion to its own negligence.

C. To the fullest extent permitted by law, the total aggregate liability of HNTB and its subconsultants to County for all judgments, losses, damages, and expenses resulting in any way from the performance of the Services shall not exceed the total compensation actually received by HNTB for Work Authorization completed under this Agreement.

D. To the fullest extent permitted by law, HNTB shall not be liable to County for any special, punitive, consequential or indirect damages resulting in any way from the performance of the Services or otherwise arising from this Agreement.

E. The terms and conditions of this Article shall survive completion of the Services, or any termination of this Agreement.

ARTICLE 10 - INSURANCE

A. During the term of this Agreement, HNTB shall maintain the following insurance:

(1) Commercial General Liability Insurance, with a limit of $1,000,000 per occurrence and $2,000,000 annual aggregate.

(2) Business Automobile Liability Insurance, with a combined single limit of $1,000,000 for each person and $1,000,000 for each accident.

(3) Workers' Compensation Insurance in accordance with statutory requirements and Employer's Liability Insurance, with a limit of $500,000 for each occurrence.

(4) Professional Liability Insurance, with a limit of $1,000,000 per claim and annual aggregate.

B. HNTB shall, upon written request, furnish County certificates of insurance as evidence of compliance with this Article. County shall require all Project contractors to include County, HNTB, and its parent company, affiliated and subsidiary entities, directors, officers and employees as additional insureds on their Commercial General and Business Automobile Liability insurance policies, and to indemnify both County and HNTB, each to the same extent.

C. HNTB and County waive all rights against each other and their directors, officers, partners, commissioners, officials, agents, and employees for damages covered by property insurance during and after the completion of the Services. If the Services result in any construction related to the Project, a similar provision shall be incorporated into all construction contracts entered into by County and shall protect County and HNTB to the same extent.

ARTICLE 11 - LIMITATIONS OF RESPONSIBILITY

A. HNTB shall not be responsible for (a) construction means, methods, techniques, sequences, procedures, or safety precautions and programs in connection with the Project; (b) the failure of any contractor, subcontractor, vendor, or other Project participant, not under contract to HNTB, to fulfill contractual responsibilities to County or to comply with federal, state, or local laws, regulations, and codes; or (c) procuring permits, certificates, and licenses required for any construction unless such procurement responsibilities are specifically assigned to HNTB in a Work Authorization.

B. In the event the County requests HNTB to execute any certificates or other documents, the proposed language of such certificates or documents shall be submitted to HNTB for review at least 15 days prior to the requested date of execution. HNTB shall not be required to execute any certificates or documents that in any way would, in HNTB’s sole judgment, (a) increase HNTB’s legal or contractual obligations or risks; (b) require knowledge, services or responsibilities beyond the scope of this Agreement; or (c) result in HNTB having to certify, guarantee or warrant the existence of conditions whose existence HNTB cannot ascertain.

ARTICLE 12 - OPINIONS OF COST AND SCHEDULE

Because HNTB has no control over the cost of labor, materials, or equipment furnished by others, or over the resources provided by others to meet Project schedules, HNTB's opinion of probable costs and of Project schedules, if any, shall be made on the basis of experience and qualifications as a practitioner of its profession. HNTB does not guarantee that quantities, proposals, bids, or actual Project costs will not vary from HNTB's cost estimates or that actual schedules will not vary from HNTB's projected schedules.

ARTICLE 13 - REUSE OF DOCUMENTS

All documents, including, but not limited to, plans, drawings, and specifications prepared by HNTB as deliverables pursuant to the Scope of Services are instruments of service in respect to the Project. They are not intended or represented to be suitable for reuse by County or others on modifications or extensions of the Project or on any other project. Any reuse without prior written verification or adaptation by HNTB for the specific purpose intended will be at County's sole risk and without liability or legal exposure to HNTB. County shall indemnify and hold harmless HNTB and its subconsultants against all judgments, losses, damages, injuries, and expenses, including reasonable attorneys' fees, arising out of or resulting from such reuse. Any verification or adaptation of documents will entitle HNTB to additional compensation at rates to be agreed upon by County and HNTB.

ARTICLE 14 - OWNERSHIP OF DOCUMENTS AND INTELLECTUAL PROPERTY

Except as otherwise provided herein, documents, drawings, and specifications prepared by HNTB and furnished to County as part of the Services shall become the property of County; provided, however, that HNTB shall have the unrestricted right to their use. HNTB shall retain its copyright and ownership rights in its design, drawing details, specifications, data bases, computer software, and other proprietary property. Intellectual property developed, utilized, or modified in the performance of the Services shall remain the property of HNTB.

ARTICLE 15 - TERMINATION AND SUSPENSION

A. This Agreement may be terminated by either party upon written notice in the event of substantial failure by the other party to perform in accordance with the terms of this Agreement; provided, however, the nonperforming party shall have fourteen (14) calendar days from the receipt of the termination notice to cure or to submit a plan for cure acceptable to the other party.

B. County may terminate for County's convenience upon written notice to HNTB. HNTB shall terminate the Services on a schedule acceptable to County, and County shall pay HNTB for all the Services performed.

C. County may request suspension of performance under this Agreement. Upon restart of suspended Services, an equitable adjustment shall be made to HNTB's compensation and the Project schedule. Notwithstanding anything to the contrary contained herein,. If the original key staff are no longer available upon restart of a period of suspended performance for any reason, HNTB shall, without penalty, be permitted to substitute alternate staff and if requested, will resubmit its schedule of key staff and their qualifications for approval by the County, such approval not to be unreasonably withheld.

D. The provisions of this Article shall also apply to each individual Work Authorization, separate and apart from any other Work Authorization, and without terminating or otherwise affecting this Agreement as a whole.

ARTICLE 16 - DELAY IN PERFORMANCE

A. Neither County nor HNTB shall be considered in default of this Agreement or any Work Authorization for delays in performance caused by circumstances beyond the reasonable control of the nonperforming party. For purposes of this Agreement, such circumstances include, but are not limited to, abnormal weather conditions; floods; earthquakes; fire; epidemics; war, riots, and other civil disturbances; strikes, lockouts, work slowdowns, and other labor disturbances; sabotage; judicial restraint; and delay in or inability to procure permits, licenses, or authorizations from any local, state, or federal agency for any of the supplies, materials, accesses, or services required to be provided by either County or HNTB under this Agreement or any Work Authorization. HNTB shall be granted a reasonable extension of time for any delay in its performance caused by any such circumstances.

B. Should such circumstances occur, the nonperforming party shall, within a reasonable time of being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance.

ARTICLE 17 - NOTICES

A. Any notice required by this Agreement shall be made in writing to the address specified below:

County: Hays County, Texas

Attn: Ruben Becerra

111 E. San Antonio St, STE 300

San Marcos, Texas 78666

Phone: (512)-393-2205

Email: judge.becerra@co.hays.tx.us

HNTB: HNTB Corporation

Attn: Daniel J. Kellerman, PE

701 Brazos St

Austin, TX 78701

Phone: (816)-527-2543

Email: dkellerman@hntb.com

B. Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of County and HNTB.

ARTICLE 18 - DISPUTES

A. In the event of a dispute between County and HNTB arising out of or related to this Agreement, or any Work Authorization, the aggrieved party shall notify the other party of the dispute within a reasonable time after such dispute arises. If the parties cannot thereafter resolve the dispute, each party shall nominate a senior officer of its management to meet to resolve the dispute by direct negotiation or mediation.

B. Should such negotiation or mediation fail to resolve the dispute, either party may pursue resolution of the dispute by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association; provided, however, in the event the parties are unable to reach agreement to arbitrate under terms reasonably acceptable to both parties, either party may pursue resolution in any court having jurisdiction.

C. During the pendency of any dispute, the parties shall continue diligently to fulfill their respective obligations hereunder.

ARTICLE 19 - EQUAL EMPLOYMENT OPPORTUNITY

A. HNTB hereby affirms its support of affirmative action and that it is an equal opportunity employer and complies with Title VII of the Civil Rights Act of 1964, and the provisions of the "Equal Opportunity Clause" of Section 202 of Executive Order 11246, as Amended by Executive Order Number 11375; Section 503 of the Rehabilitation Act of 1973; Section 4212 of the Vietnam Era Veterans Readjustment Act of 1974; 41 CFR Part 60, specifically subparts 60-1.4, 60-250.5, 60-300.5, 60-741.2, and 60-741.5; and other applicable regulations and orders of the Department of Labor relating thereto. All such regulations and are incorporated herein by reference and made a part of this Agreement as if set forth in their entirety. **HNTB further affirms that it and its subconsultants shall abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, age, height, weight, color, religion, sex (including gender identity), sexual preference/orientation, marital status, citizen status, ancestry, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment qualified individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability. HNTB further affirms its policy to recruit and hire employees without regard to race, age, color, religion, sex, sexual preference/orientation, marital status, citizen status, national origin or ancestry, presence of a disability or status as a Veteran of the Vietnam era or any other legally protected status.** It is HNTB's policy to treat employees equally with respect to compensation, advancement, promotions, transfers and all other terms and conditions of employment and to make sure that minorities will be afforded full opportunity to submit a proposal and will not be discriminated against on the basis of race, color or national origin in consideration for an award.

B. Furthermore as and when applicable, HNTB, for itself, its assignees and successors in interest affirms it will comply with:

(i) Executive Order 13496 requiring employers to inform employees of their rights under the National Labor Relations Act (NLRA), the primary law governing relations between unions and employers in the private sector (see 29 CFR Part 471, Appendix A). HNTB shall post the prescribed notice in every subcontract wherein services are performed under a federally-funded program and/or under a federal contract, except contracts for purchases under the Simplified Acquisition Threshold (currently $100,000), subcontracts below $10,000, and in those cases where the Secretary exempts a contracting department or agency pursuant to the Executive Order. HNTB shall also require its subconsultants to post the prescribed notice in all lower-tier consultant contracts.

(ii) Regulations of the Department of Transportation relative to nondiscrimination in federally assisted programs of the Department of Transportation including 49 CFR Part 21 through Appendix H; 23 CFR Part 200 (Title VI of the Civil Rights Act of 1964 and related statutes); and 23 CFR, subpart 710.405(b), which are

incorporated herein by reference and made a part of this Agreement.

C. HNTB further affirms completion of applicable governmental employer information reports including the EEO-1 and VETS-100 reports, and maintenance of a current Affirmative Action Plan as required by Federal regulations.

ARTICLE 20 - WAIVER

A waiver by either County or HNTB of any breach of this Agreement shall be in writing. Such a waiver shall not affect the waiving party's rights with respect to any other or further breach.

ARTICLE 21 - SEVERABILITY

The invalidity, illegality, or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this Agreement or any Work Authorization. Any void provision shall be deemed severed from this Agreement, and the balance of this Agreement shall be construed and enforced as if it did not contain the particular portion or provision held to be void. The parties further agree to amend this Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this Article shall not prevent this entire Agreement from being void should a provision which is of the essence of this Agreement be determined void.

ARTICLE 22 - INTEGRATION

This Agreement, including Exhibit A (incorporated by this reference), and subsequently issued Work Authorization (and their respective attachments, if any), represents the entire and integrated agreement between County and HNTB. It supersedes all prior and contemporaneous communications, representations, and agreements, whether oral or written, relating to the subject matter of this Agreement.

ARTICLE 23 - SUCCESSORS AND ASSIGNS

County and HNTB each binds itself and its successors, executors, administrators, permitted assigns, legal representatives and, in the case of a partnership, its partners, to the other party to this Agreement and to the successors, executors, administrators, permitted assigns, legal representatives, and partners of such other party in respect to all provisions of this Agreement.

ARTICLE 24 - ASSIGNMENT

Neither County nor HNTB shall assign any rights or duties under this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld; provided, however, HNTB may assign its rights to payment without County's consent. Unless otherwise stated in the written consent to an assignment, no assignment will release or discharge the assignor from any obligation under this Agreement. Nothing contained in this Article shall prevent HNTB from engaging independent consultants, associates, and subcontractors to assist in the performance of the Services.

ARTICLE 25 - NO THIRD PARTY RIGHTS

The Services provided for in this Agreement are for the sole use and benefit of County and HNTB. Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than County and HNTB.

ARTICLE 26 - GOVERNING LAW

This Agreement shall be governed by the laws of the State of Texas.

Article 27 – Communication Plan

HNTB shall be responsible for preparation of a Communication Plan. At minimum the Communication Plan will include an organization chart, contact information, standing project team meetings and attendee requirements, distribution lists, matrix illustrating which internal team members are allowed to directly contact which County staff, project communication routing policy, media communication policy, and emergency communication policy. The County will be responsible for approval of Communication Plan in writing. Any changes to the Communication Plan will be submitted in writing.

IN WITNESS WHEREOF, County and HNTB have executed this Agreement. The individuals signing this Agreement represent and warrant that they have the power and authority to enter into this Agreement and bind the party for whom they sign.

HAYS COUNTY, TEXAS
(County)

Signature:_____

Name: Ruben Becerra

Title: County Judge

HNTB CORPORATION
(HNTB)

Signature: DocuSigned by: Daniel J. Kellerman 6DAA031B30F74CA...

Name: Daniel J. Kellerman, PE

Title: Vice President

Exhibit A - Sample Work Authorization

WORK AUTHORIZATIONNUMBER _____

This Task Order is made effective as of this ____ day of _____, 20 __, under the terms and conditions established in the AGREEMENT FOR PROFESSIONAL SERVICES, dated _____ (the Agreement), between **HAYS COUNTY, TEXAS, a political subdivision of the State of Texas** (County) and **HNTB Corporation** (HNTB). This Work Authorization is made for the following purpose, consistent with the Project defined in the Agreement:

[Insert a brief description of the Project elements to which the Work Authorization applies]

Section A. - Scope of Services

A.1. HNTB shall perform the following Services:

A.2. The following Services are not included in this Work Authorization, but shall be provided as Additional Services if authorized or confirmed in writing by the County:

A.3. In conjunction with the performance of the foregoing Services, HNTB shall provide the following submittals/deliverables (Documents) to County:

Section B. - Schedule

HNTB shall perform the Services and deliver the related Documents (if any) according to the following schedule:

Section C. - Compensation

C.1. In return for the performance of the foregoing obligations, County shall pay to HNTB the amount of $_____, payable according to the following terms:

C.2. Compensation for Additional Services (if any) shall be paid by County to HNTB according to the following terms:

Section D. - County's Responsibilities

County shall perform and/or provide the following in a timely manner so as not to delay the Services of HNTB, and HNTB may rely on the accuracy and completeness thereof:

[This is only a suggested listing … add, delete, or modify as applicable. In any case, work closely with the County to develop a comprehensive listing of responsibilities. Not only will this step give the County a better understanding of each party's role, but it will also provide an opportunity to address matters related to the Project or services of which the County may not be aware or had assumed to be HNTB's responsibility.]

1. Designate in writing a person to act as County's representative, such person to have complete authority to transmit instructions, receive information, and interpret and define County's decisions with respect to HNTB's Services for the Project.
2. Render decisions and approvals as promptly as necessary to allow for the expeditious performance of HNTB's Services.
3. Obtain, arrange, and pay for all surveys, advertisements for bids, permits, licenses, easements, rights-of-way, and access necessary for the performance of HNTB's Services.
4. Make County's facilities available to HNTB as required for performance of the Services under this Agreement and provide labor and safety equipment required for access.
5. Require all construction contracts to include provisions requiring Contractors to indemnify County and HNTB and requiring Contractors to name County, HNTB, and its parent company, affiliated and subsidiary entities, directors, officers and employees, as Additional Insureds on Contractors' liability insurance policies.
6. Maintain property insurance on all pre-existing physical facilities.

7. Provide a Builder's Risk All-Risk insurance policy for full replacement value for all Project work, which will include, without limitation, coverage for loss due to defects in materials and workmanship and errors in design, and will include County, HNTB and Contractor as insureds.
8. Furnish the services of a geotechnical engineer, whose services shall include, without limitation, test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, ground corrosion and resistivity tests.

Unless otherwise provided in this Agreement, County shall bear all costs incident to compliance with the above items.

Section E. - Other Provisions

The parties agree to the following provisions with respect to this specific Work Authorization:

All terms and conditions of the Agreement are incorporated herein and shall control in the event of a conflict with this Work Authorization. County and HNTB hereby agree to the terms and conditions of this Work Authorization as of the date set forth above. The individuals signing this Work Authorization represent and warrant that they have the power and authority to enter into this Work Authorization and bind the party for whom they sign.

HAYS COUNTY, TEXAS (County)	**HNTB CORPORATION** (HNTB)
Signature:_____	Signature:_____
Name:_____	Name:_____
Title:_____	Title:_____

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY
CERTIFICATION OF FILING

Certificate Number:
2021-818460

Date Filed:
10/29/2021

Date Acknowledged:

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.
HNTB Corporation
Austin, TX United States

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.
Hays County

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.
RFQ 2021-Q07
Engineering Consultant Services

4 Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
		Controlling	Intermediary
Brzezinski, Francis	Waukesha, WI United States	X	
Yarossi, Paul A.	Kansas City, MO United States	X	
Stuart, Toby	Oakland, CA United States	X	
Mann, Douglas L.	Kansas City, MO United States	X	
O'Grady, Tomas D.	Kansas City, MO United States	X	
Slimp, Robert J.	Kansas City, MO United States	X	
Hammond, Jr, Harvey K	Kansas City, MO United States	X	

5 Check only if there is NO Interested Party. ☐

6 UNSWORN DECLARATION

My name is Daniel J. Kellerman, and my date of birth is July 8, 1957.

My address is 701 Brazos St, Ste. 450 (street), Austin (city), TX (state), 78701 (zip code), USA (country).

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Travis County, State of Texas, on the 29th day of October (month), 20 21 (year).

DocuSigned by:
Daniel J. Kellerman
6DAA031B30F74CA...
Signature of authorized agent of contracting business entity
(Declarant)

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Discussion and possible action to accept the Irrevocable Letter of Credit No. SBP702741 for street and drainage improvements for Parten Ranch, Phase 2B, Final Plat in the amount of $808,725.50.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
ACTION-ROADS	November 2, 2021	

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
BORCHERDING	SMITH	N/A

SUMMARY

The final plat for the Parten Ranch, Phase 2B Subdivision has been reviewed under the interlocal cooperation agreement with the City of Dripping Springs and has been approved by County staff. While the plat has been approved administratively, formal acceptance of fiscal surety is required by Commissioners Court action.

IBC BANK
We Do More

Letters of Credit Department
1200 San Bernardo Ave.
Laredo, TX 78040
Tel: (956) 722-7611 Ext. 26442 Fax: (956) 794-8142
Email: lcdepartment@ibc.com SWIFT: IBCLUS44
Member International Bancshares Corporation-Member FDIC

IRREVOCABLE LETTER OF CREDIT NO. SBP702741

TO:	Hays County, Texas 111 E. San Antonio St.- Suite 300 San Marcos, Texas 78666
ISSUER:	International Bank of Commerce
CUSTOMER:	HM Parten Ranch Development, Inc.
AMOUNT:	$808,725.50
SUBDIVISION:	Parten Ranch, Phase 2B
DATE:	July 8, 2021
EXPIRATION DATE:	July 8, 2022

The ISSUER hereby establishes this Credit and shall duly honor all drafts drawn and presented in accordance with this Credit. Hays County may draw on the ISSUER for the account of the CUSTOMER up to the aggregate AMOUNT.

This Credit is conditioned on the performance of the duties of the CUSTOMER prior to the Expiration Date to provide for the construction and completion of the street and drainage Improvements in the SUBDIVISION to current Hays County Standards for Construction of Streets and Drainage in Subdivisions (the "Standards"), so that the Improvements are performing to the Standards upon the approval of the construction of the Improvements and the acceptance of the public Improvements by the Commissioners Court and at the end of the public Improvement construction Performance Period, which commences upon the acceptance.

The only requirement necessary to draw on any part or all, of the total amount, of the Credit is a letter from the County Judge indicating that the County considers a drawing on this Letter of Credit necessary in order to complete all or part of the SUBDIVISION Improvements to the County Standards. No further substantiation of the necessity of the draw is required by this Letter.

Partial reductions in the amount of this Credit may be allowed. Multiple recoveries less than the total amount of the Credit are allowed. Upon the acceptance of the Improvements, the Credit will remain at one hundred percent of the cost of the public Improvements. If this Letter of Credit is unenforceable as a statutory obligation, the ISSUER shall be bound by this contract as a common law obligation.

IBC BANK
We Do More

Letters of Credit Department
1200 San Bernardo Ave.
Laredo, TX 78040
Tel: (956) 722-7611 Ext. 26442 Fax: (956) 794-8142
Email: lcdepartment@ibc.com SWIFT: IBCLUS44
Member International Bancshares Corporation-Member FDIC

Drafts must be presented on or before the EXPIRATION DATE by the close of business and will be honored within five (5) calendar days of presentment. In lieu of drawing on the security, the County, in its discretion, may accept a substitute Security in the then current amount of the estimated cost of constructing the Improvements. This credit may be revoked only by the written consent of the ISSUER and the County.

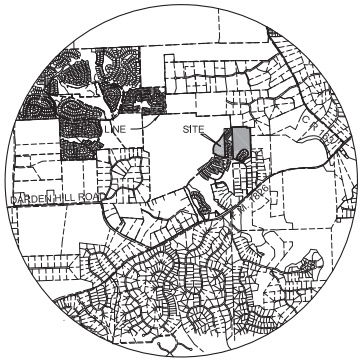
Except as expressly set forth herein, this credit is governed by the "Uniform Customs and Practices for Documentary Credits" [International Chamber of Commerce Publication No. 600 (2007 or current revision).

ISSUER:
International Bank of Commerce

Hector Equihua
Vice President

ADDRESS OF ISSUER:
Attention: Letters of Credit Department
1200 San Bernardo Ave.
Laredo, TX 78040
(956) 722-7611 ext. 26442

PARTEN RANCH PHASE 2B



VICINITY MAP
N.T.S.

1 inch = 100 ft.

DETAIL "A" N.T.S.

DETAIL "B" N.T.S.

DETAIL "C" N.T.S.

LEGEND

▲	=	BENCHMARK
◉	=	FOUND IRON ROD
○	=	SET 5/8" IRON ROD W/CAP "GBI PARTNERS"
(SS)	=	SANITARY MANHOLE
O.P.R.H.C.	=	OFFICIAL PUBLIC RECORDS HAYS COUNTY
H.C.D.R.	=	HAYS COUNTY DEED RECORDS
H.C.P.R.	=	HAYS COUNTY PLAT RECORDS
W.W.E.	=	WASTE WATER EASEMENT
F.M.E.	=	FORCE MAIN EASEMENT
P.U.E.	=	PUBLIC UTILITY EASEMENT
D.E.	=	DRAINAGE EASEMENT
B.L.	=	BUILDING LINE
W.Q.E.	=	WATER QUALITY EASEMENT
W.Q.B.Z.	=	WATER QUALITY BUFFER ZONE

REMAINDER PORTION
HM PARTEN RANCH DEVELOPMENT, INC
531.542 ACRES
(DOCUMENT NUMBER 1604247, O.P.R.H.C.)

LAMAR MOORE SURVEY, A-323

REPLAT OF LOT 1A, BLOCK 3, REPLAT OF LOTS 1–18, BLOCK E, LOTS 2–3, BLOCK G, AND LOTS 1–9, BLOCK H OF THE OAKRIDGE PARK, SEC. 2 AT KINNICINIK SUBDIVISION, FINAL PLAT

MATCH LINE SHEET 2

BLOCK I
BLOCK J
BLOCK G
BLOCK K
BLOCK A
BLOCK B
BLOCK H

TWO CREEKS LANE (50' R.O.W.)
PEAR TREE LANE
OLD STONE ROAD
PARTEN RANCH PARKWAY
CREEK BUFFER
50' W.Q.B.Z.
100' W.Q.B.Z.

PROPOSED 1.329 ACRE W.Q.E./D.E. BY SEPARATE INSTRUMENT

12 PARKLAND/OPEN SPACE/DRAINAGE LOT

3 O.S., D., P.A., W.Q. LOT

42 O.S., D., P.A., W.Q. LOT

2011 CHK 301

PARTEN RANCH PHASE 2
(DOCUMENT NUMBER 19033165, P.R.H.C.)

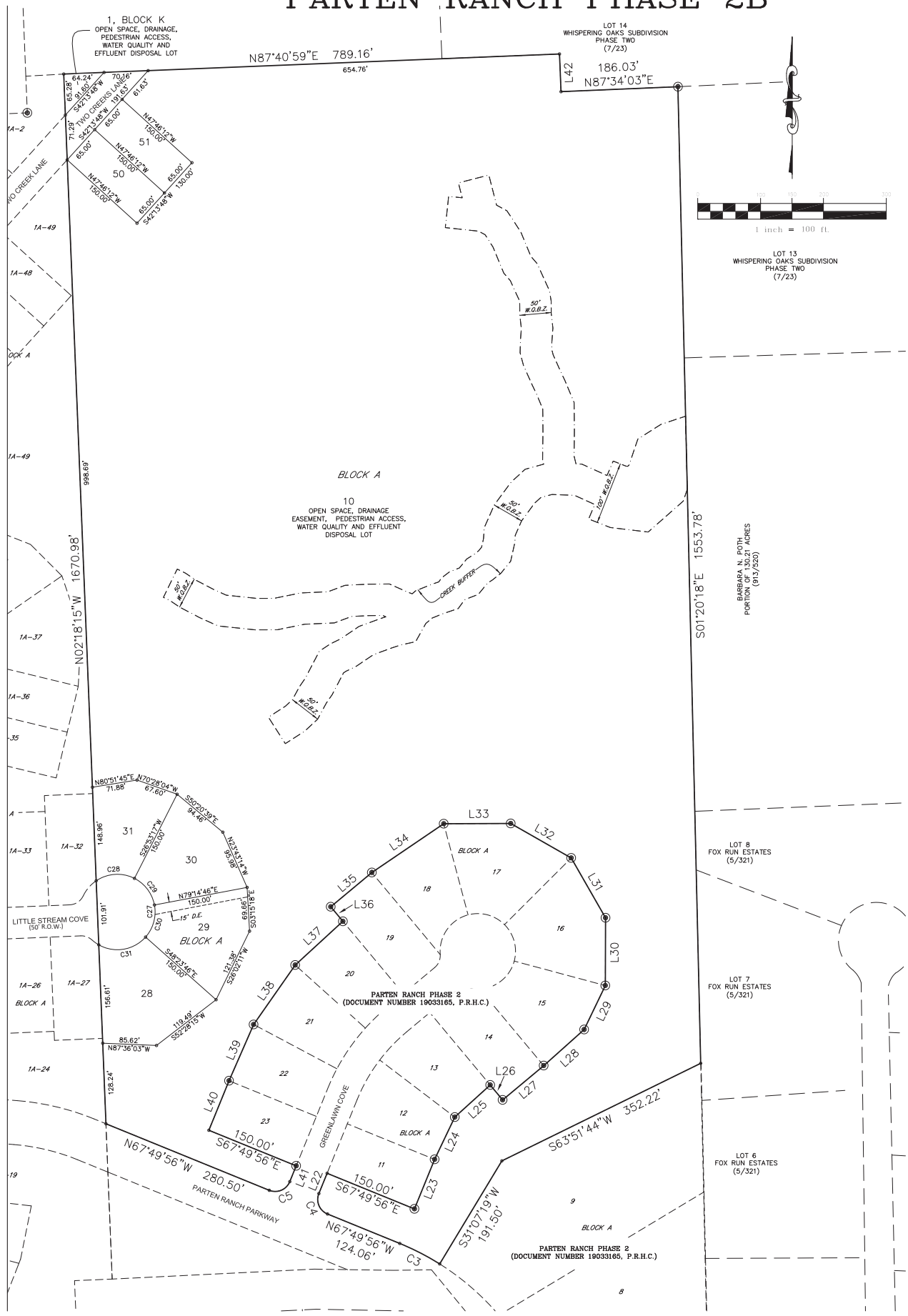
SHEET 1 OF 4

GBI PARTNERS
LAND SURVEYING CONSULTANTS
7696 183A, BUILDING 2, STE. A • LEANDER, TX 78641
PHONE: 512-296-2675 • WWW.GBISURVEY.COM
TBPLS # 10194150 • TBPE # F17284

SCALE: 1"= 100'	JOB NO. A191003	DATE: 8-11-2021
CREW CHIEF:	FIELD BOOK:	DWG.: 191003-PLAT.DWG

C:\GBI-Austin\Parten 2B\191003-PLAT.dwg

PARTEN RANCH PHASE 2B



SHEET 2 OF 4

GBI PARTNERS
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7696 183A, BUILDING 2, STE. A • LEANDER, TX 78641
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SCALE: 1"= 100'	JOB NO. A191003	DATE: 8-11-2021
CREW CHIEF:	FIELD BOOK:	DWG.: 191003-PLAT.DWG

C:\GBI-Austin\Parten 2B\191003-PLAT.dwg

PARTEN RANCH PHASE 2B

STATE OF TEXAS
COUNTY OF HAYS

KNOW ALL PERSONS BY THESE PRESENTS, THAT I, JAY HANNA, PRESIDENT, OF HM PARTEN RANCH DEVELOPMENT, INC., THE OWNER OF 45.17 ACRES OF LAND IN THE LAMAR MOORE SURVEY, A-323, HAYS COUNTY, TEXAS AND BEING A PORTION OF A CALLED 531.542 ACRE TRACT OF LAND CONVEYED BY SPECIAL WARRANTY DEED WITH VENDOR'S LIEN IN DOCUMENT NUMBER 16004247 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS DO HEREBY SUBDIVIDE THE SAID 46.571 ACRE PORTION OF THE SAID 531.542 ACRE TRACT OF LAND IN ACCORDANCE WITH THE PLAT ATTACHED TO BE KNOWN AS "PARTEN RANCH PHASE 2B". SUBJECT TO ANY AND ALL EASEMENTS AND/OR RESTRICTIONS HERETOFORE GRANTED AND DO HEREBY DEDICATE TO THE PUBLIC THE USE OF THE STREETS AND EASEMENTS SHOWN HEREON.

_____
JAY HANNA, PARTNER
HM PARTEN RANCH DEVELOPMENT, INC.
1011 N. LAMAR BLVD.
AUSTIN, TX 78703

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED JAY HANNA PARTNER OF HM PARTEN DEVELOPMENT, INC., KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT AS THE OWNER, AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME IN SUCH CAPACITY FOR THE PURPOSES AND CONSIDERATION THEREIN STATED.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THE _____ DAY OF _____ A.D., 20____.

_____
NOTARY PUBLIC IN AND FOR _____COUNTY, TEXAS

OWNER:
HM PARTEN RANCH DEVELOPMENT, INC.
1011 N. LAMAR BLVD.
AUSTIN, TX 78703

SURVEYOR:
GBI PARTNERS L.L.P.
FIRM REGISTRATION NO.
1812 CENTRE CREEK DRIVE
AUSTIN, TX 78754

ENGINEER:
LJA ENGINEERING, INC.
FIRM REGISTRATION NO., F-1386
7500 RIALTO BOULEVARD, BUILDING II, SUITE 100
AUSTIN, TX 78735

STATE OF TEXAS COUNTY OF TRAVIS

KNOW ALL MEN BY THESE PRESENTS, THAT I, THE UNDERSIGNED, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF TEXAS, HEREBY CERTIFY THAT THIS PLAT COMPLIES WITH THE SURVEY RELATED REQUIREMENTS OF THE HAYS COUNTY DEVELOPMENT REGULATIONS AND THE CITY OF DRIPPING SPRINGS AND FURTHER CERTIFY THAT THIS PLAT WAS PREPARED FROM AN ACTUAL SURVEY OF THE PROPERTY MADE UNDER MY SUPERVISION ON THE GROUND AND THAT THE CORNER MONUMENTS WERE PROPERLY PLACED UNDER MY SUPERVISION.

_____
ALAN J. HORTON
REGISTERED PROFESSIONAL LAND SURVEYOR NO. 5768

I, DANIEL RYAN, A REGISTERED PROFESSIONAL ENGINEER, DO HEREBY CERTIFY THAT A PORTION OF THIS PROPERTY IS LOCATED WITHIN A DESIGNATED 100-YEAR FLOOD ZONE AREA, AS DELINEATED ON THE FLOOD INSURANCE RATE MAP (FIRM) COMMUNITY PANEL 48209C 0140F, EFFECTIVE DATE OF SEPTEMBER 2, 2005, AS PREPARED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY, AND SHALL BE CONTAINED WITHIN THE RIGHTS-OF-WAY, OPEN SPACE AND DRAINAGE EASEMENT LOTS, AND DRAINAGE EASEMENTS SHOWN ON THE ATTACHED PLAT. ADDITIONALLY, STORM WATER RUNOFF FROM THE 100-YEAR STORM EVENT SHALL BE CONTAINED WITHIN THE DRAINAGE FACILITIES TO BE LOCATED WITHIN THE RIGHTS-OF-WAY, OPEN SPACE AND DRAINAGE EASEMENT LOTS AND/OR DRAINAGE EASEMENTS SHOWN ON THE ATTACHED MAP.

8/11/2021

_____
DANIEL RYAN
REGISTERED PROFESSIONAL ENGINEER NO. 89458

STATE OF TEXAS
DANIEL RYAN
89458
LICENSED
PROFESSIONAL ENGINEER

STATE OF TEXAS
COUNTY OF HAYS
CITY OF DRIPPING SPRINGS

THIS PLAT, PARTEN RANCH PHASE 2B FINAL PLAT, HAS BEEN SUBMITTED TO AND CONSIDERED BY THE CITY OF DRIPPING SPRINGS AS IS HEREBY APPROVED.

APPROVED THIS THE ____ DAY OF _____, 2021

_____ _____
PLANNING AND ZONING CHAIR OF VICE CHAIR — DATE

ATTEST:

_____ _____
ANDREA CUNNINGHAM, CITY SECRETARY — DATE

STATE OF TEXAS
COUNTY OF HAYS
CITY OF DRIPPING SPRINGS
ENVIRONMENTAL HEALTH DEPARTMENT

NO STRUCTURE WITHIN THIS SUBDIVISION SHALL BE OCCUPIED UNTIL CONNECTED TO AN INDIVIDUAL WATER SUPPLY OR A STATE APPROVED COMMUNITY WATER SYSTEM. NO STRUCTURE IN THIS SUBDIVISION SHALL BE OCCUPIED UNTIL CONNECTED TO A PUBLIC SANITARY SEWER SYSTEM OR TO AN INDIVIDUAL ON-SITE SEWAGE FACILITY WHICH HAS BEEN APPROVED AND PERMITTED BY THE CITY OF HAYS COUNTY DEVELOPMENT SERVICES.

NO CONSTRUCTION OR OTHER DEVELOPMENT WITHIN THIS SUBDIVISION MAY BEGIN UNTIL ALL CITY OF DRIPPING SPRINGS DEVELOPMENT PERMIT REQUIREMENTS HAVE BEEN MET.

SEWAGE DISPOSAL/INDIVIDUAL WATER SUPPLY CERTIFICATION, TO WIT:

NO STRUCTURE IN THIS SUBDIVISION SHALL BE CONNECTED UNTIL CONNECTED TO AN INDIVIDUAL WATER SUPPLY OR A STATE-APPROVED COMMUNITY WATER SYSTEM. DUE TO DECLINING WATER SUPPLIES AND DIMINISHING WATER QUALITY, PROSPECTIVE PROPERTY OWNERS ARE CAUTIONED BY HAYS COUNTY TO QUESTION SELLER CONCERNING GROUND WATER AVAILABILITY. RAIN WATER COLLECTION IS ENCOURAGED AND, IN SOME AREAS, MAY OFFER THE BEST RENEWABLE WATER RESOURCE.

NO STRUCTURE IN THIS SUBDIVISION SHALL BE OCCUPIED UNTIL CONNECTED TO A PUBLIC SEWER SYSTEM.

NO CONSTRUCTION OR OTHER DEVELOPMENT WITHIN THIS SUBDIVISION MAY BEGIN UNTIL ALL HAYS COUNTY DEVELOPMENT PERMIT REQUIREMENTS HAVE BEEN MET.

_____ _____
MARCUS PACHECO — DATE
DIRECTOR
HAYS COUNTY DEVELOPMENT SERVICES

_____ _____
ERIC VAN GAASBEEK, R.S. C.F.M. — DATE
HAYS COUNTY FLOODPLAIN ADMINISTRATOR

I, THE UNDERSIGNED, DIRECTOR OF THE HAYS COUNTY DEVELOPMENT SERVICES DEPARTMENT, HEREBY CERTIFY THAT THIS SUBDIVISION PLAT CONFORMS TO ALL HAYS COUNTY REQUIREMENTS AS STATED IN THE INTERLOCAL COOPERATION AGREEMENT BETWEEN HAYS COUNTY AND THE CITY OF DRIPPING SPRINGS FOR THE SUBDIVISION REGULATION WITHIN THE EXTRATERRITORIAL JURISDICTION OF THE CITY OF DRIPPING SPRINGS.

_____ _____
MARCUS PACHECO — DATE
DIRECTOR
HAYS COUNTY DEVELOPMENT SERVICES

STATE OF TEXAS COUNTY OF HAYS

I, ELAINE H. CARDENAS, COUNTY CLERK OF HAYS COUNTY, TEXAS, DO HEREBY CERTIFY THAT THE FOREGOING INSTRUMENT OF WRITING WITH ITS CERTIFICATE OF AUTHENTICATION WAS FILED FOR RECORD IN MY OFFICE ON THE ____ DAY OF _____ 20____, A.D., AT _____ O'CLOCK __M IN THE PLAT RECORD OF HAYS COUNTY, TEXAS IN INSTRUMENT NUMBER _____.

WITNESS MY HAND AND SEAL OF THIS THE _____ DAY OF _____, 20____ A.D.

_____
ELAINE H. CARDENAS
COUNTY CLERK
HAYS COUNTY, TEXAS

NOTES:

1. THIS PLAT IS LOCATED ENTIRELY WITHIN THE EXTRATERRITORIAL JURISDICTION OF THE CITY OF DRIPPING SPRINGS.
2. NO PORTION OF THIS PLAT LIES WITHIN THE BOUNDARIES OF THE EDWARDS AQUIFER RECHARGE ZONE.
3. THIS SUBDIVISION LIES WITHIN THE BOUNDARIES OF THE CONTRIBUTING ZONE OF THE EDWARDS AQUIFER.
4. THIS PLAT IS LOCATED WITHIN THE BOUNDARY OF THE DRIPPING SPRINGS INDEPENDENT SCHOOL DISTRICT.
5. NO PORTION OF THE PROPERTY LOCATED WITHIN THIS PLAT LIES WITHIN A DESIGNATED 100-YEAR FLOOD PLAIN AS DELINEATED ON THE FLOOD INSURANCE RATE MAP NO. 48209C 0140 F, EFFECTIVE DATE OF SEPTEMBER 2, 2005, PREPARED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY.
6. WATER SERVICE WILL BE PROVIDED BY WEST TRAVIS COUNTY PUBLIC UTILITY AGENCY. NO INDIVIDUAL WATER WELLS WILL BE ALLOWED.
7. ORGANIZED WASTEWATER SERVICE WILL BE PROVIDED BY THE SPRINGHOLLOW MUD TO EACH RESIDENTIAL LOT. NO INDIVIDUAL ON-SITE SEWAGE FACILITY WILL BE ALLOWED.
8. ELECTRIC SERVICES SHALL BE SUPPLIED BY PEDERNALES ELECTRIC COOPERATIVE.
9. TELEPHONE SERVICE SHALL BE SUPPLIED BY VERIZON OR AT&T.
10. ORGANIZED GAS UTILITY SERVICE WILL BE PROVIDED BY TXGAS.
11. MINIMUM FRONT SETBACK SHALL BE 25 FEET.
12. MINIMUM REAR SETBACK SHALL BE 10 FEET.
13. MINIMUM SIDE AND INTERIOR SETBACKS SHALL BE 5 FEET.
14. MINIMUM SIDE STREET SETBACK SHALL BE 15 FEET.
15. PUBLIC UTILITY EASEMENTS OF 10 FEET SHALL BE LOCATED ON BOTH SIDES OF DEDICATED RIGHT-OF-WAYS.
16. ALL STREETS SHALL BE DESIGNED IN ACCORDANCE WITH APPLICABLE CITY OF DRIPPING SPRINGS REQUIREMENTS AND APPROVED BY THE HAYS COUNTY TRANSPORTATION DEPARTMENT AND UPON ACCEPTANCE SHALL BE DEDICATED TO THE COUNTY FOR MAINTENANCE.
17. LINEAR FOOTAGE OF TWO CREEK LANE (LOCAL STREET): 1,185 L.F.
    LINEAR FOOTAGE OF PEAR TREE LANE (LOCAL STREET): 319 L.F.
    LINEAR FOOTAGE OF LITTLE STREAM COVE (LOCAL STREET): 42 L.F.
    TOTAL LINEAR FOOTAGE OF STREET IMPROVEMENTS: 1,546 L.F.
18. THIS PLAT HAS BEEN PREPARED IN ACCORDANCE WITH THE CITY OF DRIPPING SPRINGS REQUIREMENTS AS APPLICABLE TO THIS DEVELOPMENT.
19. AREA WITHIN NEW ROAD RIGHT-OF-WAY = 6.196 ACRES.
20. DRIVEWAYS SHALL BE CONSTRUCTED IN ACCORDANCE WITH HAYS COUNTY REQUIREMENTS OR AS APPROVED BY THE HAYS COUNTY TRANSPORTATION DEPARTMENT.
21. IN ORDER TO PROMOTE SAFE USE OF ROADWAYS AND PRESERVE THE CONDITIONS OF PUBLIC ROADWAYS, NO DRIVEWAY CONSTRUCTED ON ANY LOT WITHIN THIS SUBDIVISION SHALL BE PERMITTED ACCESS ONTO A PUBLICLY DEDICATED ROADWAY UNLESS (A) A DRIVEWAY PERMIT HAS BEEN ISSUED BY THE DEPARTMENT OF HAYS COUNTY AND (B) THE DRIVEWAY SATISFIES THE MINIMUM SPACING REQUIREMENT FOR DRIVEWAYS AS SET FORTH IN TABLE 721 01 OF THE HAYS COUNTY DEVELOPMENT REQUIREMENTS.
22. IN APPROVING THIS PLAT BY THE COMMISSIONERS COURT OF HAYS COUNTY, TEXAS, IT IS UNDERSTOOD THAT THE BUILDING OF ALL STREETS, ROADS AND OTHER PUBLIC THOROUGHFARES DELINEATED AND SHOWN ON THIS PLAT, AND ALL BRIDGES AND CULVERTS NECESSARY TO BE CONSTRUCTED OR PLACED IN SUCH STREETS, ROADS AND OR OTHER PUBLIC THOROUGHFARES OR IN CONNECTION THEREWITH SHALL BE THE RESPONSIBILITY OF THE OWNER AND/OR THE DEVELOPER OF THE TRACT OF LAND CONVEYED BY THIS PLAT IN ACCORDANCE WITH THE PLANS AND SPECIFICATIONS PRESCRIBED BY THE COMMISSIONERS COURT OF HAYS COUNTY, TEXAS AND THE COMMISSIONERS OF HAYS COUNTY, TEXAS, ASSUMES NO OBLIGATION TO BUILD THE STREET, ROAD, OR OTHER PUBLIC THOROUGHFARES SHOWN ON THIS PLAT OR OF CONSTRUCTING ANY BRIDGES OR CULVERTS IN CONNECTION THEREWITH.
23. THIS PLAT IS SUBJECT TO THE PARTEN RANCH DEVELOPMENT AGREEMENT DATED APRIL 1, 2016 BETWEEN THE CITY OF DRIPPING SPRINGS AND HM PARTEN RANCH, LP., RECORDED IN DOCUMENT NUMBER 2016-16010149, PUBLIC RECORDS OF HAYS COUNTY, TEXAS.
24. THE MUD SHALL BE RESPONSIBLE FOR THE MAINTENANCE OF THE DRAINAGE, WASTEWATER AND WATER QUALITY STRUCTURES AND/OR SYSTEMS LOCATED WITHIN THIS SUBDIVISION. WEST TRAVIS COUNTY PUBLIC UTILITY AGENCY SHALL BE RESPONSIBLE FOR THE MAINTENANCE OF THE WATER SYSTEM LOCATED WITHIN THIS SUBDIVISION.
25. THIS PLAT AND SUBSEQUENT SITE DEVELOPMENT PLANS SHALL COMPLY WITH THE MOST CURRENT INTERNATIONAL FIRE CODE AS ADOPTED AND AMENDED BY THE EMERGENCY SERVICE DISTRICT #6, OR ITS SUCCESSORS.
26. ALL DRAINAGE EASEMENTS NECESSARY TO CONVEY CONCENTRATED FLOWS AND FLOODPLAINS FOR FOR BASINS CONTAINING MORE THAN 64 ACRES ARE DEPICTED ON THE PLAT PER HAYS COUNTY REGULATIONS CHAPTER 725.
27. POST DEVELOPED CONDITION RUNOFF RATE SHALL BE LESS THAN OR EQUAL TO THE PRE-DEVELOPED CONDITION RUNOFF RATES PER HAYS COUNTY REGULATIONS. PRE AND POST DEVELOPMENT RUNOFF CALCULATIONS SHALL BE INCLUDED WITH THE CONSTRUCTION DRAWINGS FOR THIS SUBDIVISION.
28. PURSUANT TO CHAPTER 245, SECTION 004 (EXEMPTIONS), THE CONSTRUCTION STANDARDS ADOPTED BY HAYS COUNTY FOR THE HEALTH AND WELFARE OF THE PUBLIC ARE NOT EXEMPTED FROM CHANGE AND THUS ARE NOT CONSIDERED GRANDFATHERED. IT IS THE DECISION OF THE HAYS COUNTY TRANSPORTATION AND DEVELOPMENT SERVICES DEPARTMENTS THAT THE CONSTRUCTION AND DESIGN STANDARDS AT THE TIME OF ORIGINAL PLATTING SHALL BE HONORED FOR A PERIOD OF 5 YEARS FROM THE DATE OF FINAL PLAY ACCEPTANCE. IF CONSTRUCTION HAS STARTED PRIOR TO THE FIVE-YEAR EXPIRATION DATE THEN THE PHASES FOR WHICH THE COUNTY HAS COMPLETE CONSTRUCTION PLANS FOR WHICH SHALL BE ALLOWED TO USE THE ORIGINAL STANDARDS. SUBSEQUENT PHASES THAT HAVE NOT BEEN FULLY DESIGNED AND APPROVED AT THAT POINT SHALL BE DESIGNED TO THE MOST CURRENT STANDARDS AND SPECIFICATIONS.
29. ALL CULVERTS, WHEN REQUIRED, SHALL COMPLY WITH THE CURRENT HAYS COUNTY STANDARDS.
30. MAIL BOXES PLACED WITHIN THE R.O.W. SHALL BE AN APPROVED TXDOT OR FHWA DESIGN, PER HAYS COUNTY DEVELOPMENT REGULATION (CHAPTER 721, SUBCHAPTER 2.01).
31. SIDEWALKS SHALL BE MAINTAINED BY THE HOMEOWNER'S ASSOCIATION OR SPRING HOLLOW MUD.
32. DRIVEWAYS SHALL COMPLY WITH CHAPTER 721 OF HAYS COUNTY DEVELOPMENT REGULATIONS AND BE PERMITTED THROUGH THE TRANSPORTATION DEPARTMENT OF HAYS COUNTY UNDER CHAPTER 751.
33. NO CONSTRUCTION OR OTHER DEVELOPMENT WITHIN THIS SUBDIVISION MAY BEGIN UNTIL ALL CITY OF DRIPPING SPRINGS DEVELOPMENT PERMIT REQUIREMENTS HAVE BEEN MET.
34. THE LOTS IN THIS SUBDIVISION RECEIVE POTABLE WATER SERVICE, EITHER DIRECTLY OR VIA WHOLESALE CONTRACT, FROM THE WEST TRAVIS COUNTY PUBLIC UTILITY AGENCY. AS SUCH, THE PROPERTY IS SUBJECT TO COMPLIANCE WITH THE TERMS SET FORTH IN THE MAY 24, 2000 UNITED STATES FISH AND WILDLIFE SERVICE MEMORANDUM OF UNDERSTANDING WITH THE LOWER COLORADO RIVER AUTHORITY.
35. LOT 10, BLOCK A CONTAINS USFWS STREAM BUFFER ZONES AND/OR SENSITIVE FEATURE BUFFER ZONES AS INDICATED HEREON THAT MUST REMAIN FREE OF CONSTRUCTION, DEVELOPMENT, OR OTHER ALTERATIONS.
36. IMPERVIOUS COVER SHALL COMPLY WITH THE WATER QUALITY PLAN APPROVED FOR THIS SUBDIVISION AND SHALL NOT BE ALTERED.
37. DECLARANT AGREES THAT THE LOTS IN THIS PLAT DOCUMENT ARE SUBJECT TO THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY OPTIONAL ENHANCED MEASURES.
38. LOT 10, BLOCK A IS AN OPEN SPACE/DRAINAGE EASEMENT/PEDESTRIAN ACCESS/WATER QUALITY LOT AND LOT 12, BLOCK G IS A PARKALND/OPEN SPACE/DRAINAGE LOT AND WILL BE MAINTAINED BY THE HOMEOWNERS ASSOCIATION OR ITS ASSIGNS.
39. THIS PLAT LIES IN THE HAYS TRINITY GROUNDWATER CONSERVATION DISTRICT.
40. A STORMWATER CONTROL MEASURES MAINTENANCE PLAN HAS BEEN PREPARED FOR THIS DEVELOPMENT AND IS RECORDED AS DOCUMENT #_____, IN THE PUBLIC RECORDS OF HAYS COUNTY, TEXAS.

GBI PARTNERS
LAND SURVEYING CONSULTANTS
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PHONE: 512-296-2675 • WWW.GBISURVEY.COM
TBPLS # 10194150 • TBPE # F17284

SCALE: 1"= 100'	JOB NO. A191003	DATE: 8-11-2021
CREW CHIEF:	FIELD BOOK:	DWG.: 191003-PLAT.DWG

C:\GBI-Austin\Parten 2B\191003-PLAT.dwg

PARTEN RANCH PHASE 2B

CURVE TABLE					
NUMBER	LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD
C1	75.32'	375.00'	11°30'28"	N79°36'47"W	75.19'
C2	23.98'	15.00'	91°36'53"	N28°03'10"W	21.51'
C3	71.46'	410.00'	9°59'11"	N62°50'20"W	71.37'
C4	39.27'	25.00'	90°00'00"	N22°49'56"W	35.36'
C5	39.27'	25.00'	90°00'00"	S67°10'04"W	35.36'
C6	267.98'	325.00'	47°14'34"	N21°07'56"E	260.45'
C7	97.16'	275.00'	20°14'34"	N07°37'56"E	96.65'
C8	226.75'	275.00'	47°14'34"	N21°07'56"E	220.38'
C9	114.82'	325.00'	20°14'34"	N07°37'56"E	114.23'
C10	36.66'	325.00'	6°27'46"	N41°31'20"E	36.64'
C11	60.45'	325.00'	10°39'23"	N32°57'46"E	60.36'
C12	60.45'	325.00'	10°39'24"	N22°18'23"E	60.36'
C13	60.45'	325.00'	10°39'24"	N11°38'59"E	60.36'
C14	49.98'	325.00'	8°48'38"	N01°54'58"E	49.93'
C15	21.91'	275.00'	4°33'57"	N00°12'23"W	21.91'
C16	75.24'	275.00'	15°40'37"	N09°54'55"E	75.01'
C17	50.35'	275.00'	10°29'27"	N39°30'29"E	50.28'
C18	109.05'	275.00'	22°43'15"	N22°54'08"E	108.34'
C19	67.34'	275.00'	14°01'51"	N04°31'35"E	67.18'
C20	23.88'	325.00'	4°12'37"	N00°23'03"W	23.88'
C21	60.37'	325.00'	10°38'35"	N07°02'34"E	60.28'
C22	30.57'	325.00'	5°23'21"	N15°03'32"E	30.56'
C23	25.37'	15.00'	96°53'54"	N83°48'58"E	22.45'
C24	21.76'	15.00'	83°06'06"	S06°11'02"E	19.90'
C25	22.91'	15.00'	87°30'43"	N88°30'34"E	20.75'
C26	24.21'	15.00'	92°29'17"	N01°29'26"W	21.67'
C27	255.24'	60.00'	243°44'23"	N02°18'15"W	101.91'
C28	63.96'	60.00'	61°04'37"	S86°21'52"W	60.97'
C29	54.86'	60.00'	52°23'24"	N36°54'07"W	52.97'
C30	54.82'	60.00'	52°21'12"	N15°28'11"E	52.94'
C31	81.60'	60.00'	77°55'09"	N80°36'22"E	75.45'
C32	10.07'	275.00'	2°05'50"	S48°46'59"E	10.07'
C33	1.39'	325.00'	0°14'43"	S57°18'23"E	1.39'
C34	54.99'	325.00'	9°41'40"	S52°34'54"E	54.92'

LINE TABLE		
NUMBER	BEARING	DISTANCE
L1	N85°22'01"W	93.88'
L2	N72°14'47"W	50.00'
L3	N17°45'13"E	36.23'
L4	N72°12'40"W	150.00'
L5	N12°31'06"E	54.27'
L6	N02°12'15"W	61.23'
L7	N02°29'21"W	65.00'
L8	N01°17'31"E	84.91'
L9	N11°38'51"E	88.22'
L10	N22°18'14"E	88.22'
L11	N32°57'37"E	88.22'
L12	N42°33'58"E	79.14'
L13	N44°46'26"E	23.73'
L14	N56°53'29"E	42.22'
L15	N54°28'20"E	28.96'
L16	N49°03'54"E	36.56'
L17	N47°48'59"E	65.09'
L18	N44°45'45"E	53.76'
L19	N28°59'40"E	110.68'
L20	S02°22'34"E	70.43'
L21	S02°20'28"E	35.25'
L22	N22°10'04"E	34.74'
L23	N22°10'04"E	85.00'
L24	N25°28'51"E	74.52'
L25	N47°47'31"E	76.01'
L26	S39°49'06"E	30.95'
L27	N50°10'54"E	85.00'
L28	N48°12'25"E	86.35'
L29	N25°41'19"E	77.65'
L30	N00°10'50"E	107.67'
L31	N29°49'10"W	109.74'
L32	N60°15'43"W	110.80'
L33	S89°44'17"W	106.60'
L34	S55°49'22"W	138.21'
L35	S50°10'54"W	85.00'
L36	S39°49'06"E	30.07'
L37	S47°27'09"W	102.95'
L38	S34°58'06"W	115.36'
L39	S23°36'25"W	97.70'
L40	S22°10'04"W	85.00'
L41	S22°10'04"W	27.16'
L42	S02°21'08"E	59.98'
L43	S17°45'13"W	55.50'
L44	N17°45'13"E	55.50'
L45	N42°40'56"E	57.69'
L46	N22°54'44"E	49.25'
L47	N01°24'14"E	55.04'
L48	N02°29'21"W	65.00'
L49	N01°27'52"W	75.66'
L50	N07°09'38"E	88.14'
L51	N16°14'17"E	75.99'
L52	N35°22'01"E	3.40'
L53	S02°22'28"E	43.57'
L54	N28°59'40"E	22.65'
L55	N17°45'13"E	23.25'

THE BEARINGS SHOWN HEREON ARE BASED ON THE TEXAS COORDINATE SYSTEM, SOUTH CENTRAL ZONE (NAD 83). DISTANCES SHOWN HEREON ARE SURFACE AND CAN BE CONVERTED TO GRID BY APPLYING A COMBINED SCALE FACTOR OF 0.999870017.

PROJECT BENCHMARK IS A 4" ALUMINUM DISK SET IN CONCRETE:

SURFACE COORDINATES: N 13971449.79
E 2291197.59.

GRID COORDINATES: N 13969633.74
E 2290899.77

ELEVATION = 1003.44'
VERTICAL DATUM: NAVD 88 (GEOID 12B)

	TOTAL ACREAGE	USFWS BUFFERS	TOTAL ACREAGE MINUS USFWS BUFFERS	ALLOWABLE IMPERVIOUS COVER 20% NET SITE AREA	PROPOSED IMPERVIOUS COVER PER PHASE	REMAINING IMPERVIOUS COVER	OPEN SPACE ACREAGE
PARTEN RANCH, PHASE 2B	45.17	2.26	42.91		–	–	–

BLOCK A		
LOT	AREA (S.F.)	AREA (AC.)
10	1,337,794	30.712
31	14,751	0.339
32	17850	17,850
33	17,883	0.411
34	21,319	0.489
42	9,338	0.146
50	9,750	0.224
51	9,750	0.224
BLOCK G		
1	10,366	0.238
2	11,027	0.253
3	10,354	0.238
4	9,750	0.224
5	11,165	0.256
6	11,978	0.275
7	10,773	0.247
8	9,750	0.224
9	9,750	0.224
10	9,750	0.224
11	11,527	0.265
12	168,765	3.874
BLOCK I		
LOT	AREA (S.F.)	AREA (AC.)
1	11,253	0.258
2	10,240	0.235
3	9,750	0.224
4	10,857	0.249
5	11,039	0.253
6	11,039	0.253
7	11,038	0.253
8	10,544	0.242
9	9,566	0.220
10	8,874	0.204
11	8,563	0.197
12	10,238	0.235

BLOCK J		
1	13,856	0.318
2	11,219	0.258
3	15,016	0.345
BLOCK K		
1	2,096	0.048

TOTAL SINGLE FAMIY LOTS = 31 LOTS
TOTAL PARKLAND/OPEN SPACE/DRAINAGE/PEDESTRIAN ACCESS/WATER QUALITY LOTS = 4 LOTS
TOTAL LOTS INCLUDED IN THIS PLAT = 35 LOTS

GBI PARTNERS
LAND SURVEYING CONSULTANTS
7696 183A, BUILDING 2, STE. A • LEANDER, TX 78641
PHONE: 512-296-2675 • WWW.GBISURVEY.COM
TBPLS # 10194150 • TBPE # F17284

SCALE: 1"= 100'	JOB NO. A191003	DATE: 8-11-2021
CREW CHIEF:	FIELD BOOK:	DWG.: 191003-PLAT.DWG

C:\GBI-Austin\Parten 2B\191003-PLAT.dwg

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Discussion and possible action to approve Advance Funding Agreement for Preventative Maintenance and Rehabilitation Program On-System Project (RM 967 Maintenance) and authorize the County Judge to execute Advance Funding Agreement on behalf of Hays County.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
ACTION-ROADS	November 2, 2021	$3,171,139.00

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
Jerry Borcherding, P.E., Transportation Director	JONES	N/A

SUMMARY

The proposed improvements to RM 967 between Goforth Road (CR 228) and IH-35 ("RM 967 Maintenance") include rehabilitation of the existing roadway, widening of shoulders, and addition of left turn lanes at various locations. The County has moved forward with environmental clearance and construction design for the project. The Texas Department of Transportation (TxDOT) will be responsible for construction letting and management. The Advance Funding Agreement would memorialize the roles and responsibilities of TxDOT and Hays County. TxDOT would contribute $3,062,875.00 in State and Federal funding toward construction. Hays County would contribute $3,171,139, which includes funding for environmental clearance, construction design, utility coordination and construction. Included in the construction funding from Hays County is construction of a culvert, which will be reimbursed by the City of Buda through a separate agreement between Hays County and the City. The project is estimated to be let for construction by TxDOT in April 2022.

STATE OF TEXAS §

COUNTY OF TRAVIS §

ADVANCE FUNDING AGREEMENT
For
Preventive Maintenance and Rehabilitation Program
On-System Project

THIS AGREEMENT (Agreement) is made by and between the State of Texas, acting by and through the **Texas Department of Transportation** called the "State", and the **County of Hays**, acting by and through its duly authorized officials, called the "Local Government". The State and Local Government shall be collectively referred to as "the parties" hereinafter.

WITNESSETH

WHEREAS, federal law establishes federally funded programs for transportation improvements to implement its public purposes, and

WHEREAS, the Texas Transportation Code, Section 201.103 establishes that the State shall design, construct and operate a system of highways in cooperation with local governments, and Section 222.052 authorizes the Texas Transportation Commission to accept contributions from political subdivisions for development and construction of public roads and the state highway system within the political subdivision, and

WHEREAS, federal and state laws require local governments to meet certain contract standards relating to the management and administration of State and federal funds, and

WHEREAS, the Texas Transportation Commission has codified 43 TAC, Rules 15.50-15.56 that describe federal, state, and local responsibilities for cost participation in highway improvement and other transportation projects, and

WHEREAS, the Texas Transportation Commission passed Minute Order Number **116073** authorizing the State to undertake and complete a highway improvement or other transportation project generally described as **rehabilitate existing roadway, widen shoulders, and add left turn lanes at various locations of RM 967.** The portion of the project work covered by this Agreement is identified in the Agreement, Article 3, Scope of Work (Project), and

WHEREAS, the Governing Body of the Local Government has approved entering into this Agreement by resolution, ordinance, or commissioners court order dated **{Enter Date of Resolution}**, which is attached to and made a part of this Agreement as Attachment A, Resolution, Ordinance, or Commissioners Court Order (Attachment A). A map showing the Project location appears in Attachment B, Location Map Showing Project (Attachment B), which is attached to and made a part of this Agreement.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements of the parties, to be by them respectively kept and performed as set forth in this Agreement, it is agreed as follows:

AGREEMENT

1. Responsible Parties:

For the Project covered by this Agreement, the parties shall be responsible for the following work as stated in the article of the Agreement referenced in the table below:

1	**Local Government**	Utilities	Article 8
2.	**Local Government**	Environmental Assessment and Mitigation	Article 9
3.	**Local Government**	Architectural and Engineering Services	Article 11
4.	**State**	Construction Responsibilities	Article 12
5.	**N/A**	Right of Way and Real Property	Article 14

2. Period of the Agreement

This Agreement becomes effective when signed by the last party whose signing makes the Agreement fully executed. This Agreement shall remain in effect until the Project is completed or unless terminated as provided below.

3. Scope of Work

The scope of work for the Project consists of rehabilitatation of existing roadway, widen shoulders, and add left turn lanes at various locations from CR 228 (GoForth Road) to southbound frontage road IH-35 in Hays County, Texas.

4. Project Sources and Uses of Funds

The total estimated cost of the Project is shown in Attachment C, Project Budget (Attachment C) which is attached to and made a part of this Agreement.

A. If the Local Government will perform any work under this Agreement for which reimbursement will be provided by or through the State, the Local Government must complete training. If federal funds are being used, the training must be completed before federal spending authority is obligated. Training is complete when at least one individual who is working actively and directly on the Project successfully completes and receives a certificate for the course entitled “Local Government Project Procedures and Qualification for the Texas Department of Transportation” and retains qualification in accordance with applicable TxDOT procedures. Upon request, the Local Government shall provide the certificate of qualification to the State. The individual who receives the training certificate may be an employee of the Local Government or an employee of a firm that has been contracted by the Local Government to perform oversight of the Project. The State in its discretion may deny reimbursement if the Local Government has not

continuously designated in writing a qualified individual to work actively on or to directly oversee the Project.

B. The expected cash contributions from the federal government, the State, the Local Government, or other parties are shown in Attachment C. The State will pay for only those Project costs that have been approved by the Texas Transportation Commission. For projects with federal funds, the State and the federal government will not reimburse the Local Government for any work performed before the federal spending authority is formally obligated to the Project by the Federal Highway Administration (FHWA). After federal funds have been obligated, the State will send to the Local Government a copy of the formal documentation showing the obligation of funds including federal award information. The Local Government is responsible for 100% of the cost of any work performed under its direction or control before the federal spending authority is formally obligated.

C. Attachment C shows, by major cost categories, the cost estimates and the party responsible for performing the work for each category. These categories may include but are not limited to: (1) costs of real property; (2) costs of utility work; (3) costs of environmental assessment and remediation; (4) cost of preliminary engineering and design; (5) cost of construction and construction management; and (6) any other local project costs.

D. The State will be responsible for securing the federal and State share of the funding required for the development and construction of the local Project. If the Local Government is due funds for expenses incurred, these funds will be reimbursed to the Local Government on a cost basis.

E. The Local Government will be responsible for all non-federal or non-State participation costs associated with the Project, unless otherwise provided for in this Agreement or approved otherwise in an amendment to this Agreement. For items of work subject to specified percentage funding, the Local Government shall only in those instances be responsible for all Project costs that are greater than the maximum State and federal participation specified in Attachment C and for overruns in excess of the amount specified in Attachment C to be paid by the Local Government.

F. The budget in Attachment C will clearly state all items subject to fixed price funding, specified percentage funding, and the periodic payment schedule, when periodic payments have been approved by the State.

G. When the Local Government bears the responsibility for paying cost overruns, the Local Government shall make payment to the State within thirty (30) days from the receipt of the State's written notification of additional funds being due.

H. When fixed price funding is used, the Local Government is responsible for the fixed price amount specified in Attachment C. Fixed prices are not subject to adjustment unless (1) differing site conditions are encountered; (2) further definition of the Local Government's requested scope of work identifies greatly differing costs from those estimated; (3) work requested by the Local Government is determined to be ineligible for federal participation; or (4) the adjustment is mutually agreed to by the State and the Local Government.

I. Prior to the performance of any engineering review work by the State, the Local Government will pay to the State the amount specified in Attachment C. At a minimum, this amount shall equal the Local Government's funding share for the estimated cost of preliminary engineering performed or reviewed by the State for the Project. At least sixty (60) days prior to the date set for receipt of the construction bids, the Local Government shall remit its remaining financial share for the State's estimated construction oversight and construction cost.

J. The State will not execute the contract for the construction of the Project until the required funding has been made available by the Local Government in accordance with this Agreement.

K. Whenever funds are paid by the Local Government to the State under this Agreement, the Local Government shall remit a check or warrant made payable to the "Texas Department of Transportation" or may use the State's Automated Clearing House (ACH) system for electronic transfer of funds in accordance with instructions provided by TxDOT's Finance Division. The funds shall be deposited and managed by the State and may only be applied by the State to the Project.

L. The State will not pay interest on any funds provided by the Local Government.

M. If a waiver for the collection of indirect costs for a service project has been granted under 43 TAC §15.56, the State will not charge the Local Government for the indirect costs the State incurs on the Project, unless this Agreement is terminated at the request of the Local Government prior to completion of the Project.

N. If the Local Government is an Economically Disadvantaged County (EDC) and if the State has approved adjustments to the standard financing arrangement, this Agreement reflects those adjustments.

O. Where the Local Government is authorized to perform services under this Agreement and be reimbursed by the State, the Local Government is authorized to submit requests for reimbursement by submitting the original of an itemized invoice, in a form and containing all items required by the State, no more frequently than monthly and no later than ninety (90) days after costs are incurred. If the Local Government submits invoices more than ninety (90) days after the costs are incurred and if federal funding is reduced as a result, the State shall have no responsibility to reimburse the Local Government for those costs.

P. Upon completion of the Project, the State will perform a final accounting of the Project costs for all items of work with specified percentage funding. Any funds due by the Local Government, the State, or the federal government for these work items will be promptly paid by the owing party.

Q. 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.

R. Payment under this Agreement beyond the end of the current fiscal biennium is subject to availability of appropriated funds. If funds are not appropriated, this Agreement shall be terminated immediately with no liability to either party.

5. Termination of This Agreement

This Agreement shall remain in effect until the Project is completed and accepted by all parties, unless:

A. The Agreement is terminated in writing with the mutual consent of the parties;

B. The Agreement is terminated by one party because of a breach, in which case any costs incurred because of the breach shall be paid by the breaching party;

C. The Local Government elects not to provide funding after the completion of preliminary engineering, specifications, and estimates (PS&E) and the Project does not proceed because of insufficient funds, in which case the Local Government agrees to reimburse the State for its reasonable actual costs incurred during the Project; or

D. The Agreement is terminated by the State because the parties are not able to execute a mutually agreeable amendment when the costs for Local Government requested items increase significantly due to differing site conditions, determination that Local government requested work is ineligible for federal or state cost participation, or a more thorough definition of the Local Government's proposed work scope identifies greatly differing costs from those estimated. The State will reimburse Local Government remaining funds to the Local Government within ninety (90) days of termination; or

E. The Project is inactive for thirty-six (36) consecutive months or longer and no expenditures have been charged against federal funds, in which case the State may in its discretion terminate this Agreement.

6. Amendments

Amendments to this Agreement due to changes in the character of the work, terms of the Agreement, or responsibilities of the parties relating to the Project may be enacted through a mutually agreed upon, written amendment.

7. Remedies

This Agreement shall not be considered as specifying the exclusive remedy for any agreement default, but all remedies existing at law and in equity may be availed of by either party to this Agreement and shall be cumulative.

8. Utilities

The party named in Article 1, Responsible Parties, under AGREEMENT shall be responsible for the adjustment, removal, or relocation of utility facilities in accordance with applicable state laws, regulations, rules, policies, and procedures, including any cost to the State of a delay resulting from the Local Government's failure to ensure that utility facilities are adjusted, removed, or relocated before the scheduled beginning of construction. The Local Government will not be reimbursed with federal or State funds for the cost of required utility work. The Local Government must obtain advance approval for any variance from established procedures. Before a construction contract is

let, the Local Government shall provide, at the State's request, a certification stating that the Local Government has completed the adjustment of all utilities that must be adjusted before construction is commenced.

9. Environmental Assessment and Mitigation

Development of a transportation project must comply with the National Environmental Policy Act and the National Historic Preservation Act of 1966, which require environmental clearance of federal-aid projects. The party named in Article 1, Responsible Parties, under AGREEMENT is responsible for the following:

A. The identification and assessment of any environmental problems associated with the development of a local project governed by this Agreement.
B. The cost of any environmental problem's mitigation and remediation.
C. Providing any public meetings or public hearings required for the environmental assessment process. Public hearings will not be held prior to the approval of the Project schematic.
D. The preparation of the NEPA documents required for the environmental clearance of this Project.

If the Local Government is responsible for the environmental assessment and mitigation, before the advertisement for bids, the Local Government shall provide to the State written documentation from the appropriate regulatory agency or agencies that all environmental clearances have been obtained.

10. Compliance with Accessibility Standards

All parties to this Agreement shall ensure that the plans for and the construction of all projects subject to this Agreement are in compliance with standards issued or approved by the Texas Department of Licensing and Regulation (TDLR) as meeting or consistent with minimum accessibility requirements of the Americans with Disabilities Act (P.L. 101-336) (ADA).

11. Architectural and Engineering Services

The party named in Article 1, Responsible Parties, under AGREEMENT has responsibility for the performance of architectural and engineering services. The engineering plans shall be developed in accordance with the applicable State's *Standard Specifications for Construction and Maintenance of Highways, Streets and Bridges* and the special specifications and special provisions related to it. For projects on the State highway system, the design shall, at a minimum conform to applicable State manuals. For projects not on the State highway system, the design shall, at a minimum, conform to applicable American Association of State Highway and Transportation Officials (AASHTO) design standards.

In procuring professional services, the parties to this Agreement must comply with federal requirements cited in 23 CFR Part 172 if the Project is federally funded and with Texas Government Code 2254, Subchapter A, in all cases. Professional contracts for federally funded projects must conform to federal requirements, specifically including the provision for participation by Disadvantaged Business Enterprises (DBEs), ADA, and

environmental matters. If the Local Government is the responsible party, the Local Government shall submit its procurement selection process for prior approval by the State. All professional services contracts must be reviewed and approved by the State prior to execution by the Local Government.

12. Construction Responsibilities

The party named in Article 1, Responsible Parties, under AGREEMENT is responsible for the following:

A. Advertise for construction bids, issue bid proposals, receive and tabulate the bids, and award and administer the contract for construction of the Project. Administration of the contract includes the responsibility for construction engineering and for issuance of any change orders, supplemental agreements, amendments, or additional work orders that may become necessary subsequent to the award of the construction contract. In order to ensure federal funding eligibility, projects must be authorized by the State prior to advertising for construction.

B. If the State is the responsible party, the State will use its approved contract letting and award procedures to let and award the construction contract.

C. If the Local Government is the responsible party, the Local Government shall submit its contract letting and award procedures to the State for review and approval prior to letting.

D. If the Local Government is the responsible party, the State must concur with the low bidder selection before the Local Government can enter into a contract with the vendor.

E. If the Local Government is the responsible party, the State must review and approve change orders.

F. Upon completion of the Project, the party responsible for constructing the Project will issue and sign a “Notification of Completion” acknowledging the Project’s construction completion and submit certification(s) sealed by a professional engineer(s) licensed in the State of Texas.

G. For federally funded contracts, the parties to this Agreement will comply with federal construction requirements cited in 23 CFR Part 635 and with requirements cited in 23 CFR Part 633, and shall include the latest version of Form “FHWA-1273” in the contract bidding documents. If force account work will be performed, a finding of cost effectiveness shall be made in compliance with 23 CFR 635, Subpart B.

13. Project Maintenance

The Local Government shall be responsible for maintenance of locally owned roads and locally owned facilities after completion of the work. The State shall be responsible for maintenance of the State highway system after completion of the work if the work was on the State highway system, unless otherwise provided for in existing maintenance agreements with the Local Government.

14. Right of Way and Real Property

The party named in Article 1, Responsible Parties, under AGREEMENT is responsible for the provision and acquisition of any needed right of way or real property.

15. Insurance

If this Agreement authorizes the Local Government or its contractor to perform any work on State right of way, before beginning work, the entity performing the work shall provide the State with a fully executed copy of the State's Form 1560 Certificate of Insurance verifying the existence of coverage in the amounts and types specified on the Certificate of Insurance for all persons and entities working on State right of way. This coverage shall be maintained until all work on the State right of way is complete. If coverage is not maintained, all work on State right of way shall cease immediately, and the State may recover damages and all costs of completing the work.

16. Notices

All notices to either party shall be delivered personally or sent by certified or U.S. mail, postage prepaid, addressed to that party at the following address:

Local Government:	**State:**
County of Hays ATTN: County Judge 712 S. Stagecoach Trail San Marcos, Texas 78666	Texas Department of Transportation ATTN: Director of Contract Services 125 E. 11th Street Austin, TX 78701

All notices shall be deemed given on the date delivered in person or deposited in the mail, unless otherwise provided by this Agreement. Either party may change the above address by sending written notice of the change to the other party. Either party may request in writing that notices shall be delivered personally or by certified U.S. mail, and that request shall be carried out by the other party.

17. Legal Construction

If one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions and this Agreement shall be construed as if it did not contain the invalid, illegal, or unenforceable provision.

18. Responsibilities of the Parties

The State and the Local Government agree that neither party is an agent, servant, or employee of the other party, and each party agrees it is responsible for its individual acts and deeds as well as the acts and deeds of its contractors, employees, representatives, and agents.

19. Ownership of Documents

Upon completion or termination of this Agreement, all documents prepared by the State shall remain the property of the State. All data and information prepared under this Agreement shall be made available to the State without restriction or limitation on their further use. All documents produced or approved or otherwise created by the Local Government shall be transmitted to the State, in the format directed by the State, on a monthly basis or as required by the State. The originals shall remain the property of the Local Government. .

20. Compliance with Laws

The parties to this Agreement shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any manner affecting the performance of this Agreement. When required, the Local Government shall furnish the State with satisfactory proof of this compliance.

21. Sole Agreement

This Agreement constitutes the sole and only agreement between the parties and supersedes any prior understandings or written or oral agreements respecting the Agreement's subject matter.

22. Cost Principles

In order to be reimbursed with federal funds, the parties shall comply with the cost principles established in 2 CFR 200 that specify that all reimbursed costs are allowable, reasonable, and allocable to the Project.

23. Procurement and Property Management Standards

The parties to this Agreement shall adhere to the procurement and property management standards established in 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, and to the Texas Uniform Grant Management Standards. The State must pre-approve the Local Government's procurement procedures for purchases to be eligible for state or federal funds.

24. Inspection of Books and Records

The parties to this Agreement shall maintain all books, documents, papers, accounting records, and other documentation relating to costs incurred under this Agreement and shall make such materials available to the State, the Local Government, and, if federally funded, the FHWA and the U.S. Office of the Inspector General or their duly authorized representatives for review and inspection at its office during the Agreement period and for seven (7) years from the date of final reimbursement by FHWA under this Agreement or until any impending litigation or claims are resolved. Additionally, the State, the Local Government, and the 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.

25. Civil Rights Compliance

The parties to this Agreement are responsible for the following:

A. Compliance with Regulations: Both parties will comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation (USDOT), the Federal Highway Administration (FHWA), as they may be amended from time to time, which are herein incorporated by reference and made part of this Agreement.

B. Nondiscrimination: The Local Government, with regard to the work performed by it during the Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The Local Government will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the Agreement covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.

C. Solicitations for Subcontracts, Including Procurement of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the Local Government for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier will be notified by the Local Government of the Local Government's obligations under this Agreement and the Acts and Regulations relative to Nondiscrimination on the grounds of race, color, or national origin.

D. Information and Reports: The Local Government will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and facilities as may be determined by the State or the FHWA to be pertinent to ascertain compliance with such Acts, Regulations or directives. Where any information required of the Local Government is in the exclusive possession of another who fails or refuses to furnish this information, the Local Government will so certify to the State or the FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.

E. Sanctions for Noncompliance: In the event of the Local Government's noncompliance with the Nondiscrimination provisions of this Agreement, the State will impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:

1. withholding of payments to the Local Government under the Agreement until the Local Government complies and/or
2. cancelling, terminating, or suspending of the Agreement, in whole or in part.

F. Incorporation of Provisions: The Local Government will include the provisions of paragraphs (A) through (F) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Local Government will take such action with respect to any subcontract or procurement as the State or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Local Government becomes involved in, or is threatened with, litigation with a subcontractor or supplier because of such

direction, the Local Government may request the State to enter into such litigation to protect the interests of the State. In addition, the Local Government may request the United States to enter into such litigation to protect the interests of the United States.

26. Pertinent Non-Discrimination Authorities

During the performance of this Agreement, each party, for itself, its assignees, and successors in interest agree to comply with the following nondiscrimination statutes and authorities; including but not limited to:

A. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (pro-hibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.

B. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of federal or federal-aid programs and projects).

C. Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), as amended, (prohibits discrimination on the basis of sex).

D. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.) as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27.

E. The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age).

F. Airport and Airway Improvement Act of 1982, (49 U.S.C. Chapter 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex).

G. The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the federal-aid recipients, subrecipients and contractors, whether such programs or activities are federally funded or not).

H. Titles II and III of the Americans with Disabilities Act, which prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38.

I. The Federal Aviation Administration’s Nondiscrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex).

J. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations.

K. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, the parties must take reasonable steps to ensure that LEP persons have meaningful access to the programs (70 Fed. Reg. at 74087 to 74100).

L. Title IX of the Education Amendments of 1972, as amended, which prohibits the parties from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq.).

27. Disadvantaged Business Enterprise (DBE) Program Requirements

If federal funds are used:

A. The parties shall comply with the Disadvantaged Business Enterprise Program requirements established in 49 CFR Part 26.

B. The Local Government shall adopt, in its totality, the State's federally approved DBE program.

C. The Local Government shall incorporate into its contracts with subproviders an appropriate DBE goal consistent with the State's DBE guidelines and in consideration of the local market, project size, and nature of the goods or services to be acquired. The Local Government shall submit its proposed scope of services and quantity estimates to the State to allow the State to establish a DBE goal for each Local Government contract with a subprovider. The Local Government shall be responsible for documenting its actions.

D. The Local Government shall follow all other parts of the State's DBE program referenced in TxDOT Form 2395, Memorandum of Understanding Regarding the Adoption of the Texas Department of Transportation's Federally-Approved Disadvantaged Business Enterprise by Entity, and attachments found at web address http://ftp.dot.state.tx.us/pub/txdot-info/bop/dbe/mou/mou_attachments.pdf.

E. The Local Government shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any U.S. Department of Transportation (DOT)-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Local Government shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non-discrimination in award and administration of DOT-assisted contracts. The State's DBE program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this Agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this Agreement. Upon notification to the Local Government of its failure to carry out its approved program, the State may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

F. Each contract the Local Government signs with a contractor (and each subcontract the prime contractor signs with a sub-contractor) must include the following assurance: *The contractor, sub-recipient, or sub-contractor shall not*

discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as the recipient deems appropriate.

28. Debarment Certifications

If federal funds are used, the parties are prohibited from making any award at any tier to any party that is debarred or suspended or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549, "Debarment and Suspension." By executing this Agreement, the Local Government certifies that it and its principals are not currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549 and further certifies that it will not do business with any party, to include principals, that is currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549. The parties to this Agreement shall require any party to a subcontract or purchase order awarded under this Agreement to certify its eligibility to receive federal funds and, when requested by the State, to furnish a copy of the certification.

If state funds are used, the parties are prohibited from making any award to any party that is debarred under the Texas Administrative Code, Title 34, Part 1, Chapter 20, Subchapter G, Rule §20.585 and the Texas Administrative Code, Title 43, Part 1, Chapter 9, Subchapter G.

29. Lobbying Certification

If federal funds are used, in executing this Agreement, each signatory certifies to the best of that signatory's knowledge and belief, that:

A. No federal appropriated funds have been paid or will be paid by or on behalf of the parties to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

B. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with federal contracts, grants, loans, or cooperative agreements, the signatory for the Local Government shall complete and submit the Federal Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

C. The parties shall require that the language of this certification shall be included in the award documents for all sub-awards at all tiers (including subcontracts,

subgrants, and contracts under grants, loans, and cooperative agreements) and all sub-recipients shall certify and disclose accordingly. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Title 31 U.S.C. §1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

30. Federal Funding Accountability and Transparency Act Requirements

If federal funds are used, the following requirements apply:

A. Any recipient of funds under this Agreement agrees to comply with the Federal Funding Accountability and Transparency Act (FFATA) and implementing regulations at 2 CFR Part 170, including Appendix A. This Agreement is subject to the following award terms: http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22705.pdf and http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22706.pdf.

B. The Local Government agrees that it shall:

1. Obtain and provide to the State a System for Award Management (SAM) number (Federal Acquisition Regulation, Part 4, Sub-part 4.11) if this award provides more than $25,000 in federal funding. The SAM number may be obtained by visiting the SAM website whose address is: https://www.sam.gov/portal/public/SAM/
2. Obtain and provide to the State a Data Universal Numbering System (DUNS) number, a unique nine-character number that allows federal government to track the distribution of federal money. The DUNS may be requested free of charge for all businesses and entities required to do so by visiting the Dun & Bradstreet (D&B) on-line registration website http://fedgov.dnb.com/webform; and
3. Report the total compensation and names of its top five executives to the State if:
   i. More than 80% of annual gross revenues are from the federal government, and those revenues are greater than $25,000,000; and
   ii. The compensation information is not already available through reporting to the U.S. Securities and Exchange Commission.

31. Single Audit Report

If federal funds are used:

A. The parties shall comply with the single audit report requirements stipulated in 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

B. If threshold expenditures of $750,000 or more are met during the fiscal year, the Local Government must submit a Single Audit Report and Management Letter (if applicable) to TxDOT's Compliance Division, 125 East 11th Street, Austin, TX 78701 or contact TxDOT's Compliance Division by email at singleaudits@txdot.gov.

C. If expenditures are less than the threshold during the Local Government's fiscal year, the Local Government must submit a statement to TxDOT's Compliance

Division as follows: "We did not meet the $_____ expenditure threshold and therefore, are not required to have a single audit performed for FY _____."

D. For each year the Project remains open for federal funding expenditures, the Local Government will be responsible for filing a report or statement as described above. The required annual filing shall extend throughout the life of the Agreement, unless otherwise amended or the Project has been formally closed out and no charges have been incurred within the current fiscal year.

32. Signatory Warranty

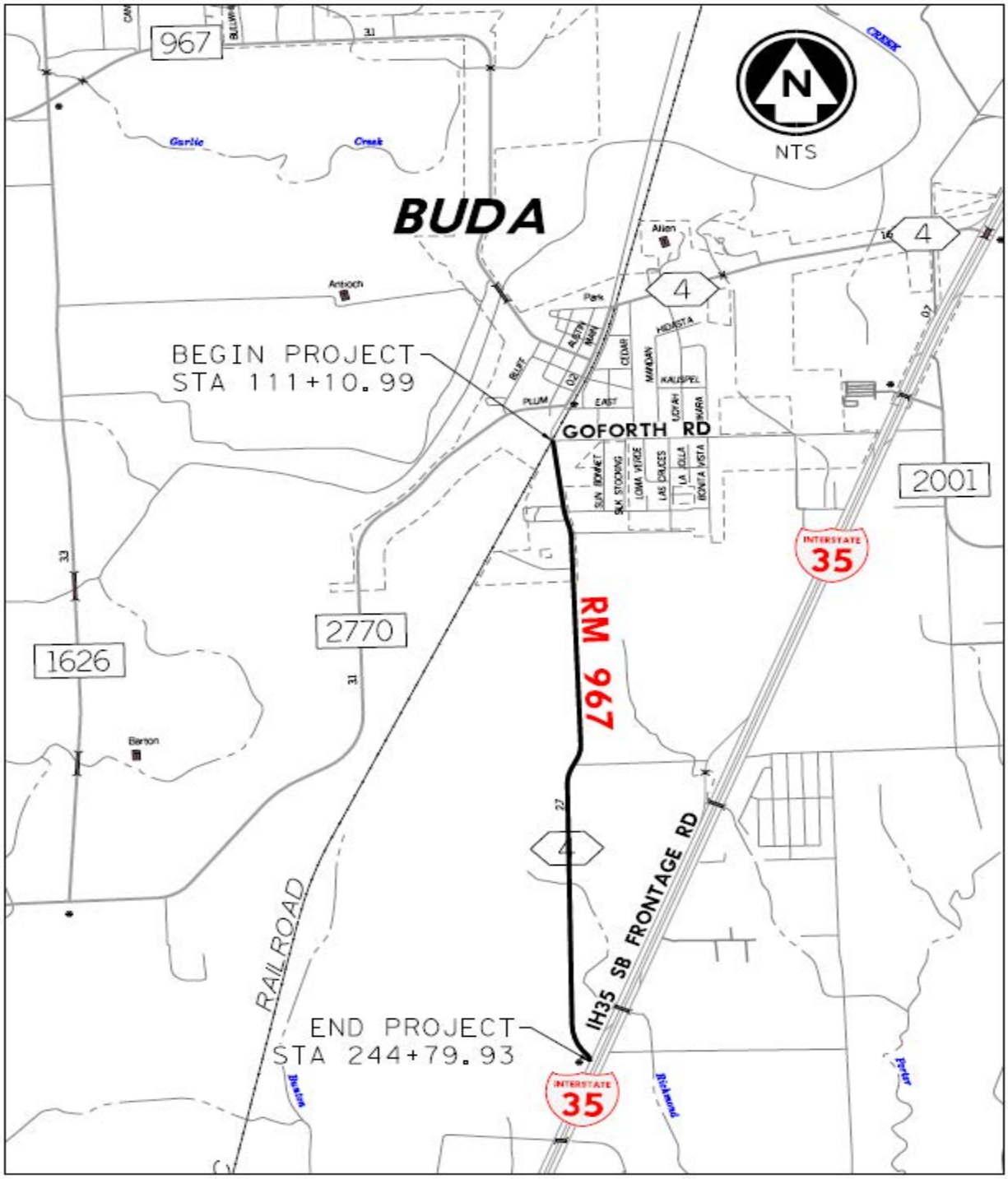
Each signatory warrants that the signatory has necessary authority to execute this Agreement on behalf of the entity represented.

Each party is signing this Agreement on the date stated under that party's signature.

THE STATE OF TEXAS	THE LOCAL GOVERNMENT
_____	_____
Signature	Signature
Kenneth Stewart	Ruben Becerra
Typed or Printed Name	Typed or Printed Name
Director of Contract Services	County Judge
Typed or Printed Title	Typed or Printed Title
_____	_____
Date	Date

ATTACHMENT A
RESOLUTION

ATTACHMENT B
LOCATION MAP SHOWING PROJECT



ATTACHMENT C
PROJECT BUDGET

Excluding Direct and Indirect State Costs, all other costs will be allocated based on fixed amount of Federal, State and Local Government funding until the Federal/State funding reaches the maximum obligated amount of $2,650,000. The Local Government will then be responsible for 100% of the costs.

Description	Total Estimated Cost	Federal Participation		State Participation		Local Participation	
		%	Cost	%	Cost	%	Cost
Engineering (by Local Government)	$60,000	0%	$0	0%	$0	100%	$60,000
Utility Coordination (by LG)	$87,040	0%	$0	0%	$0	100%	$87,040
Environmental Coordination (by LG)	$97,000	0%	$0	0%	$0	100%	$97,000
Construction-Cat.3 (by State)	$2,785,120	0%	$0	0%	$0	100%	$2,785,120
Construction-Cat.1 (by State)	$2,650,000	80%	$2,120,000	20%	$530,000	0%	$0
Subtotal	$5,679,160		$2,120,000		$530,000		$3,029,160
Environmental Direct State Costs	$28,396	0%	$0	50%	$14,198	50%	$14,198
Right of Way Direct State Costs	$7,099	0%	$0	50%	$3,549	50%	$3,549
Engineering Direct State Costs	$42,594	0%	$0	50%	$21,297	50%	$21,297
Utility Direct State Costs	$7,099	0%	$0	50%	$3,549	50%	$3,549
Construction Direct State Costs	$198,771	0%	$0	50%	$99,385	50%	$99,385
Indirect State Costs (4.77%)	$270,896	0%	$0	100%	$270,896	0%	$0
TOTAL	$6,234,014		$2,120,000		$942,875		$3,171,139

Initial payment by the Local Government to the State: $42,594
Payment by the Local Government to the State before construction: $2,884,505
Estimated total payment by the Local Government to the State $2,927,099
The total amount of Federal/State participation shall not exceed the amount appearing above.
This is an estimate.The final amount of Local Government participation will be based on actual costs.

A Resolution of the Hays County Commissioners Court
Approving an Advance Funding Agreement for Preventative Maintenance and Rehabilitation Program On-System Project (RM 967 Maintenance) and Authorizing the County Judge to Execute the Agreement on behalf of Hays County

STATE OF TEXAS §
§
COUNTY OF HAYS §

WHEREAS, Hays County has been working with the Texas Department of Transportation (TxDOT) to address roadway and safety deficiencies on RM 967 between Goforth Road (CR 228) and IH-35 as part of the TxDOT-Hays County Partnership Program; and

WHEREAS; the proposed pavement rehabilitation of RM 967 within the project limits would improve safety and mobility for truck and passenger vehicle traffic conditions within the project limits; and

WHEREAS, Hays County has moved forward with project development of the RM 967 Maintenance Project, including environmental clearance and construction design; and

WHEREAS, the Advance Funding Agreement would memorialize the roles and responsibilities of TxDOT and Hays County in the development of the project;

NOW, THEREFORE, BE IT RESOLVED by the Hays County Commissioners Court:

(a) That the Commissioners Court of Hays County does hereby approve the Advance Funding Agreement for Preventative Maintenance and Rehabilitation Program On-System Project (RM 967 Maintenance) and authorizes the County Judge to execute the Agreement on behalf of Hays County.

RESOLVED, ORDERED, AND DECLARED this ____ day of _____, 2021.

_____
Ruben Becerra
Hays County Judge

_____
Debbie Gonzales Ingalsbe
Commissioner, Pct. 1

_____
Mark Jones
Commissioner, Pct. 2

_____
Lon Shell
Commissioner, Pct. 3

_____
Walt Smith
Commissioner, Pct. 4

ATTEST:

Elaine H. Cárdenas
Hays County Clerk

20211019RM967MaintenanceAFA_resolutionCLEAN.docx

GENDA ITEM REQUEST FORM

Hays County Commissioners Court
Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Discussion and possible action to authorize the County Judge to execute an Interlocal Agreement between Hays County and the City of Kyle relating to the Center Street Union Pacific Railroad (UPRR) Siding Relocation Project and amend the budget accordingly.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
ACTION-ROADS	November 2, 2021	$0.00

LINE ITEM NUMBER

035-802-96-650]

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** MARISOL VILLARREAL-ALONZO

REQUESTED BY	SPONSOR	CO-SPONSOR
Jerry Borcherding, P.E., Transportation Director	JONES	N/A

SUMMARY

The City of Kyle submitted a project application during the CAMPO 2018 project call and was awarded $15,209,034.00 in project funding for the Center Street UPRR Siding Relocation Project. As part of the Project application, the City committed to fund $1,230,000.00 in local match dollars. Subsequent to the Project being awarded funding by CAMPO, the City requested that the County assume responsibility for project development. Since that time, the County has moved forward, in cooperation with the UPRR, in development of the Project, including design, environmental clearance, and utility relocation coordination. Additionally, the County applied for and was awarded $3,802,258.00 in Transportation Development Credits (TDC's) by CAMPO in January 2021 to assist with the Federally-required local match obligation for the Project. The Interlocal Agreement would memorialize the roles and responsibilities of Hays County and the City of Kyle regarding the cost participation by both entities. Hays County would fund environmental clearance and design for the Project, estimated to be $975,000.00 previously authorized through the County's 2016 Road Bond Program. The County would also fund preliminary design and environmental clearance for the companion project, the Kohlers Crossing Railroad Overpass, estimated to be $800,000.00 and previously authorized through the County's 2016 Road Bond Program. The City would fund the utility relocation, Texas Department of Transportation direct costs, and other expenses that would not be reimbursable through either the original CAMPO project award or TDC's. The City's total funding responsibility would not exceed the original $1,230,000 commitment made in the CAMPO 2018 project application. The Interlocal Agreement would also grant permission for construction to occur with the City's limits.

Budget Amendment:
Increase .4301 Intergovernmental Revenue ($1,230,000)
Increase .5611_400 Construction $327,940
Increase .5623_400 Utility Relocation $166,500
Increase .5632_400 Right of Way Acquisition $735,560

INTERLOCAL AGREEMENT BETWEEN
HAYS COUNTY AND THE CITY OF KYLE
RELATED TO THE CENTER STREET UNION PACIFIC RAIL SIDING PROJECT

THE STATE OF TEXAS §
§ KNOW ALL BY THESE PRESENTS:
COUNTY OF HAYS §

This Interlocal Agreement (the "**Agreement**") is entered into as of this _____ day of September, 2021, by and between Hays County, a political subdivision of the State of Texas (the "**County**") and the City of Kyle, a Texas home-rule municipality (the "**City**") (collectively, the "Parties"). In this Agreement, the City and the County are sometimes individually referred to as "**a Party**" and collectively referred to as "**the Parties**".

RECITALS

WHEREAS, V.T.C.A., Government Code, Chapter 791, cited as the Texas Interlocal Cooperation Act, provides that any one or more public agencies may contract with each other for the performance of governmental functions or services for the promotion and protection of the health and welfare of the inhabitants of this State and the mutual benefit of the parties; and

WHEREAS, the County desires to relocate the Center Street Union Pacific Rail Siding from Kohlers Crossing to approximately 2,000 feet north of Burleson Street; and

WHEREAS, the Center Street Union Pacific Rail Siding Project lies within the city limits of Kyle; and

WHEREAS, the County and the City desire to cooperate in the expeditious relocation of Center Street Union Pacific Rail Siding from Kohlers Crossing to approximately 2,000 feet north of Burleson Street (the "Project");

NOW THEREFORE, in consideration of the foregoing premises and the mutual promises and agreements of the Parties contained in this Agreement, the Parties agree as follows:

I.
PURPOSE

1.01 General. The purpose of this Agreement is to provide for the City's participation in the design and construction of the Project (Participation). The Project includes the planning and construction of the relocation of Union Pacific siding track from Kohlers Crossing to approximately 2,000 feet north of Burleson Street, including track centers with power switches and bridges, at the approximate location shown on Exhibit A.

II.
COUNTY OBLIGATIONS

2.01 Design and Environmental Clearance Costs. The County shall be responsible for contracting with Union Pacific Railroad (UPRR) regarding the engineering and design costs for the Project. The County shall also be responsible for costs related to the environmental clearance for the Project. The Project engineering, design and environmental clearance costs for which the County is responsible are estimated to be $975,000.00. The County is also responsible for funding the preliminary design, environmental clearance and 30% construction plans for the Center Street Union Pacific Rail Siding Project companion project, the Kohlers Crossing Railroad Overpass Project, estimated to be $800,000.00. The County anticipates the Kohlers Crossing Railroad Overpass Project could be funded via a future grant process. The County's participation is shown on Exhibit B.

2.02 Right-of-way Acquisition and Utility Relocation Costs. The County shall assist in the acquisition of right-of-way in cooperation with UPRR as requested and necessary and shall advance fund the right-of-way (ROW) acquisition costs. ROW costs expended after the execution of an Advance Funding Agreement by the County and the Texas Department of Transportation will be eligible for reimbursement through CAMPO 2018 project call grant funding (CAMPO funding) awarded to the project (the County applied for and was awarded Transportation Development Credits (TDC's) by CAMPO to remove the Federally-required local match requirement; the TDC's, however, are not available to reimburse eligible project costs). ROW acquisition costs are currently estimated at $2,416,926.00. The County shall assist in the utility relocation in cooperation with UPRR as requested and necessary and shall advance fund the utility relocation costs. Utility relocation costs are not eligible for reimbursement through the CAMPO grant funding. City shall be responsible for the utility relocation costs for the Project, currently estimated at $166,500.00 and shall be solely responsible for the relocation of any City utilities. The estimated $166,500.00 utility relocation costs include City and other utility provider relocation costs. City-incurred utility relocation costs would be the cost responsibility of the City in addition to relocation costs incurred by other utility providers.

2.03 Construction Costs. The estimated Project Construction Cost is $13,068,401.00. The County, under its Advanced Funding Agreement ("AFA") with TxDOT (approved by the Hays County Commissioners Court on or about July 27, 2021), will fund these costs in anticipation of reimbursement from CAMPO funding, which will be funded through the Texas Department of Transportation (TxDOT). If the AFA is modified or terminated by TxDOT, then the County's responsibility to fund Project Construction Cost will also be modified or terminated accordingly. In the event of an amendment or termination of the AFA with TxDOT, the County and City will come together to identify an alternate funding source and work together to take all steps necessary to apply for, or otherwise obtain, alternate funding, to the extent possible.

2.04 Construction Plans. The County and the City agree to mutually approve the plans and specifications related to the Project. Prior to letting of construction, the County shall submit any changes or modifications to the plans to the City for mutual review and approval.

2.05 Permits. This section is applicable in the event the County is responsible for the construction of the Project. The County shall be responsible for obtaining permits, if any, required for the construction of the Project.

2.06 Insurance, Bonds and Warranties. This section is applicable in the event the County is responsible for the construction of the Project. The County shall require the contractor for the Project to name the City as an additional insured on any policies related to the Project. The County shall require the contractor to provide performance bonds in favor of the City for the Project in amounts satisfactory to the City.

III.
CITY OBLIGATIONS

3.01 Right-of-way Acquisition, Utility Relocation and Direct Costs.

The City's total funding responsibilities for costs covered in this Interlocal Agreement shall not exceed the City's original commitment of $1,230,000.00 as stated in the City's original CAMPO 2018 project call application. The City shall be responsible for the reimbursable utility relocation costs associated with the project, currently estimated at $166,500.00. The City shall be responsible for TxDOT's Direct costs, estimated to be $327,940.00. The City shall be responsible for ROW costs and other Project expenses that are not eligible for reimbursement through CAMPO funding or exceed those funding sources estimated at $735,560.00 as shown in Exhibit B.

3.02 Terms of Reimbursement. The City will initiate reimbursement to the County beginning in Fiscal Year 2022. The first reimbursement will be paid to the County within 30 days after receipt of invoice and be paid on a quarterly basis. The amount payable by the City will be determined based on funds expended by the County during the previous quarter for expenses as described in Section 3.01; however, the total TxDOT Direct costs will be included in the first invoice to the City. Total payment to the County will be accomplished by the end of Fiscal Year 2026. Quarterly reimbursement by the City shall be dependent on the appropriation of funding each fiscal year by the Kyle City Council. If budgetary constraints cause the Kyle City Council to prioritize other budgetary needs, then the City's reimbursement responsibility shall be added to the next fiscal year's reimbursement responsibilities. The term of this agreement shall continue until the City's reimbursement responsibility has been satisfied.

3.03 Permission to Construct. Pursuant to Section 251.012 of the Texas Transportation Code, the City Council agrees that the County may construct the Project or have the Project constructed within the City's boundaries in the event the County is responsible for construction of the Project.

3.04 Acquisitions and Relocations. The City agrees to be solely responsible for the relocation of any City utilities within the right-of-way or otherwise affected by the Project.

IV.
DISPUTES

4.01 Material Breach; Notice and Opportunity to Cure.

(a) In the event that one Party believes that another Party has materially breached one of the provisions of this Agreement, the non-defaulting Party will make written demand to cure and give the defaulting Party up to 30 days to cure such material breach or, if the curative action cannot reasonably be completed within 30 days, the defaulting Party will commence the curative action within 30 days and thereafter diligently pursue the curative action to completion. Notwithstanding the foregoing, any matters specified in the default notice which may be cured solely by the payment of money must be cured within 10 days after receipt of the notice. This applicable time period must pass before the non-defaulting Party may initiate any remedies available to the non-defaulting Party due to such breach.

(b) Any non-defaulting Party will mitigate direct or consequential damage arising from any breach or default to the extent reasonably possible under the circumstances.

(c) The Parties agree that they will negotiate in good faith to resolve any disputes and may engage in non-binding mediation, arbitration or other alternative dispute resolution methods as recommended by the laws of the State of Texas.

4.02 Equitable Relief. In recognition that failure in the performance of the Parties' respective obligations could not be adequately compensated in money damages alone, the Parties agrees that after providing notice and an opportunity to cure in accordance with Section 4.01 above, the Parties shall have the right to request any court, agency or other governmental authority of appropriate jurisdiction to grant any and all remedies which are appropriate to assure conformance to the provisions of this Agreement. The defaulting Party shall be liable to the other for all costs actually incurred in pursuing such remedies, including reasonable attorney's fees, and for any penalties or fines as a result of the failure to comply with the terms including, without limitation, the right to obtain a writ of mandamus or an injunction requiring the governing body of the defaulting party to levy and collect rates and charges or other revenues sufficient to pay the amounts owed under this Agreement.

4.03 Agreement's Remedies Not Exclusive. The provisions of this Agreement providing remedies in the event of a Party's breach are not intended to be exclusive remedies. The Parties retain, except to the extent released or waived by the express terms of this Agreement, all rights at law and in equity to enforce the terms of this Agreement.

V.
GENERAL PROVISIONS

5.01 Authority. This Agreement is made in part under the authority conferred in Chapter 791, *Texas Government Code*.

5.02 Term. This Agreement shall commence upon execution of this Agreement and shall end upon the acceptance of the project, or upon final reimbursement of costs by the City, whichever is later.

5.03 Severability. The provisions of this Agreement are severable and, if any provision of this Agreement is held to be invalid for any reason by a court or agency of competent jurisdiction, the remainder of this Agreement will not be affected and this Agreement will be construed as if the invalid portion had never been contained herein.

5.04 Default and Remedies. If City fails to make reimbursement payments under this Agreement and continues such failure for thirty (30) days after the County provides written notice to cure, City shall be deemed to be in default under this Agreement. In the event that the County defaults under this Agreement, and such default is not cured, City may, in addition to any other remedy at law or in equity, immediately terminate this Agreement or seek specific performance of this Agreement.

5.05 Payments from Current Revenues. Any payments required to be made by a Party under this Agreement will be paid from current revenues or other funds lawfully available to the Party for such purpose.

5.06 Cooperation. The Parties agree to cooperate at all times in good faith to effectuate the purposes and intent of this Agreement.

5.07 Entire Agreement. This Agreement contains the entire agreement of the Parties regarding the subject matter hereof and supersedes all prior or contemporaneous understandings or representations, whether oral or written, regarding the subject matter and only relates to those portions of the Project shown in the map attached hereto as Exhibit "A."

5.08 Amendments. Any amendment of this Agreement must be in writing and will be effective if signed by the authorized representatives of the Parties.

5.9 Applicable Law; Venue. This Agreement will be construed in accordance with Texas law. Venue for any action arising hereunder will be in Hays County, Texas.

5.10 Notices. Any notices given under this Agreement will be effective if (i) forwarded to a Party by hand-delivery; (ii) transmitted to a Party by confirmed telecopy; or (iii) deposited with the U.S. Postal Service, postage prepaid, certified, to the address of the Party indicated below:

CITY: **City of Kyle**
100 W. Center Street
Kyle, Texas 78640
Attention: City Manager
Telephone:
Facsimile:
Email:

COUNTY: Hays County Dept. of Transportation
2171 Yarrington Road
San Marcos, Texas 78666
Attn: Jerry Borcherding. P.E.

Telephone: (512) 393-7385
Facsimile: (512) 393-7393

WITH COPY TO: Office of General Counsel
111 E. San Antonio Street, Suite 202
San Marcos, TX 78666

5.11 Counterparts; Effect of Partial Execution. This Agreement may be executed simultaneously in multiple counterparts, each of which will be deemed an original, but all of which will constitute the same instrument.

5.12 Authority. Each Party represents and warrants that it has the full right, power and authority to execute this Agreement.

5.13 Effective Date. This Agreement is executed to be effective on the date the last Party signs this Agreement.

5.15 No Joint Venture. The Project is a sole project of the County and is not a joint venture or other partnership with the City.

(SIGNATURES ON FOLLOWING PAGE)

HAYS COUNTY

By: _____
Ruben Becerra, County Judge

Date: _____

ATTEST:

By: _____
County Clerk

THE STATE OF TEXAS §
§
COUNTY OF HAYS §

THIS INSTRUMENT was acknowledged before me on this ____ day of _____, 2021, by Ruben Becerra, County Judge of Hays County, Texas, on behalf of said County.

_____
Notary Public, State of Texas

CITY OF KYLE, TEXAS

By: _____

Date: _____

ATTEST:

By: _____

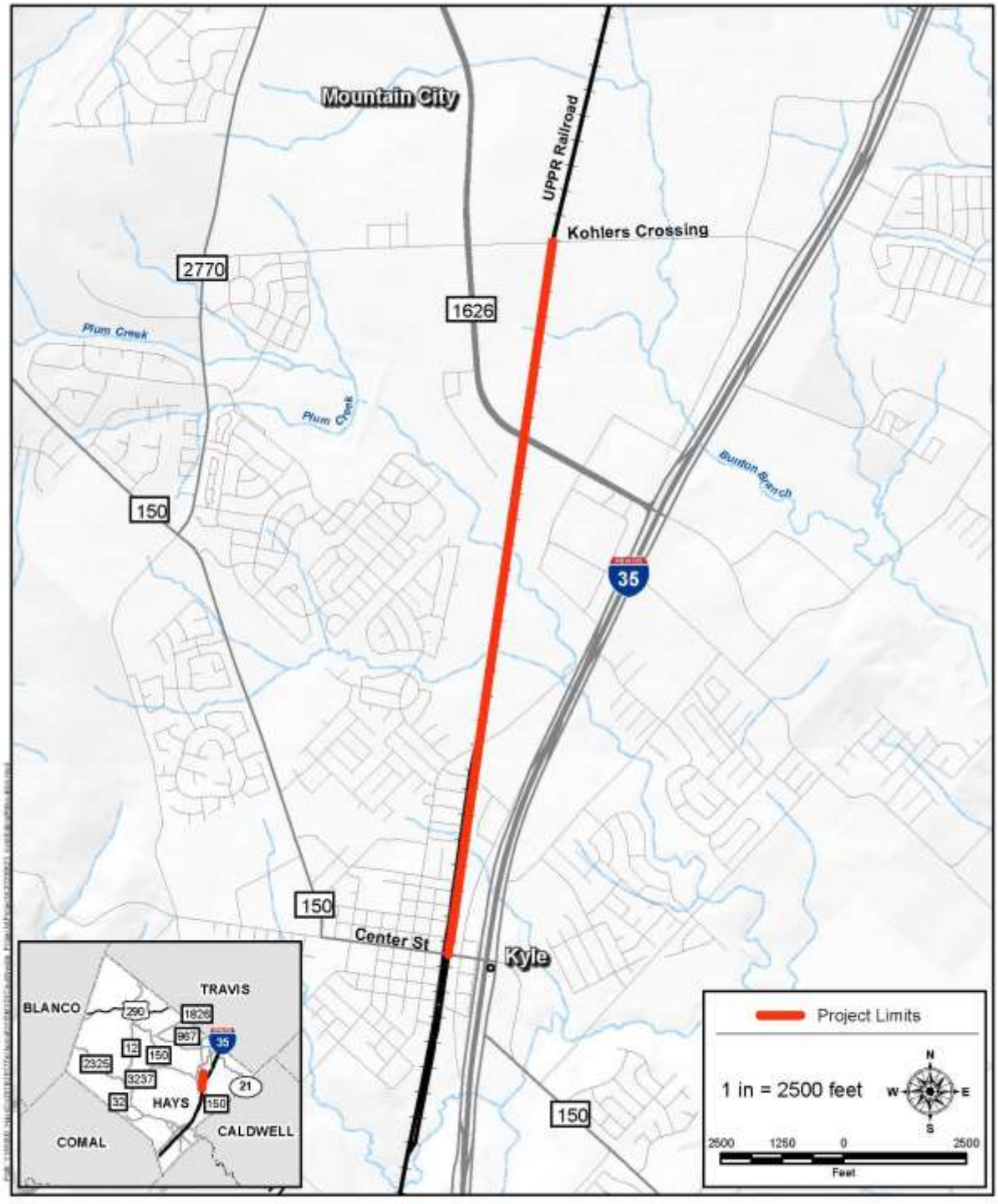
_____, _____ City Secretary

THE STATE OF TEXAS §
§
COUNTY OF HAYS §

THIS INSTRUMENT was acknowledged before me on this ____ day of _____, 2021, by _____, Mayor of the City of Kyle, a Texas home-rule city, on behalf of said city.

_____
Notary Public, State of Texas

EXHIBIT A
PROJECT LOCATION



KYLE SIDING RELOCATION
HAYS COUNTY, TX
6/23/2020

EXHIBIT B

CENTER STREET UNION PACIFIC RAIL SIDING PROJECT CITY OF KYLE PARTICIPATION	
Description	Total Estimated Cost
Utility Relocation	$166,500.00
TxDOT Direct Costs	$327,940.00
Available Amount for City Reimbursement to County (ROW, Utility Relocation, Construction, additional CAMPO applications, County costs in excess of $1.5M, etc.)	$735,560.00
TOTAL MAXIMUM CITY PARTICIPATION	$1,230,000.00

CENTER STREET UNION PACIFIC RAIL SIDING PROJECT HAYS COUNTY PARTICIPATION	
Description	Total Estimated Cost
Preliminary Engineering	$675,000.00
Environmental	$300,000.00
Preliminary Engineering (Kohlers Crossing)	$800,000.00
TOTAL HAYS COUNTY PARTICIPATION	$1,775,000.00

Note: Above project costs are estimates and do not include reference to funding that will be reimbursed to Hays County via its AFA with TxDOT. Final project costs will be determined at about the time of the Project's substantial completion.

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

PLN-1736-PC; Hold a Public Hearing with possible action to approve the final plat of the Replat of Lots 13 and 14, Out of the Resubdivision of Lots 45 through 53 and Lot 58, Rolling Oaks Subdivision, Section 3.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
ACTION-SUBDIVISIONS	November 2, 2021	

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
MACHACEK	SHELL	N/A

SUMMARY

Rolling Oaks, Section 3 is a recorded subdivision located off of Rolling Oaks Drive in Precinct 3.

The proposed re-plat will divide Lots 13 (2.5 acres) and Lot 14 (2.5 acres) into four (4) resulting lots. Water service will be provided by individual well and rainwater collection. Wastewater treatment will be accomplished by individual on-site sewage facilities.

Hays County Commissioners Court Agenda Request

Meeting Date: November 2nd, 2021
Requested By: Colby Machacek, County Planner
Prepared By: Colby Machacek, County Planner
Department Director: Marcus Pacheco, Director of Development Services
Sponsoring Court Member: Commissioner Lon Shell, Precinct 3

AGENDA ITEM LANGUAGE:

Hold a Public Hearing with possible action to approve the final plat of the Replat of Lots 13 and 14, Out of the Resubdivision of Lots 45 through 53 and Lot 58, Rolling Oaks Subdivision, Section 3.

BACKGROUND/SUMMARY OF REQUEST:

A) Rolling Oaks, Section Three is a recorded subdivision located off of Rolling Oaks Drive, a public maintained road. The proposed re-plat will divide Lots 13 (2.5 acres) and Lot 14 (2.5 acres) into four (4) resulting lots.

   Water service will be accomplished by Individual Private Well and Rainwater Collection. Wastewater treatment will be accomplished by Individual On-Site Sewage Facilities. The property is located within the Hays County Commissioner Precinct 3 boundary.

B) Per Texas Local Government Code requirements, a public hearing for this proposed resubdivision of Lots 13 and 14 will take place on November 2nd, 2021 at 9:00 AM in our Commissioners Court. At that time, consideration for final action regarding the approval of the replat will take place.

STAFF COMMENTS:

Staff has completed review for the Replat of Lots 13 and 14, out of the Resubdivision of Lots 45 through 53 and Lot 58, Rolling Oaks Subdivision, Section 3. The items remaining are to hold the public hearing for the replat, and action on the approval of the replat.

There are no variances requested and at the time this item has full staff recommendation.

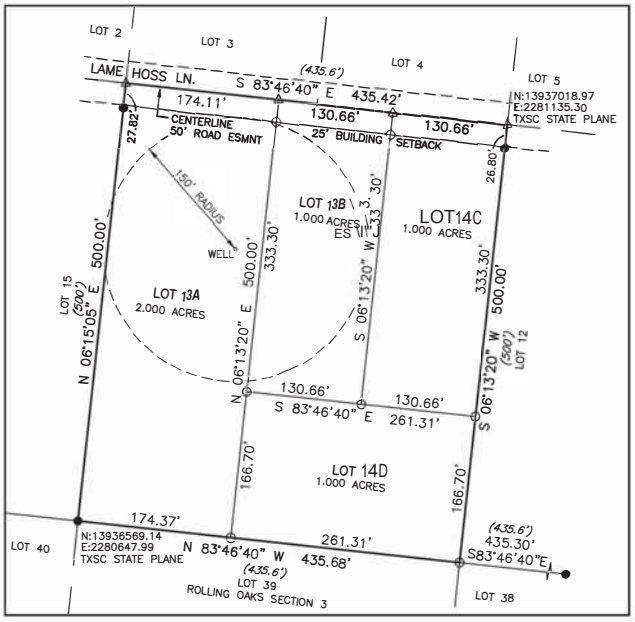
ATTACHMENTS/EXHIBITS:

Property Location Map

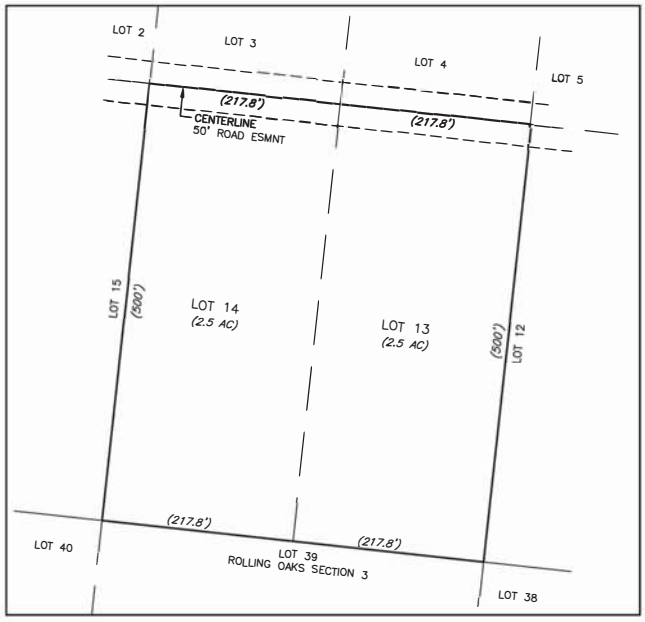
Subdivision Plat

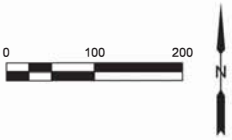
REPLAT OF LOTS 13 AND 14 OUT OF THE RESUBDIVISION OF LOTS 45 THROUGH 53 AND LOT 58 ROLLING OAKS, SECTION THREE, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 1, PAGE 107, PLAT RECORDS OF HAYS COUNTY, TEXAS

PER THIS REPLAT



ACCORDING TO RECORD





LEGEND

- ● IRON ROD FOUND [CAPPED AS NOTED]
- ○ CAPPED 1/2 INCH IRON ROD SET [5911]
- △ CALCULATED POINT
- ( ) RECORD INFORMATION

BEARING BASIS: TXSC – STATE PLANE

STATE OF TEXAS
COUNTY OF HAYS

KNOW ALL MEN BY THESE PRESENTS:

THAT I, KEVIN MUELLER, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF TEXAS, DOES HEREBY CERTIFY THAT THIS PLAT COMPLIES WITH THE SURVEY RELATED REQUIREMENTS OF THE HAYS COUNTY SUBDIVISION REGULATIONS AND FURTHER CERTIFY THAT THIS PLAT IS TRUE AND CORRECTLY MADE AND IS PREPARED FROM AN ACTUAL SURVEY OF THE PROPERTY MADE UNDER MY SUPERVISION ON THE GROUND AND THAT THE CORNER MONUMENTS WERE PROPERLY PLACED UNDER MY SUPERVISION. ACCORDING TO FEMA FIRM MAP PANEL 48209C0235F, DATED 9/2/2005, THIS TRACT APPEARS TO LIE WITHIN ZONE X [AREAS DETERMINED TO BE OUTSIDE THE 500–YR FLOODPLAIN].

KEVIN MUELLER
REGISTERED PROFESSIONAL LAND SURVEYOR NO. 5911
SAW TOOTH SURVEY – FIRM NO. 10194432
P.O. BOX 1751
ALPINE, TEXAS 79831

8–11–2021
DATE

STATE OF TEXAS REGISTERED KEVIN MUELLER 5911 PROFESSIONAL LAND SURVEYOR

THE STATE OF TEXAS
THE COUNTY OF HAYS

KNOW ALL MEN BY THESE PRESENTS:

THAT ADAM PIERCE AND LINDSEY M. PIERCE, RESIDING AT 7 WOODHOLLOW WAY, WIMBERLEY, TEXAS 78676, OWNERS OF THAT CERTAIN TRACT DESCRIBED IN DOCUMENT NO. 21012128, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS, DO HEREBY REPLAT SAID TRACT TO BE KNOWN AS:

REPLAT OF LOTS 13 AND 14, OUT OF THE RESUBDIVISION OF LOTS 45 THROUGH 53 AND LOT 58 ROLLING OAKS SECTION THREE

SUBJECT TO ANY EASEMENTS AND/OR RESTRICTIONS HERETOFORE GRANTED AND NOT RELEASED, AND DO HEREBY DEDICATE TO THE PUBLIC USE OF THE STREETS AND EASEMENTS SHOWN HEREON.

WITNESS MY HAND THIS THE _____ DAY OF _____ A.D., 2021

ADAM PIERCE

LINDSEY M. PIERCE

THE STATE OF TEXAS
THE COUNTY OF HAYS

BEFORE ME, THE UNDERSIGNED AUTHORITY, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE ON THIS DAY PERSONALLY APPEARED ADAM PIERCE AND LINDSEY M. PIERCE, KNOWN TO ME TO BE THE PERSONS WHOSE NAMES ARE SUBSCRIBED TO THE FOREGOING INSTRUMENT AND THEY ACKNOWLEDGE TO ME THAT THEY EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATIONS THEREIN EXPRESSED.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE ____ DAY OF _____ A.D., 2021.

NOTARY PUBLIC IN AND FOR HAYS COUNTY, TEXAS

FINAL PLAT NOTES:

1. THE PURPOSE OF THIS REPLAT PLAT IS TO RESUBDIVIDE TWO LOTS INTO FOUR LOTS.
2. NO PORTION OF THIS PLAT LIES WITHIN THE BOUNDARIES OF THE EDWARDS AQUIFER RECHARGE ZONE. THIS PLAT LIES ENTIRELY WITHIN THE EDWARDS AQUIFER CONTRIBUTING ZONE.
3. THIS PLAT IS LOCATED WITHIN THE BOUNDARY OF THE WIMBERLEY CITY INDEPENDENT SCHOOL DISTRICT.
4. WATER SERVICE WILL BE PROVIDED BY INDIVIDUAL GROUNDWATER WELLS.
5. WASTEWATER SERVICE WILL BE PROVIDED TO EACH LOT BY ON–SITE SEWAGE FACILITIES.
6. ELECTRIC SERVICE WILL BE PROVIDED BY THE PEDERNALES ELECTRIC COOPERATIVE.
7. NO CONSTRUCTION OR OTHER DEVELOPMENT WITHIN THIS SUBDIVISION MAY BEGIN UNTIL ALL HAYS COUNTY DEVELOPMENT AUTHORIZATION REQUIREMENTS HAVE BEEN SATISFIED.
8. IN ORDER TO PROMOTE SAFE USE OF ROADWAYS AND TO PRESERVE THE CONDITIONS OF PUBLIC ROADWAYS, NO DRIVEWAY CONSTRUCTED ON ANY LOT WITHIN THIS SUBDIVISION SHALL BE PERMITTED ACCESS ONTO A PUBLIC ROADWAY UNLESS (A) A PERMIT FOR USE OF THE COUNTY ROADWAY RIGHT–OF–WAY HAS BEEN ISSUED AND (B) THE DRIVEWAY SATISFIES THE MINIMUM SPACING REQUIREMENTS FOR DRIVEWAYS AS SET FORTH IN CHAPTER 721 OF THE HAYS COUNTY DEVELOPMENT REGULATIONS.
9. ALL CULVERTS, WHEN REQUIRED SHALL COMPLY WITH THE CURRENT HAYS COUNTY STANDARD, PER HAYS COUNTY DEVELOPMENT REGULATIONS, CHAPTER 705.8.03.
10. MAILBOXES PLACED WITHIN THE ROW, SHALL BE OF AN APPROVED TXDOT OR FHWA DESIGN, PER HAYS COUNTY DEVELOPMENT REGULATIONS, CHAPTER 721.2.01.
11. THE PLAT IS LOCATED WITHIN HAYS COUNTY ESD NO. 7.
12. LOTS SMALLER THAN 5 ACRES, WHICH ARE SERVED BY A SHARED ACCESS DRIVEWAY, WILL BE PROHIBITED FROM FURTHER SUBDIVISION UNLESS ADDITIONAL IMPROVED ACCESS IS PROVIDED.
13. UNDER DEPARTMENT REGULATIONS, THE SUBDIVISION IS EXEMPT FROM THE REQUIREMENTS TO DEMONSTRATE THE AVAILABILITY OF WATER SERVICE. FURTHER SUBDIVISION IS PROHIBITED FOR A DURATION OF FIVE (5) YEARS, FOLLOWING THE FILING OF THE PLAT.
14. THIS PLAT IS LOCATED WITHIN THE BARTON SPRINGS/EDWARDS AQUIFER CONSERVATION DISTRICT.
15. LOTS 2, 3, AND 4 DO NOT MEET MINIMUM LOT SIZE REQUIREMENTS FOR PRIVATE WELLS AND ON–SITE SEWAGE FACILITIES. LOTS 2 , 3, AND 4 ARE RESTRICTED TO RAINWATER COLLECTION/PUBLIC SURFACE WATER AND ADVANCED ON–SITE SEWAGE FACILITIES.

SEWAGE DISPOSAL/INDIVIDUAL WATER SUPPLY CERTIFICATION, TO–WIT:

NO STRUCTURE IN THIS SUBDIVISION SHALL BE OCCUPIED UNTIL CONNECTED TO AN INDIVIDUAL WATER SUPPLY OR A STATE APPROVED COMMUNITY WATER SYSTEM. DUE TO DECLINING WATER SUPPLIES AND DIMINISHING WATER QUALITY, PROSPECTIVE PROPERTY OWNERS ARE CAUTIONED BY HAYS COUNTY TO QUESTION THE SELLER CONCERNING GROUND WATER AVAILABILITY. RAIN WATER COLLECTION IS ENCOURAGES AND IN SOME AREAS MAY OFFER THE BEST RENEWABLE WATER RESOURCE.

NO STRUCTURE IN THIS SUBDIVISION SHALL BE OCCUPIED UNTIL CONNECTED TO A PUBLIC SEWER SYSTEM OR TO AN ON–SITE WASTEWATER SYSTEM WHICH HAS BEEN APPROVED AND PERMITTED BY THE HAYS COUNTY DEVELOPMENT SERVICES DEPARTMENT.

NO CONSTRUCTION OR OTHER DEVELOPMENT WITHIN THIS SUBDIVISION MAY BEGIN UNTIL ALL HAYS COUNTY DEVELOPMENT AUTHORIZATION REQUIREMENTS HAVE BEEN SATISFIED.

MARCUS PACHECO, DIRECTOR
HAYS COUNTY DEVELOPMENT SERVICES

ERIC VAN GAASBEEK, R.S., C.F.M.
HAYS COUNTY FLOODPLAIN ADMINISTRATOR

STATE OF TEXAS
COUNTY OF HAYS

I, ELAINE H. CARDENAS, COUNTY CLERK OF HAYS COUNTY, TEXAS, DO HEREBY CERTIFY THAT ON THE _____ DAY OF_____, A.D. 2021, THE COMMISSIONERS COURT OF HAYS COUNTY, TEXAS, PASSED AN ORDER AUTHORIZING THE FILING FOR RECORD OF THIS PLAT, AND SAID ORDER HAS BEEN DULY ENTERED IN THE MINUTES OF THE SAID COURT INSTRUMENT NUMBER _____.
WITNESS MY HAND AND SEAL OF OFFICE, THIS THE _____ DAY OF _____, A.D. 2021.

RUBEN BECERRA
COUNTY JUDGE
HAYS COUNTY, TEXAS

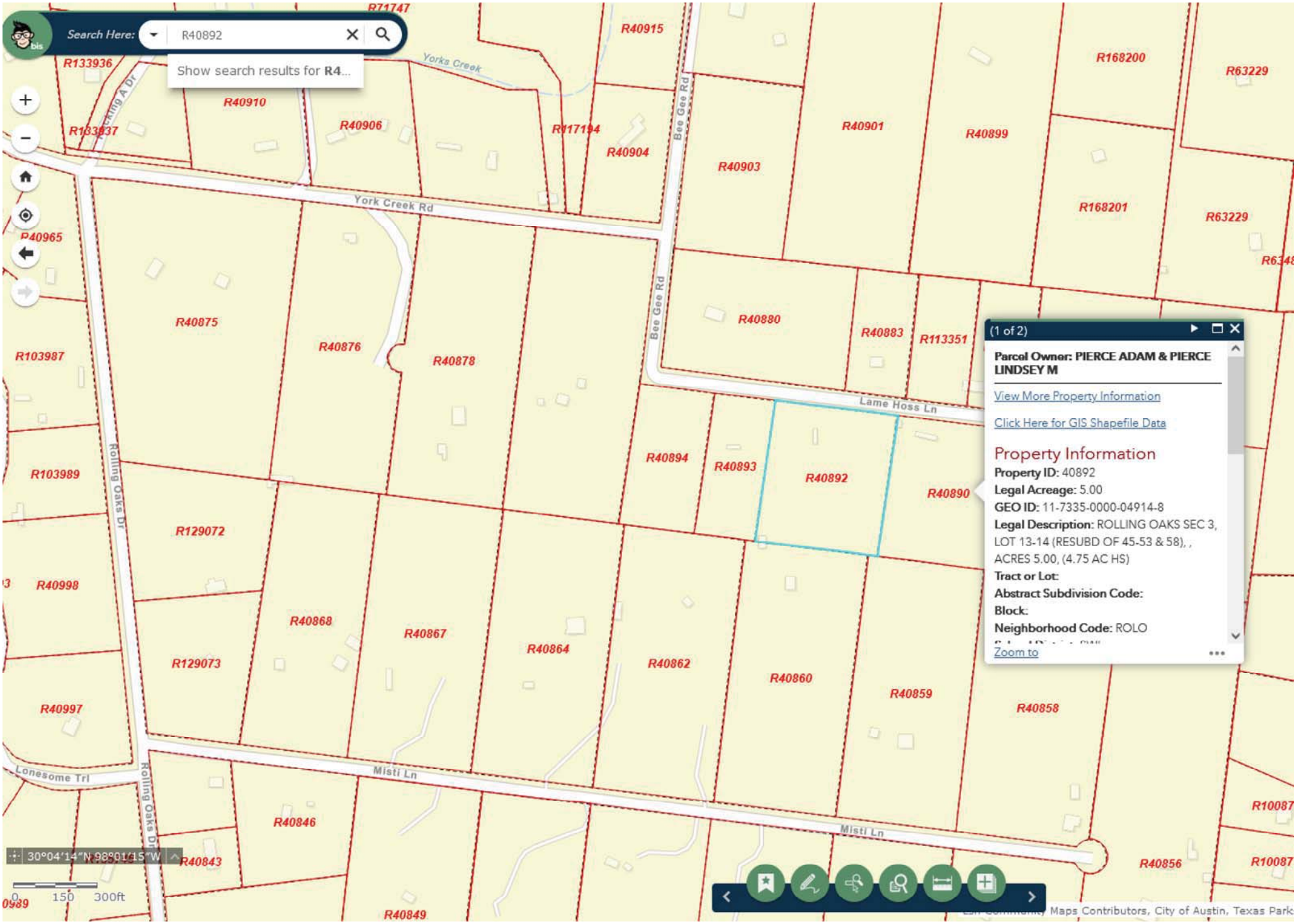
ELAINE H. CARDENAS
COUNTY CLERK
HAYS COUNTY, TEXAS

THE STATE OF TEXAS
COUNTY OF HAYS

I, ELAINE H. CARDENAS, COUNTY CLERK OF HAYS COUNTY, TEXAS, DO HEREBY CERTIFY THAT THE FOREGOING INSTRUMENT OF WRITING WITH ITS CERTIFICATE OF AUTHENTICATION WAS FILED FOR RECORD IN MY OFFICE ON THE _____ DAY OF _____ , A.D. 2021, AT _____ O'CLOCK __M. IN THE PLAT OF RECORDS OF HAYS COUNTY, TEXAS, IN INSTRUMENT NO._____.

WITNESS MY HAND AND SEAL OF OFFICE, THIS _____ DAY OF _____, A.D. 2021.

ELAINE H. CARDENAS
COUNTY CLERK
HAYS COUNTY, TEXAS


Search Here:
R40892
Show search results for R4...
Yorks Creek
York Creek Rd
Bee Gee Rd
Lame Hoss Ln
Rolling Oaks Dr
Misti Ln
Lonesome Trl
R40915
R168200
R63229
R133936
R40910
R40906
R117194
R40904
R40903
R40901
R40899
R168201
R40965
R40875
R40876
R40878
R40880
R40883
R113351
R103987
R40894
R40893
R40892
R40890
R103989
R129072
R40998
R40868
R40867
R40864
R40862
R40860
R40859
R40858
R129073
R40997
R40846
R40843
R40849
R40856
R10087
30°04'14"N 98°01'15"W
0 150 300ft
(1 of 2)
Parcel Owner: PIERCE ADAM & PIERCE LINDSEY M
View More Property Information
Click Here for GIS Shapefile Data
Property Information
Property ID: 40892
Legal Acreage: 5.00
GEO ID: 11-7335-0000-04914-8
Legal Description: ROLLING OAKS SEC 3, LOT 13-14 (RESUBD OF 45-53 & 58), , ACRES 5.00, (4.75 AC HS)
Tract or Lot:
Abstract Subdivision Code:
Block:
Neighborhood Code: ROLO
Zoom to
Maps Contributors, City of Austin, Texas Park

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

PLN-1689-NP; Henly Creek Subdivision (1 Lot). Discussion and possible action to approve the final plat.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
ACTION-SUBDIVISIONS	November 2, 2021	

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
MACHACEK	SMITH	N/A

SUMMARY

The proposed Henly Creek Subdivision is a 1 lot subdivision located off of Creek Rd in Precinct 4.

Water service will be accomplished by private well. Wastewater treatment will be accomplished by individual on-site sewage facility.

Hays County Commissioners Court Agenda Request

Meeting Date: November 11th, 2021
Requested By: Colby Machacek, County Planner
Prepared By: Colby Machacek, County Planner
Department Director: Marcus Pacheco, Development Services Director
Sponsoring Court Member: Commissioner Walt Smith, Precinct 4

AGENDA ITEM LANGUAGE:

Discussion and possible action to approve the final plat for Henly Creek Subdivison.

BACKGROUND/SUMMARY OF REQUEST:

A) Henly Creek Subdivision is a proposed 1 lot subdivision location off of Creek Road Precinct 4.

   Water service will be accomplished by individual private wells and Wastewater treatment will be accomplished by Individual On-Site Sewage Facilities.

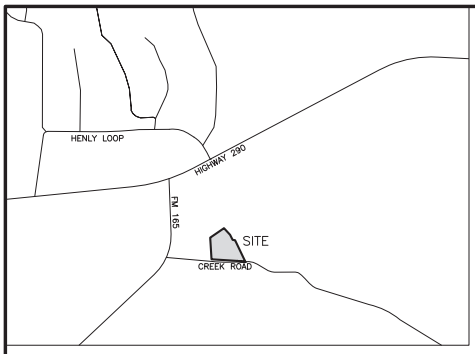
STAFF COMMENTS:

Staff has completed review for the Henly Creek Subdivision. The application has no variances requested, meeting all of the Development Regulations set forth and has full staff recommendation.

ATTACHMENTS/EXHIBITS:

Property Location Map

Subdivision Plat



VICINITY MAP – 1"=2000'

SURVEYORS NOTES

1. FENCES MEANDER.

2. BEARINGS, DISTANCES AND AREAS IN PARENTHESES ARE FROM RECORD INFORMATION.

3. ACCORDING TO SCALING FROM THE CURRENT F.E.M.A. FLOOD INSURANCE RATE MAP NO. 48209C0100F, DATED 9/2/2005, THIS TRACT LIES WITHIN ZONE X, (AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN).

4. THIS SURVEY WAS DONE WITHOUT THE BENEFIT OF A CURRENT TITLE REPORT AND THIS SURVEYOR DID NOT RESEARCH THE DEED RECORDS FOR PREVIOUS CONFLICTS IN TITLE OR EASEMENT, THEREFORE, CERTAIN EASEMENTS MAY HAVE BEEN GRANTED WHICH ARE NOT REFLECTED HEREON.

5. ACCORDING TO SCALING FROM TCEQ MAPS NO PORTION OF THIS SUBDIVISION LIES WITHIN THE BOUNDARIES OF THE EDWARDS AQUIFER RECHARGE ZONE AND ALL OF THIS SUBDIVISION LIES WITHIN THE BOUNDARIES OF THE EDWARDS AQUIFER CONTRIBUTING ZONE.

6. THIS SUBDIVISION LIES WITHIN THE BOUNDARIES OF THE JOHNSON CITY INDEPENDENT SCHOOL DISTRICT.

7. NO PORTION OF THIS SUBDIVISION LIES WITHIN THE BOUNDARIES OF ANY MUNICIPALITY'S CORPORATE CITY LIMITS OR AREA OF EXTRA TERRITORIAL JURISDICTION.

8. THIS SUBDIVISION LIES WITH HAYS COUNTY EMERGENCY SERVICES DISTRICTS 1 AND 6.

9. THIS SUBDIVISION LIES WITHIN THE HAYS–TRINITY GROUNDWATER CONSERVATION DISTRICT.

10. THIS SUBDIVISION IS LIMITED TO ONE SINGLE FAMILY RESIDENCE PER LOT AND IS PROHIBITED FROM TCEQ REGULATED DEVELOPMENT.

11. UNDER DEPARTMENT REGULATIONS, THIS SUBDIVISION IS EXEMPT FROM THE REQUIREMENTS TO DEMONSTRATE THE AVAILABILITY OF WATER SERVICE. FURTHER SUBDIVISION IS PROHIBITED FOR A DURATION OF FIVE (5) YEARS, FOLLOWING THE FILING OF THE PLAT.

12. ALL CULVERTS, WHEN REQUIRED SHALL COMPLY WITH THE CURRENT HAYS COUNTY STANDARD.

13. MAILBOXES PLACED WITHIN THE ROW, SHALL BE OF AN APPROVED TXDOT OF FHWA DESIGN.

STATE OF TEXAS*
COUNTY OF HAYS*

KNOW ALL MEN BY THESE PRESENTS, THAT WE, SEAN AND RENEE SASSIN OF RANCHTIME INVESTMENTS, LLC, OWNERS OF THE REMAINING PORTION OF 20.291 ACRES IN THE WILLIAM H. HAGGARD SURVEY, HAYS COUNTY, TEXAS AS CONVEYED TO US BY DEED DATED 3/26/2019, AND RECORDED IN HAYS COUNTY INSTRUMENT NUMBER 19011527, HAYS COUNTY OFFICIAL PUBLIC RECORDS, DO HEREBY SUBDIVIDE THIS PROPERTY TO BE KNOWN AS HENLY CREEK SUBDIVISION, IN ACCORDANCE WITH THE PLAT SHOWN HEREON, SUBJECT TO ANY AND ALL EASEMENTS OR RESTRICTIONS HERETOFORE GRANTED, AND DO HEREBY DEDICATE TO THE PUBLIC THE USE OF THE STREETS AND EASEMENTS SHOWN HEREON.

SEAN SASSIN, OWNER
1068 DRIFTING WIND RUN
DRIPPING SPRINGS, TX
78620

RENEE SASSIN, OWNER
1068 DRIFTING WIND RUN
DRIPPING SPRINGS, TX.
78620

STATE OF TEXAS*
COUNTY OF HAYS*

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED SEAN SASSIN AND RENEE SASSIN, KNOWN TO ME TO BE THE PERSONS WHOSE NAMES ARE SUBSCRIBED TO THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATION THEREIN STATED.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE ___ DAY OF _____, A.D., 2021.

NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS

NO STRUCTURE IN THIS SUBDIVISION SHALL BE OCCUPIED UNTIL CONNECTED TO AN INDIVIDUAL WATER SUPPLY OR A STATE–APPROVED COMMUNITY WATER SYSTEM. DUE TO DECLINING WATER SUPPLIES AND DIMINISHING WATER QUALITY, PROSPECTIVE PROPERTY OWNERS ARE CAUTIONED BY HAYS COUNTY TO QUESTION THE SELLER CONCERNING GROUND WATER AVAILABILITY. RAIN WATER COLLECTION IS ENCOURAGED AND IN SOME AREAS MAY OFFER THE BEST RENEWABLE WATER RESOURCE.

NO STRUCTURE IN THIS SUBDIVISION SHALL BE OCCUPIED UNTIL CONNECTED TO A PUBLIC SEWER SYSTEM OR TO AN ON–SITE WASTEWATER SYSTEM WHICH HAS BEEN APPROVED AND PERMITTED BY HAYS COUNTY DEVELOPMENT SERVICES.

NO CONSTRUCTION OR OTHER DEVELOPMENT WITHIN THIS SUBDIVISION MAY BEGIN UNTIL ALL HAYS COUNTY DEVELOPMENT PERMIT REQUIREMENTS HAVE BEEN MET.

MARCUS PACHECO, DIRECTOR,
HAYS COUNTY DEVELOPMENT SERVICES — DATE

ERIC VAN GAASBEEK, R.S., C.F.M.
HAYS COUNTY FLOODPLAIN ADMINISTRATOR — DATE

STATE OF TEXAS *
COUNTY OF HAYS *

I, ELAINE H. CARDENAS, COUNTY CLERK OF HAYS COUNTY, TEXAS, DO HEREBY CERTIFY THAT ON THE ___ DAY OF _____, A.D., 2021, THE COMMISSIONERS COURT OF HAYS COUNTY, TEXAS, PASSED AN ORDER AUTHORIZING THE FILING FOR RECORD OF THIS PLAT AND SAID ORDER HAS BEEN DULY ENTERED IN THE MINUTES OF SAID COURT INSTRUMENT NUMBER _____.

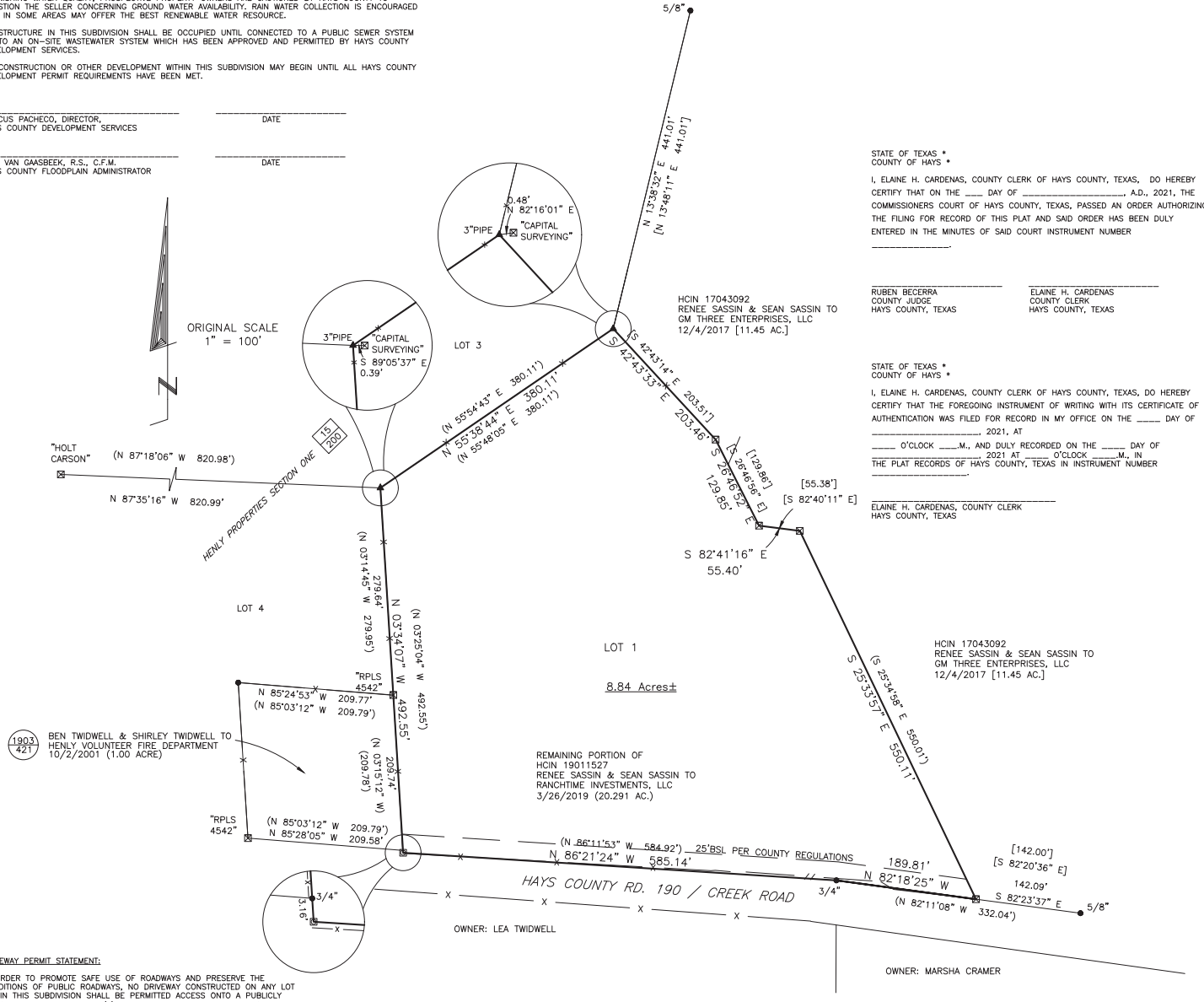
RUBEN BECERRA
COUNTY JUDGE
HAYS COUNTY, TEXAS

ELAINE H. CARDENAS
COUNTY CLERK
HAYS COUNTY, TEXAS

STATE OF TEXAS *
COUNTY OF HAYS *

I, ELAINE H. CARDENAS, COUNTY CLERK OF HAYS COUNTY, TEXAS, DO HEREBY CERTIFY THAT THE FOREGOING INSTRUMENT OF WRITING WITH ITS CERTIFICATE OF AUTHENTICATION WAS FILED FOR RECORD IN MY OFFICE ON THE _____ DAY OF _____, 2021, AT _____ O'CLOCK ____M., AND DULY RECORDED ON THE _____ DAY OF _____, 2021 AT _____ O'CLOCK _____M., IN THE PLAT RECORDS OF HAYS COUNTY, TEXAS IN INSTRUMENT NUMBER _____.

ELAINE H. CARDENAS, COUNTY CLERK
HAYS COUNTY, TEXAS



DRIVEWAY PERMIT STATEMENT:

IN ORDER TO PROMOTE SAFE USE OF ROADWAYS AND PRESERVE THE CONDITIONS OF PUBLIC ROADWAYS, NO DRIVEWAY CONSTRUCTED ON ANY LOT WITHIN THIS SUBDIVISION SHALL BE PERMITTED ACCESS ONTO A PUBLICLY DEDICATED ROADWAY UNLESS (A) A PERMIT FOR THE USE OF THE COUNTY ROADWAY RIGHT–OF–WAY HAS BEEN ISSUED UNDER CHAPTER 751, AND (B) THE DRIVEWAY SATISFIES THE MINIMUM SPACING REQUIREMENT SET FORTH IN CHAPTER 721 OF THE HAYS COUNTY DEVELOPMENT REGULATIONS.

LOT SIZE CATEGORIES

TOTAL NUMBER OF LOTS = 1
AVERAGE LOT SIZE = 8.84 ACRES
1 LOT LARGER THAN 5.0 ACRES AND SMALLER THAN 10 ACRES

UTILITIES:
ELECTRIC–PEDERNALES ELECTRIC COOPERATIVE
WATER–INDIVIDUAL ON–SITE WELLS
SEWER–INDIVIDUAL ON–SITE SEWAGE FACILITIES

LEGEND

VOL / PG	HAYS COUNTY DEED, REAL PROPERTY OR OFFICIAL PUBLIC RECORDS
VOL / PG	HAYS COUNTY PLAT RECORDS
⊠	1/2" IRON ROD SET WITH PLASTIC CAP STAMPED "BYRN SURVEY"
●	1/2" IRON ROD FOUND OR DIAMETER NOTED
▲	FENCE POST
⊠	1/2" IRON ROD FOUND WITH PLASTIC CAP STAMPED "HMT SURVEYING" OR NOTED
— X —	WIRE FENCE
— ohu —	UTILITY LINE, POLE AND GUY
BSL	BUILDING SETBACK LINE

I, THE UNDERSIGNED, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF TEXAS, HEREBY STATE THAT TO THE BEST OF MY SKILL AND KNOWLEDGE THIS PLAT IS TRUE AND CORRECTLY MADE AND IS PREPARED FROM AN ACTUAL SURVEY OF THE PROPERTY MADE UNDER MY SUPERVISION ON THE GROUND AND THAT THE CORNER MONUMENTS WERE PROPERLY PLACED UNDER MY SUPERVISION.

PRELIMINARY, THIS DOCUMENT SHALL NOT BE RECORDED FOR ANY PURPOSE.

REGISTERED PROFESSIONAL LAND SURVEYOR
KYLE SMITH, R.P.L.S. NO. 5307

BYRN & ASSOCIATES, INC.
SURVEYING
P.O. BOX 1433 SAN MARCOS, TEXAS 78667
PHONE 512–396–2270 FAX 512–392–2945
FIRM NO. 10070500

CLIENT: SASSIN, SEAN
DATE: 2/4/2021
OFFICE: PRADO, HADEN
CREW: C. SMITH, HADEN
FB/PG: 782/31
PLAT NO. 27866–21–c

PLAT OF HENLY CREEK SUBDIVISION, HAYS COUNTY, TEXAS

Search Here:
7500 Creek Rd, Dripping Sprin
Show search results for 75...
W Hwy 290
R132241
R10946
R144740
R132240
R15834
R15843
R144745
R90093
R16017
R132242
Ranch Road 165
A-279
R159606
R132243
R70029
R127659
R101640
Creek Rd
A-306
R11020
R10959
R15827
R10962
R10979
R127658
R175423
R156383
(1 of 2)
Parcel Owner: RANCHTIME INVESTMENTS LLC
View More Property Information
Click Here for GIS Shapefile Data
Property Information
Property ID: 70029
Legal Acreage: 8.84
GEO ID: 10-0008-0081-00001-7
Legal Description: A0008 WILLIAM H HAGGARD SURVEY, ACRES 8.841
Tract or Lot:
Abstract Subdivision Code:
Block:
Neighborhood Code: 4ABS
School District: SJC
Zoom to
30°11'21"N 98°13'17"W
0
150
300ft

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

PLN-1756-PC; Call for a Public Hearing on November 23, 2021 to discuss possible action regarding the Douglas Estates Subdivision, Lot D-40, Replat.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
ACTION-SUBDIVISIONS	November 2, 2021	

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
MACHACEK	SMITH	N/A

SUMMARY

Douglas Estates is a recorded subdivision located off Harmon Hills Road in Precinct 4.

The proposed replat will establish three (3) lots: D-40A, D-40B, and D-40C across 7.07 acres of land.
Water utility will be achieved by individual wells. Wastewater treatment will be accomplished by individual on-site sewage facilities.

REPLAT OF LOT D - 40
DOUGLAS ESTATES

STATE OF TEXAS
COUNTY OF HAYS

THAT, HARRELL GLASS AND LILLIE GLASS, AS CO-TRUSTEE OF THE GLASS FAMILY TRUST, OWNERS OF LOT D-40, DOUGLAS ESTATES, A SUBDIVISION OF RECORD IN VOLUME 1, PAGE 282 OF THE PLAT RECORDS, HAYS COUNTY, TEXAS; LOTD-40 BEING CONVEYED IN VOLUME 2939, PAGE 613 OF THE OFFICIAL PUBLIC RECORDS, HAYS COUNTY, TEXAS, DO HEREBY RESUBDIVIDE LOT D-40, DOUGLAS ESTATES, IN ACCORDANCE WITH THE MAP OR PLAT ATTACHED HERETO, TO BE KNOWN AS:

REPLAT OF LOT D-40, DOUGLAS ESTATES

AND DO HEREBY DEDICATE TO THE PUBLIC THE USE OF ALL STREETS AND EASEMENTS SHOWN HEREON, SUBJECT TO ANY AND ALL EASEMENTS OR RESTRICTIONS HERETOFORE GRANTED AND NOT RELEASED.

WITNESS MY HAND, THIS THE _____DAY OF_____, 20__ A.D.

_____
THE GLASS FAMILY TRUST
2100 HARMON HILLS ROAD
DRIPPING SPRINGS, TX 78620

BEFORE ME, THE UNDERSIGNED AUTHORITY PERSONALLY APPEARED _____, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SWORN AND SUBSCRIBED TO THIS INSTRUMENT, AND ACKNOWLEDGED TO ME THAT THEY HAVE EXECUTED THE SAME FOR THE PURPOSE AND CONSIDERATION THEREIN EXPRESSED, AND IN THE CAPACITY THEREIN STATED.

WITNESS MY HAND AND SEAL OF OFFICE, THIS THE _____DAY OF_____, 20__ A.D.

_____ _____
NOTARY PUBLIC, STATE OF TEXAS PRINTED NAME

_____
EXPIRATION DATE

SEWAGE DISPOSAL/INDIVIDUAL WATER SUPPLY CERTIFICATION, TO-WIT:

NO STRUCTURE IN THIS SUBDIVISION SHALL BE OCCUPIED UNTIL CONNECTED TO AN INDIVIDUAL WATER SUPPLY OR A STATE APPROVED COMMUNITY WATER SYSTEM. DUE TO DECLINING WATER SUPPLIES AND DIMINISHING WATER QUALITY, PROSPECTIVE PROPERTY OWNERS ARE CAUTIONED BY HAYS COUNTY TO QUESTION THE SELLER CONCERNING GROUND WATER AVAILABILITY. RAIN WATER COLLECTION IS ENCOURAGED AND IN SOME AREAS MAY OFFER THE BEST RENEWABLE WATER RESOURCE.

NO STRUCTURE IN THIS SUBDIVISION SHALL BE OCCUPIED UNTIL CONNECTED TO A PUBLIC SEWER SYSTEM OR TO AN ON-SITE WASTEWATER SYSTEM WHICH HAS BEEN APPROVED AND PERMITTED BY HAYS COUNTY DEVELOPMENT SERVICES DEPARTMENT.

NO CONSTRUCTION OR OTHER DEVELOPMENT WITHIN THIS SUBDIVISION MAY BEGIN UNTIL ALL HAYS COUNTY DEVELOPMENT AUTHORIZATION REQUIREMENTS HAVE BEEN SATISFIED.

_____ _____
MARCUS PACHECO, DIRECTOR ERIC VAN GAASBEEK, R.S., C.F.M.
HAYS COUNTY DEVELOPMENT FLOODPLAIN ADMINISTRATOR
SERVICES DEPARTMENT

STATE OF TEXAS
COUNTY OF HAYS

THAT I, ELAINE H. CARDENAS, COUNTY CLERK OF HAYS COUNTY, TEXAS, DO HEREBY CERTIFY THAT ON THE_____ DAY OF _____, A.D. 20____, THE COMMISIONERS COURT OF HAYS COUNTY, TEXAS, PASSED AN ORDER AUTHORIZING THE FILING FOR RECORD OF THIS PLAT, AND SAID ORDER HAS BEEN DULY ENTERED IN THE MINUTES OF THE SAID COURT INSTRUMENT NUMBER _____.

WITNESS MY HAND AND SEAL OF OFFICE, THIS THE _____ DAY OF _____, A.D. 20___.

_____
RUBEN BECERRA
COUNTY JUDGE
HAYS COUNTY, TEXAS

_____
ELAINE H. CARDENAS
COUNTY CLERK,
HAYS COUNTY, TEXAS

STATE OF TEXAS
COUNTY OF HAYS

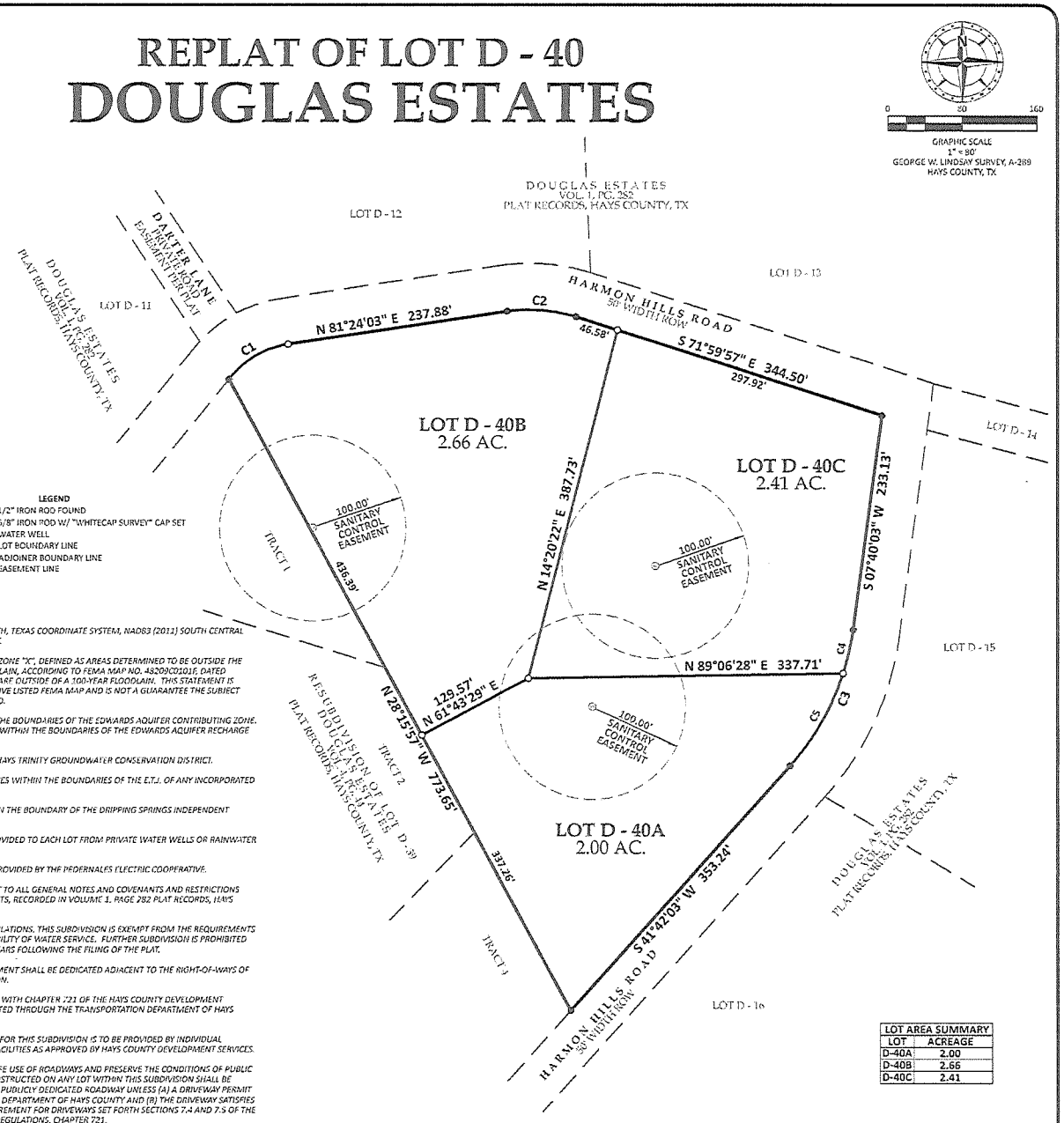
THAT I, ELAINE H. CARDENAS, CLERK OF HAYS COUNTY, TEXAS DO HEREBY CERTIFY THAT THE FOLLOWING INSTRUMENT OF WRITING AND ITS CERTIFICATES OF AUTHENICATION WAS FILED FOR RECORD IN MY OFFICE ON THE _____ DAY OF _____, 20__ A.D., AT _____ O'CLOCK __M. AND DULY RECORDED ON THE _____ DAY OF _____, 20__ A.D., AT _____ O'CLOCK __M., IN INSTRUMENT NO. _____, PLAT RECORDS OF HAYS COUNTY, TEXAS.

_____
ELAINE H. CARDENAS
COUNTY CLERK
HAYS COUNTY, TEXAS

SURVEYOR'S CERTIFICATION:
I, WILLIAM R. HERRING, HEREBY CERTIFY THAT THIS PLAT WAS PREPARED FROM AN ON-THE-GROUND SURVEY OF THE PROPERTY SHOWN HEREON, CONDUCTED UNDER MY SUPERVISION, AND THAT THE CORNER MONUMENTS SHOWN HEREON WERE FOUND OR PLACED UNDER MY SUPERVISION.

PRELIMINARY, THIS DOCUMENT SHALL NOT BE RECORDED FOR ANY PURPOSE AND SHALL NOT BE USED OR VIEWED OR RELIED UPON AS A FINAL SURVEY DOCUMENT

_____ _____
WILLIAM R. HERRING DATE
REGISTERED PROFESSIONAL LAND SURVEYOR
NO. 6355 - STATE OF TEXAS



LEGEND
- 1/2" IRON ROD FOUND
- 5/8" IRON ROD W/ "WHITECAP SURVEY" CAP SET
- WATER WELL
- LOT BOUNDARY LINE
- ADJOINER BOUNDARY LINE
- EASEMENT LINE

0 80 160
GRAPHIC SCALE
1" = 80'
GEORGE W. LINDSAY SURVEY, A-289
HAYS COUNTY, TX

PLAT NOTES:
1. BEARING BASIS IS GRID NORTH, TEXAS COORDINATE SYSTEM, NAD83 (2011) SOUTH CENTRAL ZONE. UNITS = US SURVEY FEET.

2. THIS PROPERTY LIES WITHIN ZONE "X", DEFINED AS AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN, ACCORDING TO FEMA MAP NO. 48209C0101F, DATED SEPTEMBER 2, 2005. ALL LOTS ARE OUTSIDE OF A 100-YEAR FLOODLAIN. THIS STATEMENT IS DERIVED SOLELY UPON THE ABOVE LISTED FEMA MAP AND IS NOT A GUARANTEE THE SUBJECT TRACT WILL OR WILL NOT FLOOD.

3. THIS PLAT LIES WITHIN THE THE BOUNDARIES OF THE EDWARDS AQUIFER CONTRIBUTING ZONE. NO PORTION OF THIS PLAT LIES WITHIN THE BOUNDARIES OF THE EDWARDS AQUIFER RECHARGE ZONE.

4. THIS PLAT LIES WITHIN THE HAYS TRINITY GROUNDWATER CONSERVATION DISTRICT.

5. NO PORTION OF THIS PLAT LIES WITHIN THE BOUNDARIES OF THE E.T.J. OF ANY INCORPORATED MUNICIPALITY.

6. THIS PLAT IS LOCATED WITHIN THE BOUNDARY OF THE DRIPPING SPRINGS INDEPENDENT SCHOOL DISTRICT.

7. WATER SERVICE WILL BE PROVIDED TO EACH LOT FROM PRIVATE WATER WELLS OR RAINWATER COLLECTION.

8. ELECTRIC SERVICE WILL BE PROVIDED BY THE PEDERNALES ELECTRIC COOPERATIVE.

9. THIS SUBDIVISION IS SUBJECT TO ALL GENERAL NOTES AND COVENANTS AND RESTRICTIONS APPEARING ON THE PLAT OF LOTS, RECORDED IN VOLUME 1, PAGE 282 PLAT RECORDS, HAYS COUNTY, TEXAS.

10. UNDER DEPARTMENT REGULATIONS, THIS SUBDIVISION IS EXEMPT FROM THE REQUIREMENTS TO DEMONSTRATE THE AVAILABILITY OF WATER SERVICE. FURTHER SUBDIVISION IS PROHIBITED FOR A DURATION OF FIVE (5) YEARS FOLLOWING THE FILING OF THE PLAT.

11. A 20' PUBLIC UTILITY EASEMENT SHALL BE DEDICATED ADJACENT TO THE RIGHT-OF-WAYS OF ALL STREETS IN THIS SUBDIVISION.

12. DRIVEWAYS SHALL COMPLY WITH CHAPTER 721 OF THE HAYS COUNTY DEVELOPMENT REGULATIONS, AND BE PERMITTED THROUGH THE TRANSPORTATION DEPARTMENT OF HAYS COUNTY UNDER CHAPTER 751.

13. WASTEWATER TREATMENT FOR THIS SUBDIVISION IS TO BE PROVIDED BY INDIVIDUAL ADVANCED ON-SITE SEWAGE FACILITIES AS APPROVED BY HAYS COUNTY DEVELOPMENT SERVICES.

14. IN ORDER TO PROMOTE SAFE USE OF ROADWAYS AND PRESERVE THE CONDITIONS OF PUBLIC ROADWAYS, NO DRIVEWAY CONSTRUCTED ON ANY LOT WITHIN THIS SUBDIVISION SHALL BE PERMITTED TO ACCESS ONTO A PUBLICLY DEDICATED ROADWAY UNLESS (A) A DRIVEWAY PERMIT HAS BEEN ISSUED BY THE ROAD DEPARTMENT OF HAYS COUNTY AND (B) THE DRIVEWAY SATISFIES THE MINIMUM SPACING REQUIREMENT FOR DRIVEWAYS SET FORTH SECTIONS 7.4 AND 7.5 OF THE HAYS COUNTY DEVELOPMENT REGULATIONS, CHAPTER 721.

15. THIS SUBDIVISION LIES WITHIN HAYS COUNTY ESD #1 AND ESD #6.

16. ALL CULVERTS, WHEN REQUIRED SHALL COMPLY WITH THE CURRENT HAYS COUNTY STANDARD.

17. MAIL BOXES PLACED WITHIN THE ROW, SHALL BE OF AN APPROVED TXDOT OR FHWA DESIGN, PER HAYS COUNTY DEVELOPMENT REGULATIONS, CHAPTER 721, SUBCHAPTER 2.01.

18. NUMBER OF LOTS IN THIS REPLAT - 3
AVERAGE SIZE OF LOTS - 2.36 AC.
NUMBER OF LOTS SMALLER THAN 1 AC. - 0
NUMBER OF LOTS LARGER THAN 1.0 AC. BUT SMALLER THAN 2.0 AC. - 0
NUMBER OF LOTS LARGER THAN 2.0 AC. BUT SMALLER THAN 5.0 AC. - 3
NUMBER OF LOTS LARGER THAN 5.0 AC. BUT SMALLER THAN 10 AC. - 0
NUMBER OF LOTS LARGER THAN 10 AC. - 0

CURVE TABLE					
CURVE	ARC	RADIUS	DELTA	BEARING	CHORD
C1	75.57'	98.25'	44°04'09"	N59°22'03"E	73.72'
C2	74.77'	161.52'	26°31'25"	S85°18'33"E	74.11'
C3	164.46'	275.63'	34°11'11"	S24°41'03"W	162.03'
C4	48.52'	275.63'	10°05'07"	S12°38'01"W	48.45'
C5	115.94'	275.63'	24°06'03"	S29°43'37"W	115.09'

LOT AREA SUMMARY	
LOT	ACREAGE
D-40A	2.00
D-40B	2.66
D-40C	2.41

WHITECAP SURVEY COMPANY
WHITECAP SURVEY COMPANY, LLC
TBPELS FIRM NO 10194424
PO BOX 1225
DRIPPING SPRINGS, TX 78620
(512) 808-0102
EMAIL: INFO@WHITECAPSURVEY.COM

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Discussion and possible action to approve changes to the FY 2021 healthcare plan as recommended by the Insurance Committee.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
ACTION-MISCELLANEOUS	November 2, 2021	n/a

LINE ITEM NUMBER

N/A

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
Shari Miller	INGALSBE	SHELL

SUMMARY

Details to be presented in Commissioners Court.

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Discussion and possible action to authorize the County Judge to execute an Agreement between Hays County and HDR Architecture, Inc. to provide architectural designs and services related to the upgrade of the Government Center security, camera and badge reader system, and the installation of a surveillance system for the Historic Courthouse in the amount of $184,100 and authorize a discretionary exemption pursuant to Texas Government Code Chapter 2254.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
ACTION-MISCELLANEOUS	October 19, 2021	$184,100

LINE ITEM NUMBER

001-645-00.5741

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** MARISOL VILLARREAL-ALONZO

REQUESTED BY	SPONSOR	CO-SPONSOR
T. CRUMLEY	INGALSBE	N/A

SUMMARY

The selection of HDR Architecture, Inc. was officially approved by Commissioners Court on September 21, 2021. HDR has submitted an agreement/contract to provide architectural designs and services related to the upgrade of the entire Government Center security, camera, and badge reader system, and the installation of a new camera/surveillance system at the Historic Courthouse. Funding for this project was approved in the FY22 budget.

Attachments:
HDR Agreement
HDR Supporting Documents
Page from FY22 Approved Budget

October 22, 2021

Chris Deichmann
Hays County Government Center
712 Stagecoach Trail, Suite 1233
San Marcos, TX 78666

RE: Security Upgrade Design Proposal – Revised to Include Historic Courthouse

Dear Chris,

Per your initial conversation on May 17, 2021 with Halden Tally, Jim Gabel and John Niesen and follow up request from Lisa Griffin on October 6, 2021, this is our revised proposal for designing upgrades to the entire existing electronic security systems including cameras, card readers, and intercoms for the Hays County Government Center. As we mentioned, Jim and our architectural support person paired with Jim for this project both worked on the original project, so there will be little time necessary to bring us up-to-speed on the building and original systems. Jim's technical description of the task is:

> Existing facility Electronic Security Systems "Upgrade" Design for existing electronic security systems "head-end" components to provide an integrated/functional operating system based on a current technology platform with provisions for future systems upgrades to be seamlessly integrated within current (upgraded) platform:
> - Systems upgrade for existing "head-end" components, selected systems field devices (Audio & CCTV) and system control stations.
> - Replace devices and cabling for intercom and cameras. Cabling for card readers and door controls should still be ok; everything to be verified.
> - This work shall include complete design documents (drawings & specifications), procurement/bidding and construction administration (CA) services.

We propose structuring this project in four parts:

Task 0 – Initial Facility & Systems Assessments *(est. one month)*
a. Facility Assessments: 1 on-site meeting with Owner, tour and review of existing systems
b. Produce assessment and system upgrade recommendations narrative
c. Update cost estimate
d. Review recommendations narrative with Owner in person

Task 1 – Design *(est. two months)*
a. Produce drawings and specifications
b. Update cost estimate
c. One in-person design review meeting with Owner

Task 2 – Procurement *(est. two and one-half months)*
a. Attend pre-bid meeting in person
b. Fielding and answering bidder questions
c. Preparation and distribution of Addenda, if necessary
d. Owner award of Construction Contract

Task 3 – Construction Contract Administration (est. four months)
a. Project administration to review contractor submittals and samples, RFI's, proposal requests and change orders

b. Periodic observation of conditions at construction milestones (two visits included)
c. Attendance at other two coordination meetings per month via remote access
d. Review of monthly Contractor payment applications
e. Final punch list for substantial completion, one visit included

PRELIMINARY ESTIMATE OF PROBABLE MATERIALS AND INSTALLATION COSTS
The eventual purchase cost for the electronic security directions discussed on our call could be in range of $650,000 - $900,000. We will be in better position to verify this during Tasks 0 and 1.

FEE FOR BASE SERVICES
The total lump-sum fee for the above scope, including expenses for listed travel, is **$139,975**. We have assumed that all deliverables can be transmitted electronically and no printing outside of minor in-house needs to do our work have been included.

OPTION A
Hays County desires cameras and video surveillance be provided at the Historic Courthouse located at 111 E. San Antonio Street in San Marcos, Texas, for selected areas. Alterations at the Historic Courthouse will need to be reviewed and approved by the Texas Historical Commission (THC). Acceptance of this Option signifies that the work will be designed, procured and implemented concurrent with the design for the Electronic Security Upgrade for the Hays County Government Center, described above. The primary scope and requirements for the design and construction contract administration are as follows:

Hay County will furnish scaled hardcopy plan documents for HDR to prepare digital electronic backgrounds to show the work and a copy of the Historic Courthouse Masterplan filed with THC. No additional site visits to verify building background have been included. If additional verification is needed, we will first attempt to work with Hays County personnel to obtain this information so that additional site visits are not necessary by HDR.

7. Two (2) virtual teleconference meetings will be required with THC with electronic submittals of plans and details.

8. The schedule and deliverables for the work will be performed and provided in conjunction with the schedule milestones and durations for the main electronic security upgrade Scope.

9. The documentation for the scope of this proposal is proposed to be organized and delivered as a bid alternate to the main project for the purpose of documenting separate costs.

10. Additional work for Task 2 and Task 3 related to this scope is included in the fee below. This includes electrical engineering, which is needed for Option A.

FEE FOR OPTION A

The total lump-sum fee for the above scope, including expenses for listed travel, is **$44,125**. We have assumed that all deliverables can be transmitted electronically and no printing outside of minor in-house needs to do our work have been included.

DISCLAIMERS/ASSUMPTIONS

- Exact schedule is dependent upon ability to coordinate with entities outside of the design team as well as the Contractor's construction schedule.
- We assume we can use existing power locations and there will be no modifications to doors and frames.
- Note that this proposal's rate will remain in effect for 60 calendar days. If a contract is not executed for this proposal within that timeframe, we retain the right to revisit the proposal.
- The standard of care for all services performed or furnished by Consultant under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality.

HDR appreciates the opportunity to propose this revised scope and certainly looks forward to working with Hays County again. If you have any questions, please do not hesitate to contact either John Niesen or Halden Tally.

Sincerely,
HDR Architecture, Inc.

Chad Anderson
Authorized Representative, Managing Principal

cc: Halden Tally, John Niesen

AIA® Document B104™ – 2017

Standard Abbreviated Form of Agreement Between Owner and Architect

AGREEMENT made as of the day of in the year 2021
(In words, indicate day, month and year.)

BETWEEN the Architect's client identified as the Owner:
(Name, legal status, address and other information)

Hays County
712 S. Stagecoach Trail
San Marcos, TX 78666

and the Architect:
(Name, legal status, address and other information)

HDR Architecture, Inc.
8750 N. Central Expressway, Suite 100
Dallas, TX 75231

for the following Project:
(Name, location and detailed description)

Hays County Government Center Security Upgrade
712 S. Stagecoach Trail
San Marcos, TX 78666

The Owner and Architect agree as follows.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Init.
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6 COST OF THE WORK

7 COPYRIGHTS AND LICENSES

8 CLAIMS AND DISPUTES

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12 SPECIAL TERMS AND CONDITIONS

13 SCOPE OF THE AGREEMENT

ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth below:
(State below details of the Project's site and program, Owner's contractors and consultants, Architect's consultants, Owner's budget for the Cost of the Work, and other information relevant to the Project.)

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the schedule, the Architect's services and the Architect's compensation. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.3.1 Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

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ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide the professional services set forth in this Agreement consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.2 The Architect shall maintain the following insurance until termination of this Agreement. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.8:
(Identify types and limits of insurance coverage, and other insurance requirements applicable to the Agreement, if any.)

.1 General Liability

.2 Automobile Liability

.3 Workers' Compensation

.4 Professional Liability

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in this Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services.

§ 3.1.1 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on (1) the accuracy and completeness of the services and information furnished by the Owner and (2) the Owner's approvals. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

§ 3.1.2 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.3 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

§ 3.2 Design Phase Services

§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services.

§ 3.2.2 The Architect shall discuss with the Owner the Owner's program, schedule, budget for the Cost of the Work, Project site, and alternative approaches to design and construction of the Project. The Architect shall reach an understanding with the Owner regarding the Project requirements.

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§ 3.2.3 The Architect shall consider the relative value of alternative materials, building systems and equipment, together with other considerations based on program, aesthetics, and any sustainable objectives, in developing a design for the Project that is consistent with the Owner's schedule and budget for the Cost of the Work.

§ 3.2.4 Based on the Project requirements, the Architect shall prepare Design Documents for the Owner's approval consisting of drawings and other documents appropriate for the Project and the Architect shall prepare and submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.2.5 The Architect shall submit the Design Documents to the Owner, and request the Owner's approval.

§ 3.3 Construction Documents Phase Services

§ 3.3.1 Based on the Owner's approval of the Design Documents, the Architect shall prepare for the Owner's approval Construction Documents consisting of Drawings and Specifications setting forth in detail the requirements for the construction of the Work. The Owner and Architect acknowledge that in order to construct the Work the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.4.4.

§ 3.3.2 The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents.

§ 3.3.3 The Architect shall submit the Construction Documents to the Owner, update the estimate for the Cost of the Work and advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval.

§ 3.3.4 The Architect, following the Owner's approval of the Construction Documents and of the latest estimate of the Cost of the Work, shall assist the Owner in obtaining bids or proposals and awarding and preparing contracts for construction.

§ 3.4 Construction Phase Services

§ 3.4.1 General

§ 3.4.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A104™–2017, Standard Abbreviated Form of Agreement Between Owner and Contractor. If the Owner and Contractor modify AIA Document A104–2017, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.

§ 3.4.1.2 The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

§ 3.4.1.3 Subject to Section 4.2, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

§ 3.4.2 Evaluations of the Work

§ 3.4.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.2, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations

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User Notes:

from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work.

§ 3.4.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents and has the authority to require inspection or testing of the Work.

§ 3.4.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 3.4.2.4 When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith.

§ 3.4.2.5 The Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

§ 3.4.3 Certificates for Payment to Contractor

§ 3.4.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.4.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified.

§ 3.4.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 3.4.4 Submittals

§ 3.4.4.1 The Architect shall review and approve, or take other appropriate action, upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or any construction means, methods, techniques, sequences or procedures.

§ 3.4.4.2 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted to the Architect. The review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

§ 3.4.4.3 The Architect shall review and respond to written requests for information about the Contract Documents. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness.

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§ 3.4.5 Changes in the Work

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2.3, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.4.6 Project Completion

The Architect shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion; forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and received from the Contractor; and issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services are not included in Basic Services but may be required for the Project. The Architect shall provide the Supplemental Services indicated below, and the Owner shall compensate the Architect as provided in Section 11.2. Supplemental Services may include programming, site evaluation and planning, environmental studies, civil engineering, landscape design, telecommunications/data, security, measured drawings of existing conditions, coordination of separate contractors or independent consultants, detailed cost estimates, on-site project representation beyond requirements of Section 4.2.2, value analysis, interior architectural design, tenant related services, preparation of record drawings, commissioning, sustainable project services, and any other services not otherwise included in this Agreement. *(Identify below the Supplemental Services that the Architect is required to provide and insert a description of each Supplemental Service, if not further described in an exhibit attached to this document.)*

Low voltage electronic security design

§ 4.2 The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Upon recognizing the need to perform Additional Services, the Architect shall notify the Owner. The Architect shall not provide the Additional Services until the Architect receives the Owner's written authorization. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3.

§ 4.2.1 The Architect shall provide services necessitated by a change in the Initial Information, changes in previous instructions or approvals given by the Owner, or a material change in the Project including size; quality; complexity; the Owner's schedule or budget for Cost of the Work; or procurement or delivery method as an Additional Service.

§ 4.2.2 The Architect has included in Basic Services two (2) visits to the site by the Architect during construction. The Architect shall conduct site visits in excess of that amount as an Additional Service.

§ 4.2.3 The Architect shall, as an Additional Service, provide services made necessary by a Contractor's proposed change in the Work. The Architect shall prepare revisions to the Architect's Instruments of Service necessitated by Change Orders and Construction Change Directives as an Additional Service.

§ 4.2.4 If the services covered by this Agreement have not been completed within ten (10) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements.

§ 5.2 The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until

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final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project; a written legal description of the site; and services of geotechnical engineers or other consultants, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project.

§ 5.4 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.

§ 5.5 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests; tests for air and water pollution; and tests for hazardous materials.

§ 5.6 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 5.7 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 5.8 The Owner shall endeavor to communicate with the Contractor through the Architect about matters arising out of or relating to the Contract Documents.

§ 5.9 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

§ 5.10 Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of, or enforce lien rights.

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and shall be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, and the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work, or from any estimate of the Cost of the Work, or evaluation, prepared or agreed to by the Architect.

§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding and price escalation; to determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1, as a Supplemental Service.

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§ 6.4 If, through no fault of the Architect, construction procurement activities have not commenced within 90 days after the Architect submits the Construction Documents to the Owner the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

§ 6.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.6 If the Owner's current budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall

.1 give written approval of an increase in the budget for the Cost of the Work;
.2 authorize rebidding or renegotiating of the Project within a reasonable time;
.3 terminate in accordance with Section 9.5;
.4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or
.5 implement any other mutually acceptable alternative.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. If the Owner requires the Architect to modify the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work due to market conditions the Architect could not reasonably anticipate, the Owner shall compensate the Architect for the modifications as an Additional Service pursuant to Section 11.3; otherwise the Architect's services shall be without additional compensation. In any event, the Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 7.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

§ 7.3 The Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums when due pursuant to Article 9 and Article 11. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

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§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

§ 7.5 Except as otherwise stated in Section 7.3, the provisions of this Article 7 shall survive the termination of this Agreement.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other, for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A104–2017, Standard Abbreviated Form of Agreement Between Owner and Contractor. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Architect and Owner waive consequential damages for claims, disputes or other matters in question, arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.6.

§ 8.2 Mediation

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

§ 8.2.2 Mediation, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of this Agreement. The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 8.2.3 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:
(Check the appropriate box.)

[ ] Arbitration pursuant to Section 8.3 of this Agreement

[X] Litigation in a court of competent jurisdiction

[ ] Other: *(Specify)*

If the Owner and Architect do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.

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§ 8.3 Arbitration

§ 8.3.1 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement.

§ 8.3.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim, dispute or other matter in question would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question.

§ 8.3.2 The foregoing agreement to arbitrate, and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement, shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

§ 8.3.3 The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 8.3.4 Consolidation or Joinder

§ 8.3.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 8.3.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 8.3.4.3 The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 8.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.

§ 8.4 The provisions of this Article 8 shall survive the termination of this Agreement.

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

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§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 9.6 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, Reimbursable Expenses incurred, and all costs attributable to termination, including the costs attributable to the Architect's termination of consultant agreements.

§ 9.7 In addition to any amounts paid under Section 9.6, if the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall pay to the Architect the following fees:
(Set forth below the amount of any termination or licensing fee, or the method for determining any termination or licensing fee.)

.1 Termination Fee:

0

.2 Licensing Fee if the Owner intends to continue using the Architect's Instruments of Service:

0

§ 9.8 Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A104–2017, Standard Abbreviated Form of Agreement Between Owner and Contractor.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement, including any payments due to the Architect by the Owner prior to the assignment.

§ 10.4 If the Owner requests the Architect to execute certificates or consents, the proposed language of such certificates or consents shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Architect.

§ 10.6 The Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. However, the Architect's materials shall not include

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information the Owner has identified in writing as confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.

ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

.1 Stipulated Sum
(Insert amount)

$139,975

.2 Percentage Basis
(Insert percentage value)

( )% of the Owner's budget for the Cost of the Work, as calculated in accordance with Section 11.6.

.3 Other
(Describe the method of compensation)

§ 11.2 For Supplemental Services identified in Section 4.1, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

included in Stipulated Sum

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation.)

hourly based on current year's rate schedule

§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus percent (%), or as follows:

NA

§ 11.5 Where compensation for Basic Services is based on a stipulated sum or percentage of the Cost of the Work, the compensation for each phase of services shall be as follows:

Task 0	twenty	percent (	20	%)
(Row deleted)				
Task 1 Phase	forty-five	percent (	45	%)
Task 2	five	percent (	5	%)
Task 3	thirty		30	
Total Basic Compensation	one hundred	percent (	100	%)

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§ 11.6 When compensation identified in Section 11.1 is on a percentage basis, progress payments for each phase of Basic Services shall be calculated by multiplying the percentages identified in this Article by the Owner's most recent budget for the Cost of the Work. Compensation paid in previous progress payments shall not be adjusted based on subsequent updates to the Owner's budget for the Cost of the Work.

§ 11.6.1 When compensation is on a percentage basis and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants, if any, are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices. *(If applicable, attach an exhibit of hourly billing rates or insert them below.)*

see attached rate schedule

Employee or Category	Rate

§ 11.8 Compensation for Reimbursable Expenses

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic, Supplemental, and Additional Services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

.1 Transportation and authorized out-of-town travel and subsistence;
.2 Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;
.3 Permitting and other fees required by authorities having jurisdiction over the Project;
.4 Printing, reproductions, plots, and standard form documents;
.5 Postage, handling, and delivery;
.6 Expense of overtime work requiring higher than regular rates if authorized in advance by the Owner;
.7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;
.8 Expense of professional liability insurance dedicated exclusively to this Project or the expense of additional insurance coverage or limits requested by the Owner in excess of that normally maintained by the Architect and the Architect's consultants;
.9 All taxes levied on professional services and on reimbursable expenses;
.10 Site office expenses; and
.11 Other similar Project-related expenditures.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus zero percent (0 %) of the expenses incurred.

§ 11.9 Payments to the Architect

§ 11.9.1 Initial Payment

An initial payment of zero ($ $0) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.9.2 Progress Payments

§ 11.9.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid ( ) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.
(Insert rate of monthly or annual interest agreed upon.)

ten % 10

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User Notes:

§ 11.9.2.2 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.9.2.3 Records of Reimbursable Expenses, expenses pertaining to Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:
(Include other terms and conditions applicable to this Agreement.)

ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and Architect.

§ 13.2 This Agreement is comprised of the following documents identified below:

.1 AIA Document B104™–2017, Standard Abbreviated Form of Agreement Between Owner and Architect

.2 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:
(Insert the date of the E203–2013 incorporated into this agreement.)

.3 Exhibits:
(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits identified in Section 4.1.)

2021 Hourly Rate Schedule

.4 Other documents:
(List other documents, if any, including additional scopes of service forming part of the Agreement.)

This Agreement entered into as of the day and year first written above.

OWNER *(Signature)*	**ARCHITECT** *(Signature)*
	Chad W. Anderson, Authorized Representative, Managing Principal
(Printed name and title)	*(Printed name, title, and license number, if required)*

Init. /

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User Notes:

Additions and Deletions Report for

AIA® Document B104™ – 2017

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 11:44:24 ET on 07/01/2021.

PAGE 1

AGREEMENT made as of the day of in the year 2021

...

Hays County
712 S. Stagecoach Trail
San Marcos, TX 78666

...

HDR Architecture, Inc.
8750 N. Central Expressway, Suite 100
Dallas, TX 75231

...

Hays County Government Center Security Upgrade
712 S. Stagecoach Trail
San Marcos, TX 78666

PAGE 6

Low voltage electronic security design

...

§ **4.2.2** The Architect has included in Basic Services two (2) visits to the site by the Architect during construction. The Architect shall conduct site visits in excess of that amount as an Additional Service.

...

§ **4.2.4** If the services covered by this Agreement have not been completed within ten (10) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

PAGE 9

[X] Litigation in a court of competent jurisdiction

PAGE 11

0

...

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User Notes:

0

PAGE 12

$139,975

...

included in Stipulated Sum

...

hourly based on current year's rate schedule

...

NA

...

~~Design Phase~~Task 0	twenty	percent (	20	%)
~~Construction Documents Phase~~		~~percent (~~		~~%)~~
~~Construction~~ Task 1 Phase	forty-five	percent (	45	%)
Task 2	five	percent (	5	%)
Task 3	thirty		30	

PAGE 13

see attached rate schedule

...

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus zero percent (0 %) of the expenses incurred.

...

An initial payment of zero ($ $0) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

...

ten % 10

PAGE 14

2021 Hourly Rate Schedule

...

Chad W. Anderson, Authorized Representative, Managing Principal

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User Notes:

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 11:44:24 ET on 07/01/2021 under Order No. 5177113942 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B104™ – 2017, Standard Abbreviated Form of Agreement Between Owner and Architect, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

_____

(Signed)

_____

(Title)

_____

(Dated)

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User Notes:

(1399808874)

Fee/Rate Schedule

FEE SCHEDULE SHALL BE INSERTED AT THE TIME OF AGREEMENT/CONTRACT EXECUTION

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Discuss and possible action to authorize the submission of a Community Development Block Grant - Local Hazard Mitigation Plans Program Application to the General Land Office; and authorizing the County Judge to act as the County's Executive Officer and Authorized representative in all manners pertaining to the County's participation in the Community Development Block Grant -Mitigation Program.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
ACTION-MISCELLANEOUS	November 2, 2021	N/A

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
T. CRUMLEY/ MIKE JONES	BECERRA	N/A

SUMMARY

The Local Hazard Mitigation Plans Program (LHMPP) assists eligible entities through providing grants to develop or update local hazard mitigation plans, or to provide cost share for hazard mitigation planning activities funded through other federal sources. CDBG-MIT funds are administered by HUD and implemented through the Texas General Land Office for the planning activities, and the Hazard Mitigation Plan development. Plan approval oversight is administered by FEMA and implemented through the Texas Division of Emergency Management.

Attachments:
Resolution_Authorizing submittal of application CDBG-MIT

RESOLUTION

A RESOLUTION OF THE COMMISSIONERS COURT OF HAYS COUNTY, TEXAS, AUTHORIZING THE SUBMISSION OF A COMMUNITY DEVELOPMENT BLOCK GRANT - MITIGATION PROJECT LOCAL HAZARD MITIGATION PLANS PROGRAM APPLICATION(S) TO THE GENERAL LAND OFFICE; AND AUTHORIZING THE COUNTY JUDGE TO ACT AS THE COUNTY'S EXECUTIVE OFFICER AND AUTHORIZED REPRESENTATIVE IN ALL MATTERS PERTAINING TO THE COUNTY'S PARTICIPATION IN THE COMMUNITY DEVELOPMENT & REVITALIZATION PROGRAM.

WHEREAS, the Commissioners Court of Hays County desires to develop a thriving, viable community, strengthen infrastructure, provide a suitable living environment, and expand economic opportunities, principally for persons of low-to-moderate income; and

WHEREAS, certain conditions exist which represent a threat to the public health and safety; and

WHEREAS, it is necessary and in the best interest of Hays County to apply for funding under the Community Development Block Grant Local Hazard Mitigation Program Local Hazard Mitigation Plans Program;

NOW THEREFORE, BE IT RESOLVED;

Section 1. That a Community Development Block Grant Program application is hereby authorized to be filed with the Texas General Land Office for funding consideration under the Community Development Block Grant - Mitigation Program Local Hazard Mitigation Plan Program; and

Section 2. That the application be for the CDBG-MIT Program through the Local Hazard Mitigation Plans Program; and

Section 3. That the grant amount be up to the maximum allowed by the CDBG-MIT program; and

Section 4. That the Commissioners Court directs and designates the County Judge as the Chief Executive Officer and Authorized Representative to act in all matters in connection with this application and participation in the Community Development & Revitalization Grant Program.

Passed and approved this 2nd day of November 2021.

_____
Ruben Becerra
County Judge

_____
Elaine Cardenas, MBA, PhD
County Clerk

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Discussion and possible action to authorize the County Judge to execute an Interlocal Agreement for Access to Drill and Complete a Groundwater Monitor Well and to Conduct Groundwater Monitoring Between Hays County, Texas and Barton Springs/Edwards Aquifer Conservation District.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
ACTION-MISCELLANEOUS	November 2, 2021	N/A

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
T. CRUMLEY	SHELL	N/A

SUMMARY

Under this Interlocal Agreement BSEACD will install a monitoring well on property upgradient of Jacob's Well. This will provide a better understanding of the availability of groundwater within Hays County and the region including the installation of a multiport monitor well and a standard monitor well, dye tracing, stream-flow measurements, and other activities that will provide data for management of the groundwater resources.

Interlocal Agreement for
Access to Drill and Complete a Groundwater Monitor Well and to Conduct Groundwater Monitoring
Between
Barton Springs/Edwards Aquifer Conservation District
and
Hays County, Texas

This **Interlocal Agreement for Access to Drill and Complete a Groundwater Monitor Well and to Conduct Groundwater Monitoring** ("Agreement") is made by and between **Barton Springs/Edwards Aquifer Conservation District**, a groundwater conservation district and political subdivision of the state created by an act of the 70th Legislature and subject to various requirements of State Law governing groundwater districts, including Texas Water Code Chapter 36 ("BSEACD") and **Hays County, Texas, a political subdivision of the State of Texas** ("County") BSEACD and the County are sometimes referred to herein individually as a "Party" and collectively as the "Parties".

Whereas, increased demands on groundwater in central Hays County could potentially cause unreasonable impacts to existing groundwater users. BSEACD intends to conduct studies of the Upper and Middle Trinity Aquifers in central Hays County, including the evaluation of the potential impacts on the aquifers, water-supply wells and other water resources from increased pumping from the aquifers;

Whereas, BSEACD will conduct a study of the Upper and Middle Trinity Aquifers in central Hays County consistent with Texas Water Code Sections 36.106, 36.107, and 36.109, comprising one Monitor Well, on or within the vicinity of County Property described in Volume 178, Page 291, of Deed Records of Hays County (the "Property"). These studies will support the update and extension of the Hill Country Trinity Groundwater Availability Model and provide significant information to evaluate potential impacts to these aquifers on which nearby residents and ranches, depend for their water supply (the Monitor Well installation and subsequent monitoring and study is referred to as the "Project");

Whereas, BSEACD and the County entered into an Interlocal Agreement to assist with Project funding;

Whereas, subject to the terms and conditions of this Agreement, the County will allow reasonable access to BSEACD for the Project including access to construct, maintain and monitor groundwater in a Monitor Well;

Whereas, subject to the terms and conditions of this Agreement, BSEACD will install one Monitor Well that will be drilled to a depth to locate and monitor the Upper and Middle Trinity Aquifers;

Whereas, BSEACD believes that the installation of a monitor well upgrandient of Jacob's Well will significantly increase the understanding of groundwater flow to Jacob's Well and the impacts to flow from Jacob's Well by pumping;

Whereas, the installation of a Monitor Well, dye tracing, stream-flow measurements, and other activities will provide data that could support numerical groundwater models and to provide data for management of the groundwater resources of Hays County;

Now, therefore, the Parties hereto, in consideration of these promises and mutual obligations herein undertaken, do agree as follow:

Section 1. Purpose and Public Benefit

This Agreement is made pursuant to Chapter 791 of the Texas Government Code, and Chapter 36 of the Texas Water Code for the operations associated with the field investigations to evaluate the Upper and Middle Aquifers, i.e., the implementation of the Project. The Project will provide a public benefit as the information and technology that will be available from the Project will provide valuable information on these aquifers and potential impacts to water-supply wells and other water resources in the area. The Agreement is for the mutual benefit of each and is not detrimental to either Party.

Section 2. Agreement Term

The initial term of this Agreement shall be for twenty-five years, to commence on the date this Agreement is signed by the last of the Parties (Effective Date), and will automatically renew each year after that unless one of the Parties notifies the other Party in writing of any changes.

Section 3. Project Implementation and Operation

3.1 BSEACD Duties.

a. The BSEACD shall design and install one Monitor Well on the Property that will be drilled to and completed in the Upper and Middle Trinity Aquifers. BSEACD will own the right to use, including but not limit to, inserting a steel tape, electronic line or other device into and collecting water samples from the Monitor Well during the term of the Project. The County will continue to own the Property, water rights and mineral rights related to the Monitor Well. Except as otherwise described herein, BSEACD will not cause any damages to the surface of the Property that will impair the use or value of the real property. The Monitor Well will be completed to a depth of about 250 feet and will include about 2 monitor zones. Unless the Monitor Well is repurposed for use by the County, BSEACD is responsible for properly plugging the Monitor Well whenever it ceases to be used for monitoring the Upper and Middle Trinity Aquifers.

b. BSEACD will install a small concrete pad, about 6 feet by 6 feet around the well casing, and four protective posts, with heights of about three feet, will be installed on each corner of the concrete pad. The location of the drill site, concrete pad and four protective posts is shown in **Exhibit A.**

c. BSEACD will conduct aquifer tests, water availability, hydrological, and related environmental assessments of the Upper and Middle Trinity Aquifers accessed by the Monitor Well. Drilling and installation activities are expected to take about three weeks. Initial aquifer testing and sampling will take an additional three weeks. For the remainder of the agreement period, visits to the site will be less frequent with visits occurring about one day every three months;

3.2 Hays County Duties

a. The County will provide an area for BSEACD to install, operate and sample a Monitor Well on the Property at a mutually agreeable location as shown in **Exhibit A** with access from Mt. Sharp Road for installation and monitoring.

b. The County will provide BSEACD and its invitees, its contractors and employees reasonable pedestrian ingress to and egress from the Property, including to the Monitor Well for groundwater monitoring activities during the Project for the duration of this Agreement. Reasonable access under normal conditions is 7am until 7pm, Monday through Friday with occasional access required on Saturday and Sunday.

c. The County agrees that if the County needs to drill a water well, install a septic tank, septic tank drain field, or any other activity that could disrupt the Project, including groundwater data collection from the Monitor Well, the County shall make diligent effort to avoid unreasonable interference with the Project.

d. The County reserves the right to investigate, and if feasible, reconstruct and obtain proper regulatory approvals to use the Monitor Well as a water supply for fire-fighting purposes following BSEACD's use of the Monitor Well.

Section 4. Ownership of the Project and/or Project Technology.

The Project as described in Section 3 is a study of the Upper and Middle Trinity Aquifers funded in substantial part by public funds, and even though proprietary technology may be used in conducting certain tests in the course of the Project, the data, results, findings, conclusions, and recommendations developed by or reported to the BSEACD arising from the Project shall be in the public domain at the conclusion of the Project, and no ownership or proprietary rights of those Project outcomes will be asserted by any Party or other entity. The above notwithstanding, the County shall have the right to use all data, results, findings, conclusions, and recommendations developed by the Project for any purpose it deems appropriate.

Section 5. Access to Project Results

The Parties agree that they shall have access to, and the right to audit, examine, or reproduce, any and all records, data and/or results in BSEACD's possession arising from the Project at any time during normal business hours during Project activity. Notwithstanding the foregoing, the Parties agree the records of the Project are subject to document retention and destruction policies of the Parties, provided the district, as a public-entity, is at a minimum in compliance with the State of Texas Records Retention Policy.

Information, documentation, and other material in connection with the Project and Agreement may be subject to public disclosure pursuant to Chapter 552 of the Texas Government Code.

Section 6. Independent Contractor

This Agreement shall not be construed as creating an employer/employee relationship, a partnership, joint enterprise, or a joint venture between the Parties. The BSEACD and County are cooperating independent contractors.

Section 7. Default

A Party to this Agreement shall be in default under the agreement if the Party fails to fully, timely and faithfully perform any of its material obligations under the Agreement, and, following notice of default as provided in Section 8 (Termination), fails timely to cure the alleged default as provided in Section 8.

Section 8. Termination

In the event of default by a Party, the other Party shall have the right to terminate the Agreement for cause, by written notice delivered to the Party alleged to be in default via certified mail. The notice shall be effective within thirty (30) days, unless otherwise specified, after the date of receipt of such notice. During this time period, the Party alleged to be in default may cure the event of default or provide evidence sufficient to prove to the other Party or Parties' reasonable satisfaction that such default does not exist or will be cured in a time satisfactory to the Party alleging the default. The County may terminate this Agreement at any time after the initial twenty five-year term if it reasonably believes the Project is causing a negative impact on its operations.

Section 9. Effective Date

The Effective Date of this Agreement shall commence upon the execution by the last of the Parties to this Agreement.

Section 10. Assignment

A Party to this Agreement may not assign or transfer its interests under this Agreement.

Section 11. Entirety of the Agreement

This Agreement constitutes the entire Agreement and understanding between the Parties and supersedes all previous agreements, understandings, discussions, or representations concerning its subject matter. This Agreement may not be amended in whole or in part except in a written amendment executed by all Parties to this Agreement. Notwithstanding the foregoing, to the extent that the terms of new state law are inconsistent or conflict with this Agreement, the terms of the state law control. In such a case, the Parties will work together to amend the terms of this Agreement to be consistent with the terms of the new state law or this Agreement will terminate if mutually acceptable terms are not reached.

Section 12. Performance

The obligations arising under this Agreement shall be performed in Hays County, Texas.

Section 13. Jurisdiction and Venue

The Parties agree that this Agreement is governed by the laws of the State of Texas and that venue for a dispute arising from this Agreement shall be in Hays County, Texas.

Section 14. Severability

If a term or provision of this Agreement is determined to be void or unenforceable by a court of competent jurisdiction, the remainder of this Agreement remains effective to the extent permitted by law.

Section 15. Notices

Any notice, request, or other communication required or appropriate to be given under this Agreement shall be in writing and shall be deemed delivered three (3) business days after postmarked if sent by U.S. Postal Service Certified or Registered Mail, addressed to the person designated for receipt of notice, postage prepaid and Return Receipt Requested. Notices delivered by any other means (fax, e-mail, courier) shall be deemed delivered upon receipt of a successful fax, e-mail, or courier confirmation report by the addressee; provided, that the notice is specifically directed to the attention of the person designated for receipt of notice; and provided, further, that any fax or e-mail notice shall be promptly followed by mailing or delivery by courier of a copy of the notice statement in hard-copy form, directed to the person designated for receipt of notice. Routine communication may be made by first class mail, facsimile, or other commercially accepted means. Notices shall be addressed as follows:

BSEACD:

Barton Springs/Edwards Aquifer Conservation District
1124 Regal Row
Austin, Texas 78748
Attention: Brian Smith
Telephone: (512) 282-8441
Facsimile: (512) 282-7016
Email: brians@bseacd.org

Hays County, Texas:

Ruben Becerra (or his successor)
Hays County Judge
Hays County Courthouse
111 E. San Antonio, Suite 300
San Marcos, Texas 78666
Phone: (512) 393-2205
Email: judge.becerra@co.hays.tx.us

Section 16. Indemnity, Defense, Release and Governmental Immunity

To the extent permitted by the constitution and laws of the state of Texas, BSEACD agrees to indemnify, defend, hold harmless and release the County from and against all claims, demands, losses, liabilities and causes of action of every kind and character in any way resulting from the acts or omissions of BSEACD its agents, employees, its representatives or contractors in connection with the exercise by BSEACD of its rights hereunder.

Nothing in this Agreement shall be deemed to waive, modify, or amend any legal defense available at law or equity to any of the Parties, nor to create any legal rights or claims on behalf of any other party. No Party to this agreement waives, modifies, or alters to any extent whatsoever the availability of the defense of governmental (sovereign) immunity under the laws of the State of Texas, if applicable.

Section 17. Authority and Execution of this Agreement

The Parties have read the Agreement in its entirety and understand all of its terms and provisions. Each Party expressly warrants to the other Party that: (a) the person signing this Agreement on behalf of each Party has the authority and power to execute it on behalf of that Party; (b) after the Agreement's execution, the Parties will be bound by all provisions of this Agreement, subject to the doctrine of governmental immunity; and (c) this Agreement was approved by the respective governing bodies of the BSEAD and the County at separate public meetings properly noticed and conducted pursuant to Chapter 551 of the Texas Government Code, the Texas Open Meetings Act. This Agreement may be executed (by original or facsimile) by the Parties in one or more counterparts, each of which shall be considered one and the same agreement. Each individual signing this Agreement on behalf of a Party warrants that he or she is legally authorized to do so and that the Party is legally authorized to perform the obligations undertaken.

The Parties acknowledge that they have read, understand and intend to be bound by the terms and conditions of this Agreement.

BSEACD

Barton Springs/Edwards Aquifer Conservation District

_____ _____
Blayne Stansberry Date
Board President

ATTEST:

_____ _____
Christy Williams Date
Board Secretary

Approved as to Form:

_____ _____
William D. Dugat III Date
Counsel

Hays County, Texas

By: _____
Name: Ruben Becerra
Title: Hays County Judge
Date of Execution: _____

Approved as to Form:

_____ _____
Mark D. Kennedy Date
General Counsel

ATTEST:

_____ _____
Elaine Cardenas, PhD Date
Hays County Clerk

After recording, return to:

BSEACD
1124 Regal Row
Austin, Texas 78748
Attention: Tammy Raymond

EXHIBIT A

JWNA Monitoring Well

Preferred Drilling Location

- Monitoring Well

Temporary Entrance for Well Drilling Company

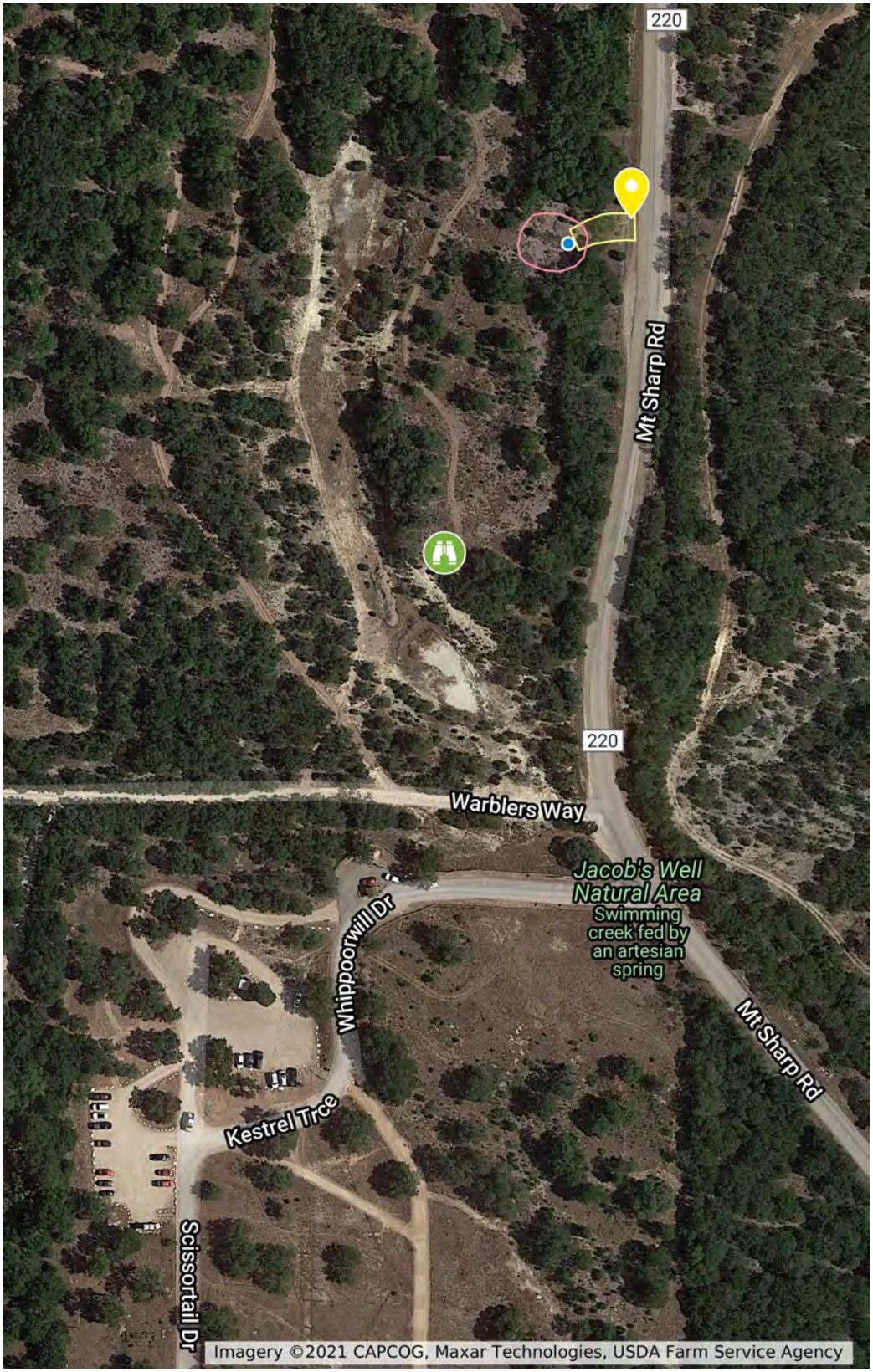
- Driveway Path
- Entrance Gate

Equipment Storage Area

- Construction Area

Overlook

- Public Overlook



AGENDA ITEM REQUEST FORM

Hays County Commissioners Court
Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Discussion and possible action to authorize the County Judge to execute a Statement of Work and Participating Addendum with 8 x 8, Inc. utilizing the National Association of State Procurement Officials (NASPO) ValuePoint Master Agreement related to a new Countywide Phone/Communications System.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
ACTION-MISCELLANEOUS	November 2, 2021	$294,687.70

LINE ITEM NUMBER

Multiple

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: YES **AUDITOR REVIEW:** MARISOL VILLARREAL-ALONZO

REQUESTED BY	SPONSOR	CO-SPONSOR
Jeff McGill	BECERRA	N/A

SUMMARY

The attached agreements are for the purchase of a new countywide phone/communications system. Our existing on-premise phone system has reached end-of-life and is no longer being supported. The 8x8 integrated communication platform replaces our existing phone system and provides a suite of communications applications. The 8x8 system provides phone, video conferencing, messaging, collaboration, and integration with the County's existing infrastructure. PC/Mac, laptops, mobile phones, and tablets can also be utilized as communication devices on this platform. This will allow flexibility to address our Telecommuting needs and rapidly deploy emergency call centers.

As required, Hays County has received authorization from the Director of the Texas Statewide Procurement Division to utilize the NASPO ValuePoint Master Agreement with 8 x 8, Inc. by way of a Participating Addendum. NASPO ValuePoint provides the highest standard of excellence in public cooperative contracting. By leveraging the leadership and expertise of all states and the purchasing power of their public entities, NASPO ValuePoint delivers the highest valued, reliable and competitively sourced contracts offering public entities outstanding prices.

Funds were budgeted during the FY22 budget process for the one-time implementation and equipment costs of $146,286.10. The remaining costs are the monthly reoccurring costs that are already budgeted within each individual departments operating budget for telephone and data line expenses.

Attachments: NASPO ValuePoint Participating Addendum
Master Agreement #AR3084
8 x 8, Inc. Statement of Work Order #CO500328855

Order #CO500328855
60 Months Term

Quote Expires
11/30/2021

Quote Totals

	Payment #1 (Month 1-12)	Payment #2 (Month 13-24)	Payment #3 (Month 25-36)	Payment #4 (Month 37-48)	Payment #5 (Month 49-60)	Grand Total
Non-Recurring						
Charges	$143,111.65	$0.00	$0.00	$0.00	$0.00	$143,111.65
Sales Tax	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00
Shipping	$3,174.45	$0.00	$0.00	$0.00	$0.00	$3,174.45
Total Non-Recurring	$146,286.10	$0.00	$0.00	$0.00	$0.00	$146,286.10
Recurring Services						
Service Fees	$84,096.00	$84,096.00	$84,096.00	$84,096.00	$84,096.00	$420,480.00
Taxes & Regulatory Fees	$64,305.60	$64,305.60	$64,305.60	$64,305.60	$64,305.60	$321,528.00
Total Recurring	$148,401.60	$148,401.60	$148,401.60	$148,401.60	$148,401.60	$742,008.00
Grand Total	$294,687.70	$148,401.60	$148,401.60	$148,401.60	$148,401.60	$888,294.10
Bill Date*	Effective Date of this Order	12 months from the effective date of this Order	24 months from the effective date of this Order	36 months from the effective date of this Order	48 months from the effective date of this Order	

*8x8 shall bill the total amount indicated for a payment on or about the Bill Date listed for such payment, and Customer shall be obligated to pay this amount pursuant to the Terms.

Summary by Product

Recurring	Quantity	Base Price	Annual Total
X Series - X1	829	$8.00	$79,584.00
X Series - X4	2	$28.00	$672.00
X Series - X6	4	$80.00	$3,840.00
Voice for Microsoft Teams	835	$0.00	$0.00
Base Number	1	$0.00	$0.00
Non-Recurring	**Quantity**	**Base Price**	**Total**
Training Unit	24	$100.00	$2,400.00
Obihai OBi 300 1 port SIP ATA	41	$52.65	$2,158.65
Polycom VVX 450PoE	794	$136.00	$107,984.00
8x8 Implementation Custom	1	$30,569.00	$30,569.00
		Subtotal	**$227,207.65**

Year 1 Total

$294,687.70

Hays County
712 S. Stagecoach Trail
San Marcos, Texas 78666

Bob Donald
+1 512-393-2847
bob.donald@co.hays.tx.us

Your 8x8 Representative

BrianDaily
brian.daily@8x8.com

©2020 8x8, Inc. All Rights Reserved Gartner Magic Quadrant Leader 8 years running X Series The Experience Is Everything

Order #CO500328855

60 Months Term

Govt Center - 712 S Stagecoach Trl, San Marcos, TX, USA, 78666

Description	Quantity	Unit Price	Monthly Recurring	Due Today
X Series - X1	829	$ 8.00	$ 6,632.00	$ 6,632.00
Base Number	1	$ 0.00	$ 0.00	$ 0.00
X Series - X4	2	$ 28.00	$ 56.00	$ 56.00
X Series - X6	4	$ 80.00	$ 320.00	$ 320.00
Obihai OBi 300 1 port SIP ATA	41	$ 52.65	$ 0.00	$ 2,158.65
Voice for Microsoft Teams	835	$ 0.00	$ 0.00	$ 0.00
Training Unit	24	$ 100.00	$ 0.00	$ 2,400.00
8x8 Implementation Custom	1	$ 30,569.00	$ 0.00	$ 30,569.00
Polycom VVX 450PoE	794	$ 136.00	$ 0.00	$ 107,984.00
		Subtotal	**$ 7,008.00**	**$ 150,119.65**
		Shipping Ground- Delivery Estimate	9/27/2021	**$ 3,174.45**
		Regulatory Fees		
		E911 Service Fee	$ 1,661.65	$ 1,661.65
		Regulatory Recovery Fee	$ 2,914.15	$ 2,914.15
		Taxes and Surcharges		
		Federal Universal Service Fee	$ 679.90	$ 679.90
		TX State And Local 911	$ 103.10	$ 103.10
		Total Fees, Taxes and Surcharges	**$ 5,358.80**	**$ 5,358.80**
		Location Total	**$ 12,366.80**	**$ 158,652.90**

Order #CO500328855

60 Months Term

TERMS & CONDITIONS pursuant to NASPO Master Agreement #AR3084

This Order is subject to the 8x8 UCaaS/CCaaS Service Terms set forth ~~at http://www.8x8.com/order-terms/vo-vcc-service-terms~~, except that if this Order is entered into pursuant to a Service Agreement, this Order is subject to the Service Agreement (such 8x8 UCaaS/CCaaS Service Terms or Service Agreement, as applicable, the "**Terms**").

By signing below, the customer listed herein, through its authorized representative named below:

a) acknowledges and indicates that it has reviewed the notice related to 911 and emergency services at https://www.8x8.com/terms-and-conditions/911-notice and
b) has entered into this Order and agreed to the Terms, as of the date signed below.

Customer Name: Hays County

Signature:

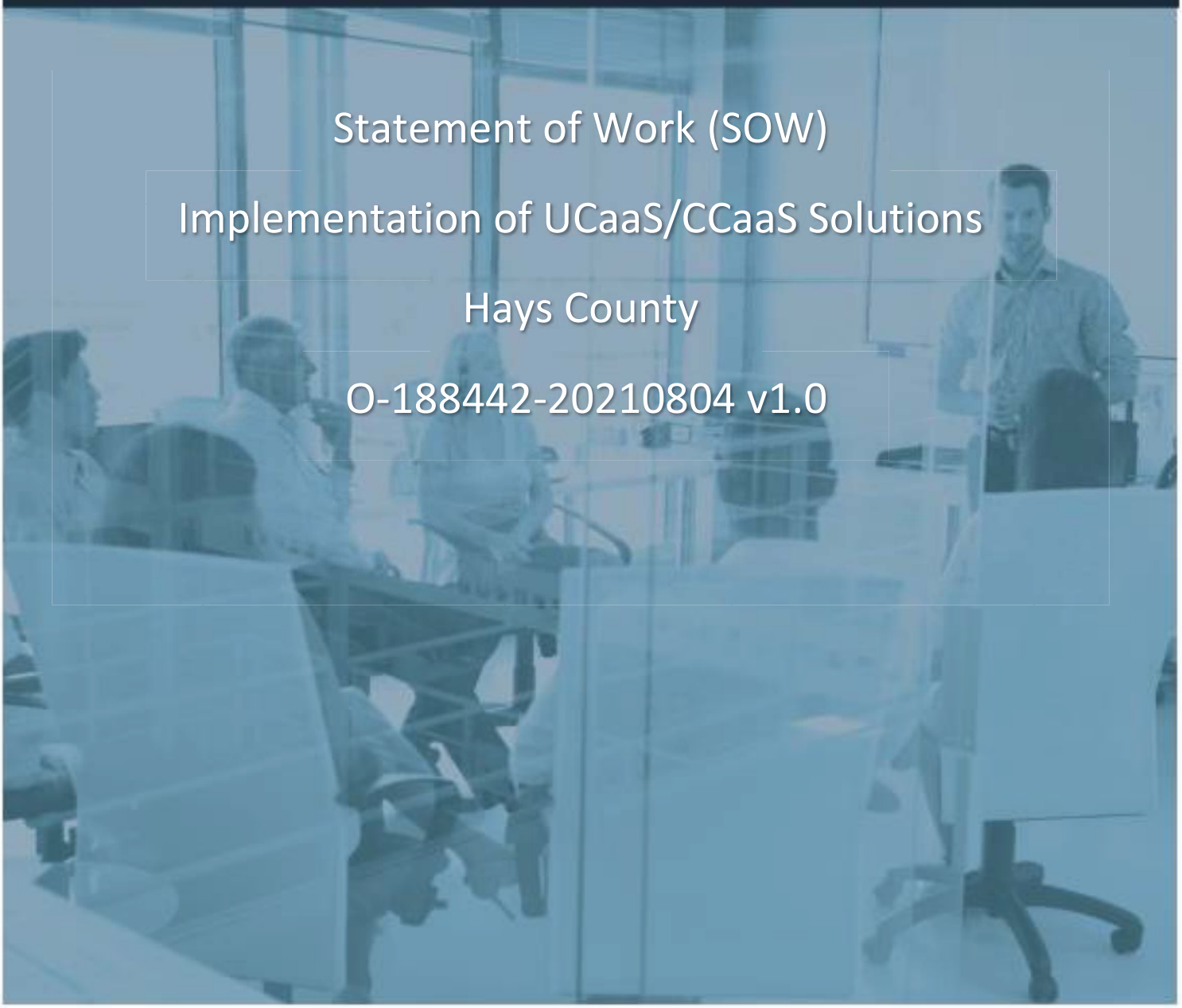
Name:

Title:

Date:

8x8 Global Cloud Communications

8x8 Professional Services



Statement of Work (SOW)

Implementation of UCaaS/CCaaS Solutions

Hays County

O-188442-20210804 v1.0

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Revision History

Version	Revision Date	Author	Revisions
1.0	8/4/2021	Steve Konavaluk	Initial SOW

The offer of this Statement of Work (SOW) is effective as of the latest Revision Date and remains effective for 45 calendar days, at which time this offer expires.

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1. Implementation Services Overview

8x8 shall provide services to assist Hays County ("Customer") with the implementation of Unified Communication as a Service (UCaaS) and/or Contact Center as a Service (CCaaS) solutions. This SOW is subject to terms and conditions of the Service Agreement jointly executed between Customer and 8x8, Inc and to which this SOW is an attachment, addendum, or exhibit.

The services in the scope of this SOW are based on a collaborative, highly adaptive delivery model that incorporates a blend of agile and waterfall methodologies and envisions a joint effort between Customer and the 8x8 Professional Services team to implement the 8x8 solution in Customer's environment. An overview of 8x8's project implementation and rollout methodology are detailed in **Appendix A**.

8x8 Professional Services Team will collaborate with Customer's project team to provide Services designed to meet Customer's needs as defined in this SOW. The parties recognize that Customer's priorities and requirements may change during engagement, and that Customer may request modifications to the Services contemplated by this SOW. If such changes impact the estimated cost and/or duration of the Project, they will be reviewed between Customer's Project Owner and 8x8's Project Manager and, if approved, will be reflected in a mutually executed Change Request.

2. Project Scope Parameters

Services in the scope of this SOW and the design of the solution will be governed by Limits, Description and Quantity for each Scope Parameter defined in the table below:

UCaaS Scope Parameters	Limit / Description/ Quantity
Total number of Users (Domestic & International)	Up to 804
Number of international Users	0
Total number of Sites (refer to **Appendix B** for details)	Up to 12
Number of international Sites (refer to **Appendix B** for details)	0
Number of DID's to be Ported	Up to 1000
Number of Losing Carriers (from whom numbers to be ported to 8x8).	1
Number of Auto Attendants	Up to 5

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Number of Workgroups supported for design/ configuration equaling any combination of (Ring Group, Call Queue, Barge-in on a call without monitoring or whispering – BMW, Group Call Pick-up, Group Paging)	Up to 5
Number of Go-live events	Up to 3
Solution Scope Parameters	**Limit Description/ Quantity**
Single Sign-On (SSO) configuration	Yes, SAML based integration only.
CCaaS Scope Parameters in consideration for design and configuration of solution.	**Limit Description/ Quantity**
Number of Named Contact Center "CCaaS" Agents	Up to 4
Number of CCaaS Tenants	1
Number of Scripts (Voice, Email, Chat, Social and SMS – any combination)	1
Number of Queues (Inbound Phone, Outbound Phone, Email, Chat, Voicemail – any combination)	1
Number of Status Codes (Status, Transaction, Outbound – any combination)	Up to 4
Number of audio file uploads	1
Number of Schedules	1
Number of Administrator Roles supported	1
Number of Agent Groups	1
Number of Channels (enable and point to script)	Up to 5
Number of Wallboards	1
Number of Groups supported during go-live. Assumption: All contact center agents, regardless of where they are based, are going live at the same time with the solution. Go-live support for additional rollouts requires additional effort and may incur additional fees.	1

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3. Services and Financials

The below table identifies the Services and the Optional Services that are included in this SOW. All services will be delivered by 8x8 project resources remotely, except for onsite services as identified in "Onsite Activities Parameters" in Section 2 of this document. For a detailed description of the Services, please refer to **Appendix A**.

As consideration for 8x8's performance of Professional Services for Implementation, the Customer shall pay 8x8 the fixed fees identified below. All payments for the Implementation Services performed are non-refundable.

Implementation Services	Included (Yes/ No)	Fees
Project Management	Yes	$34,750
Network Assessment	Yes	
Solution Design	Yes	
System Configuration	Yes	
User Configuration	Yes	
Testing	Yes	
Go-Live Support and Troubleshooting (Remote)	Yes	
Porting / Number Transfer	Yes	
TOTAL FEES		$34,750
DISCOUNT		($4,181)
TOTAL FEES PAYABLE AFTER DISCOUNT		**$30,569**

Invoicing Schedule: Implementation Fees will be invoiced upon execution of the SOW by both parties.

[1] Additional Services do not include Project Management; the Project Management effort for these services is included in the Implementation Services section.

Travel Expenses: Fees quoted above do not include travel costs for any planned or unplanned onsite activities. If travel is necessary or requested, all reasonable and customary travel expenses will be billed to Customer. 8x8 shall adhere to any commercially reasonable and mutually agreed travel expense guidelines provided at Project Kickoff or at least two (2)

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weeks in advance of any travel by Customer, provided they do not conflict with 8x8's own policy. All other services identified in the SOW will be delivered remotely by 8x8.

4. Assumptions

- Fees quoted assumes Customer is discharging their assigned responsibilities in accordance with the Project Schedule, which is limited to an 8-week deployment. Delays resulting from Customer not fulfilling their responsibilities per the Project Schedule may result in additional 8x8 effort and fees and Customer agrees to execute a Change Request in such instances.
- Fees assume requirements and design for all in-scope services will be collected in one (1) design session. Requests for multiple requirements and design sessions will require a CR and additional Customer funding.
- All Services in this SOW are delivered remotely and in English only unless otherwise specified.
- The Scope Parameters indicate the portion of Services 8x8 is performing in this SOW; Customer is responsible for configuring the balance of items required for the platform deployment. Any requested increases to the quantities in the Scope Parameters will require a Change Request and may require additional Customer funding.
- Fees quoted assumes a total of 4 go-live events. Customer request for additional go-live events will require a Change Request and additional funding
- Fees quoted assume all Customer project management is being led with U.S. based Customer resources. Requests to support regionalized deployment services will require a CR and additional funding.

5. General Customer Responsibilities

In addition to identified Service-specific responsibilities, Customer agrees to the following general responsibilities to enable and support 8x8 to successfully deliver on the scope of the project.

Responsibility Areas	Description
Network Readiness	• For each Site in Appendix B, Customer's network must pass the 8x8 Network Utility, a software tool available at https://support.8x8.com/us/Support_and_Services/Support/Download_the_8x8_Network_Utility ("NetUtil"). • In the event Customer's network does not pass or meet 8x8's requirements for voice solutions to be implemented, Customer agrees to sign-off on the Network Assessment Waiver Form (**Appendix C**) prior to Go-Live. • When and where requested for by 8x8, provide information regarding network topology and layout in the form of diagram or available documentation.

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	• Address corrective actions identified by 8x8.
Project Management	• Assign a Project Manager for the duration of the Project to manage execution of Customer's tasks assigned in the Project Schedule developed by 8x8 with input from Customer. • Complete Customer responsibilities by the dates specified in the Project Schedule agreed between Customer and 8x8. • Coordinate tasks associated with Customer's third-party vendor or system necessary for 8x8 to perform Services.
Project Delivery	• Provide resources of adequate skills and knowledge to manage all Customer tasks identified and assigned in the Project Schedule. • Provide access to Customer Subject Matter Experts (SME) in the areas of integrations with Customer CRM systems as and where required and applicable. • Provide access to Customer staff authorized to identify solution requirements and make design decisions including signoff on Solution Design. • Participate in key project meetings setup by 8x8 Project Manager. • Review and provide prompt feedback (typically within three (3) business days) of project materials and deliverables. • Collect data, populate 8x8-provided data load templates, and verify data. • Provide adequate working space and facilities for 8x8 or its partner resources while at Customer facility to deliver optional 8x8 onsite services. • Participate in system test activities and solution acceptance testing and sign-off. • Identify Customer project team members authorized to discuss relevant business processes and make change decisions. • Participate in business process sessions if scheduled by 8x8, provide requested information and review provided documentation within agreed timeframe. • Provide information regarding Customer business processes, business objectives, and use cases.
System Administrator Readiness	• Assign one or more resource as administrator(s) of the 8x8 system. • Evaluate and purchase appropriate or any desired administrator training offerings from 8x8 Academy. • System Administrators should successfully complete the *Virtual Office Admin and Configuration* class and the *Virtual Contact Center Admin and Configuration* class *(If applicable)* offered by 8x8 Academy prior to making changes on the platform. The *Advanced Topics and Troubleshooting* classes are recommended. • Collect, document, configure and test those requirements which are not in the scope of this SOW and that are either required for Customer to go-live in production or desired. • Shadow 8x8 resource during configuration of the solution and participate in system configuration activities to reinforce the knowledge and skills required for full system configuration & maintenance. • Ensure that System Administrator is ready to administer and maintain 8x8 system prior to Go-Live.
Audio Recordings	• Provide audio recording files required for 8x8 system configuration in the requested format. • Upload and configure audio recording files in the 8x8 system (unless 8x8 is engaged to complete this activity under the scope of the optional *System Configuration Assistance service*).
Call Forwarding	• Plan the phone number porting and cut over with guidance from 8x8. • If call forwarding is part of the plan, engage call forwarding on either:

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	o Carrier level, by working with the current Carrier (recommended option) o PBX level (this option could result in degraded call quality for inbound calls) o Extensions / phone level (this option could result in degraded call quality for inbound calls)
System Readiness	• Perform technical and functional validation of 8x8 Solution with guidance from 8x8. • Regression and end-user testing plans and execution of those plans.
End User Readiness	• Evaluate and purchase appropriate or any desired End User offerings from 8x8 Academy. • Ensure that End Users are ready to use 8x8 system prior to Go-Live. • Ensure that End Users' use cases are accounted for and incorporated in the 8x8 Solution.
Porting/ Number Transfer	• Provide list of numbers to be ported (NTBPs). • Provide required information, including Customer Service Records (CSRs) and Letters of Agreements (LOAs), Copy of Bill (COB) in a timely manner. • Manage (engage/ disengage) call forwarding (if call forwarding is used within the port strategy). • Perform post port testing to verify Customer owned numbers are ringing through as expected on the 8x8 platform

6. Business Hours

Business Hours: Services will be performed, and 8x8 personnel shall be available to be contacted, from 8.00 AM to 5.00 PM local time zone where the work is being performed, Monday through Friday, excluding designated holidays. Time worked outside of these designated hours at Customer's request will result in additional fees and will require a Change Request.

7. Change Management

The change management process ("Change Management Process") described below shall govern changes to the scope of Services during the term of this SOW.

1. A change request may be submitted via Project Collaboration Portal and/or email ("Change Request"). All Change Requests ("CR") must be documented in writing and in any applicable meeting minutes.
2. Change Request is discussed at the first opportunity, typically at the next weekly project meeting, unless it requires more prompt action. The goal is to approve/disapprove it at the same meeting if feasible.
3. 8x8 will review Customer's submitted Change Request and evaluate its impact to scope, effort, and schedule, and will provide Customer with a Change Request document that details the changes to scope, schedule and budget for Customer's review and execution
4. Customer has up to five (5) business days to review and approve or reject the Change Request [and any related Service Order (where the Change Requests contemplates new or additional 8x8 subscription services and/or equipment)]. Once approved by Customer, 8x8 will initiate the work detailed in the Change Request.

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8. Engagement & Project Duration

8x8 will engage with Customer within ten (10) business days of the effective date of the Order containing the Services Fees specified by this SOW (or such later date as all customary financial checks have been approved/confirmed). 8x8 and Customer will meet via conference call to establish the Project Schedule, prerequisites for at least the initial Phases and each party's responsibilities.

The project schedule will be jointly developed between 8x8 Project Manager and Customer Project Manager during kick-off. The work will be performed in project increments broken into iterations.

The estimated duration for the completion of the Project and each Phase assumes that Customer performs tasks assigned in a timely manner and as mutually agreed to, and that 8x8 is not required to expend additional effort to overcome unforeseen obstacles attributable to circumstances, actions or inactions caused by Customer or any third party not engaged by 8x8 or under its control.

9. Project Communications

8x8 will render the project and manage all project correspondences in English. 8x8 will manage the implementation project using a Project Collaboration Portal. Project collaboration between 8x8 and Customer team members will be via the portal, and Customer will be granted access to the Portal until all work defined in this SOW is complete and the project is considered complete.

8x8 will also use Microsoft Office (Word, Excel, and PowerPoint) to create deliverables and project artifacts, which will be stored and accessed from the portal.

10. 8x8 Implementation Team

The following roles and responsibilities to be filled by 8x8 have been identified as part of this engagement. There may be multiple individuals per role or individuals may play multiple roles on the project. Each role below includes a description of the role.

8x8 Role	Location	Description
Project Manager	Remote	Specialist with experience in planning, overseeing, and managing the implementation of 8x8 solutions.

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Senior Solutions Consultant	Remote	Specialists in design and implementation of one or more of the specific 8x8 products in scope for this project. Their role is to provide guidance to the project team regarding the overall Solution Design.
Solution Delivery Consultant(s)	Remote	Specialists in the implementation / configuration of specific 8x8 products in scope for this project. Their role is to consult, configure, test, and document the in-scope 8x8 solution.
LNP Coordinator	Remote	Specialist in porting of Customer DID's / numbers to 8x8. Their role is to work with Customer to obtain required documentation for porting of Customer's DID's from its current Carrier to 8x8's Carrier, and coordinate porting with the losing Carrier.

Resource allocation and assignment remains at the sole discretion of 8x8 in support of delivery of Services. Subject to the terms and conditions of the Service Agreement, 8x8 reserves the right to use third-party resources as needed, and such resources will work under the direction of 8x8 Project Managers. 8x8 Project Manager will communicate to Customer the names of the third-party resources as and when they are engaged and assigned to the above identified project roles.

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11. SOW Acceptance and Authorization

IN WITNESS WHEREOF, this SOW has been executed on behalf of each party by its duly authorized representative.

Hays County	8x8, Inc.
Full Name	*Full Name*
Title	*Title*
Signature	*Signature*
Date	*Date*

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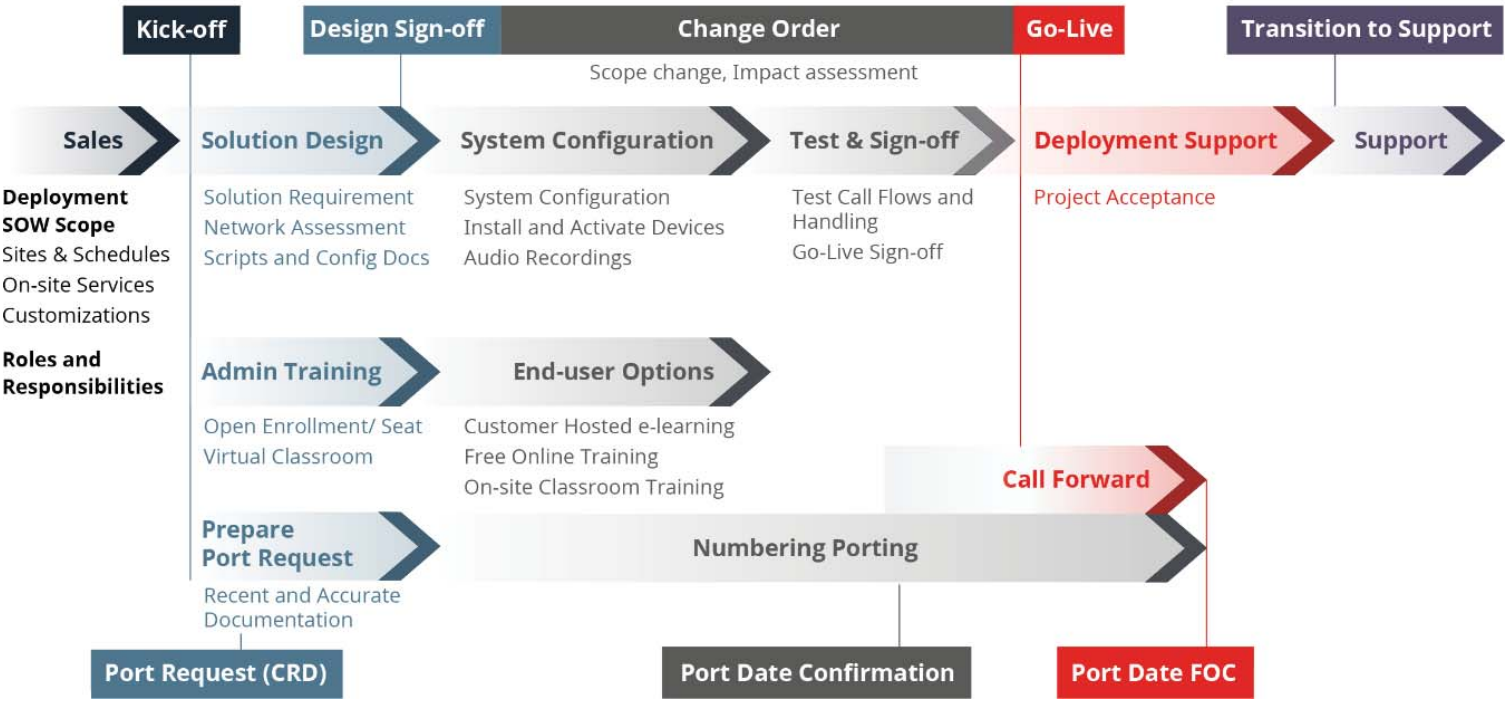
Appendix A – Service Description "Services", Roles & Responsibilities

8x8 Implementation Methodology

The following diagram provides an overview of 8x8's standard implementation process.



Services Description

Service Name	Service Description
Project Management	8x8 manages the Project and Services delivery using 8x8's proven methodology: • 8x8 Project Manager (PM) works with Customer to plan, manage, and communicate regularly on the Project. • 8x8 PM is Customer's main point of contact for the Project, and responsible for all corresponding interaction between 8x8 and Customer project teams. **8x8 responsibilities:** • Conduct Project Kick-off meeting • Establish and maintain Project Schedule. • Set up Collaboration Portal for Project communications and collaboration.

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	• Identify and manage Project Issues and Risks as well as track Action Items to completion. • Set-up and chair Project Meetings (weekly) and provide Status Reports (weekly). • Overall management of scope, schedule, and budget. **8x8 deliverables:** • Project Collaboration Portal. • Project Schedule.
Network Assessment	8x8 guides Customer through running the baseline test using the 8x8 provided Network Utility ("NetUtil") to ensure Customer's network readiness for the 8x8 solution. Examples of diagnostics executed during the test include DNS testing to validate geo-routing to the correct data center, validate certain ports are open and that ALG is not being used. Media testing is performed to identify potential issues with packet loss, jitter or latency and other tests analyze fragmentation and bufferbloat. **8x8 responsibilities:** • Provide 8x8 network requirements documentation. • Provide a link to the 8x8 NetUtil download, along with instructions for running the baseline and monitor tests • Provide an activation key for NetUtil. • Communicate concerns identified during the analysis of test results. **8x8 deliverables:** • Network requirements documentation and Network Utility ("NetUtil"), along with instructions to run tool. • Feedback on Network Assessment results. • Actionable recommendations to reduce network-related VoIP issues. • Provide best practices on configuration of firewall for VoIP policy*. Customer responsibilities: • Download and execute the NetUtil at all Customer locations using 8x8 • Perform remediation activities to address network configuration which may impact voice traffic • Sign a Network Assessment Waiver if unable to execute the network test or remediate findings for one or more locations. * 8x8 does NOT provide step-by-step configuration of network equipment, only high-level recommendations. Please contact your equipment vendor for support/instructions on configuring the device.
Solution Design	Based on Customer's current business processes and design requirements, 8x8 identifies an optimal solution, including configuration of the 8x8 solution components included in Section 2. The design is elaborated in consultation with Customer and captured in the Configuration Workbook ("CWB") **8x8 responsibilities:** • Review "as-is" relevant business processes

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	• Collect and document solution requirements limited to the defined scope parameters in Section 2. • Discuss relevant business measurement criteria / reporting and analytics requirements • Review solution requirements and design with Customer stakeholders and incorporate results and feedback. **8x8 deliverables:** • Configuration Workbook **Customer Responsibilities:** • Customer is responsible for verifying, and approving by signature, the requirements documented in the CWB • Collect and document solution requirements that are not defined in the scope parameters in Section 2. **Assumptions:** • Any Customer requested changes following approval of the CWB will require a Change Request and may require additional Customer funding.
System Configuration	8x8 performs system configuration limited to the scope parameters agreed to in Section 2 of this SOW. 8x8 will also offer one (1) 2-hour guided configuration session to reinforce curriculum from the Administrator Training and provide hands-on system configuration guidance to Customer's Administrator. **8x8 responsibilities:** • Configure System Objects in the solution per the defined scope parameters. **8x8 deliverable:** • Configuration of 8x8 platform within the Scope Parameters of this SOW. **Customer Deliverables:** • The Scope Parameters indicate the portion of Services 8x8 is performing in this SOW; Customer is responsible for configuring the balance of items required for the platform deployment. Any requested increases to the quantities in the Scope Parameters will require a Change Request and may require additional Customer funding. **Assumption:** • Customer assigned resource has successfully completed the appropriate 8x8 University Administrator training prior to beginning configuration • Customer assigned resource shadows 8x8 resource to learn and complete the configuration of the solution based on design for Go-live. • 8x8 effort to test, troubleshoot, reconfigure, or consult any Customer performed configurations or changes will require a Change Request and may require additional Customer funding
User Configuration	Based on Customer-provided information, 8x8 completes the configuration for Users and their properties in the system. Also configured will be Agents CCaaS properties where applicable and in scope.

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	8x8 responsibilities: • Provide a User Configuration Template and guidance on completion of the template. • Configure provided User information (including extensions and phone numbers) in the 8x8 system per final User Configuration Template (one-time effort per finalized template). **8x8 deliverables:** • Customer data (Users and their properties) configured in the 8x8 system per final User Configuration Template. **Assumptions:** • 8x8 will perform a single build or bulk import of Users and User metadata. Customer is responsible for tracking and making any MACD's to these configurations following the initial creation
Testing	8x8 and Customer perform limited (basic) system testing for validating correct configuration and providing additional hands-on guidance on system testing to Customer's Administrator. **8x8 responsibilities:** • Create a test plan to validate the platform is functioning as documented in the CWB • Execute the test plan o Test up to ten (10) incoming Channels inclusive of phone, email, chat to ensure that they are correctly hitting the 8x8 system. o Test up to five (5) key use cases documented in the Design Document. o Test up to three (3) Scripts inclusive of phone, email, chat. **8x8 deliverables:** • Test Plan identifying the tests that will be performed. • Test Plan updated with test results. • Remediate configuration issues which may be discovered during the testing and retest. • Once 8x8 has completed System Testing, 8x8 will transition testing to Customer to complete User Acceptance Testing ("UAT") o Review best practices for writing test cases o Provide instructions for how to execute a test **Assumptions:** • System testing transition to Customer UAT is limited to approximately two (2) hours of instruction. Requests for additional support in handing off to UAT or supporting UAT will require a CR and additional funding • 8x8 does not provide copies of the test script executed in 8x8 System Testing.
Porting/ Number Transfer	Based on Customer provided documentation, 8x8 manages the transfer of phone number ownership from incumbent Carriers to 8x8. **8x8 responsibilities:** • Provide porting instructions. • Perform number portability check. • Guide Customer through porting strategy options.

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	• Submit Port Request to Losing Carrier. • Pursue Port Request status / confirmation Final Order Completion ("FOC") from losing carrier. • Phone numbers ported per confirmed Port Request. **Customer Responsibilities:** • Provide list of numbers to be ported (NTBPs). • Provide required information, including Customer Service Records (CSRs) and Letters of Agreements (LOAs), Copy of Bill (COB) in a timely manner. • Manage (engage/ disengage) call forwarding (if call forwarding is used within the port strategy). • Perform post port testing to verify Customer owned numbers are ringing through as expected on the 8x8 platform **8x8 deliverables:** • List of items required from Customer's current Carrier. • Customer provided numbers ported to 8x8 Carrier. • Conference call scheduled on day of porting, or alternative, as agreed to by Customer and 8x8.
Remote Go-Live Support and Troubleshooting	8x8 will seek root-cause and identify corrective actions for reported configuration issues during implementation and up to five (5) business days post Go-Live, after which the Project will be transitioned to 8x8's Support organization. **8x8 responsibilities:** • Assist Customer with triaging reported issues o Provide access to and explain how to report issues. o Assist Customer with triaging reported issues and determine whether the issue is a configuration, platform, or Customer related • Configuration Issue: o Track reported configuration issues to completion. • Platform Issue: o Open a ticket with 8x8 support for platform issues o 8x8 Support to provide 24/7 support for critical platform issues • Customer Issue: o Assist Customer with network diagnostics and analysis limited to reviewing results of the 8x8 Network Utility tool **Customer Responsibilities** • Troubleshoot and resolve any Customer related issues **8x8 deliverables** • Issue Log.

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Appendix B – Sites List

List of Customer Sites

Site Name	Site Address	Country
Hays County Government Center	712 S. Stagecoach Tr. San Marcos TX 78666	USA
Hays County Tax Office	195 Roger Hanks Pky. Dripping Springs TX 78620	USA
Hays County Justice of the Peace	500 Jack C Hays Trail, Buda, TX 78610	USA
Hays County Office/Kyle Justice	111 N. Front St, Kyle, TX 78640	USA
Hays County Tax Office Substation	5458 FM2770, Kyle, TX 78640	USA
Hays County Sheriff's Office	1307 Uhland Rd, San Marcos, TX 78666	USA
Hays County Health Department	401 Broadway St. San Marcos, TX 78666	USA
Hays County Commissioner	111 E. San Antonio St. San Marcos, TX 78666	USA
Hays County Human Resources	712 S. Stagecoach Tr. San Marcos TX 78666	USA
Hays County Commissioner	14306 Ranch Rd. 12, Wimberly, TX 78676	USA
Hays County Development Services	2171 Yarrington Rd. Kyle, TX. 78640	USA
Hays County Appraisal District	21001 I-35 Kyle, TX 78640	USA

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Appendix C – Network Assessment Waiver Template

SAMPLE – Not to be Signed – Network Assessment Waiver Form

Capitalized terms used herein not otherwise defined shall have the meaning as set forth in the Service Agreement executed by 8x8 and Customer.

Customer either has a Site or Sites which have not passed the 8x8 network assessment tests ("Network Assessment") or hereby declines to completed a Network Assessment prior to the implementation of the Services.

CUSTOMER IS AWARE THAT BY DECLINING THE NETWORK ASSESSMENT AND WITHOUT TAKING THE ACTIONS DETERMINED NECESSARY BY THE NETWORK ASSESSMENT NEITHER CUSTOMER NOR 8X8 CAN BE ASSURED THAT THE SERVICES WILL PERFORM SATISFACTORILY OR IN ACCORDANCE WITH THE DOCUMENTATION.

In the event that the Services are adversely affected by issues related to Customer's network infrastructure, configuration, design or equipment and Customer requests, 8x8 may perform Professional Services to attempt to remedy the problems subject to Section 4.4 of the Terms and Conditions and at 8x8's then current rates.

IN NO EVENT WILL ANY DELAYS CAUSED BY CUSTOMER NOT PERFORMING THE NETWORK ASSESSMENT OR NOT TAKING THE ACTIONS DETERMINED NECESSARY BY THE NETWORK ASSESSMENT ALLEVIATE THE CUSTOMER OF THE OBLIGATION TO PAY SERVICE FEES PER THE SERVICE AGREEMENT.

ACKNOWLEDGED AND AGREED TO:

Customer: _____

By: _____

Name: _____

Title: _____

Date: _____

SAMPLE ONLY – NOT FOR SIGNATURE

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Glossary of Terms and Acronyms

Agent: Agents are Users who handle customer interactions channeled through CCaaS agent channels such as voice, chat, email

Agent Group: An agent group is a collection of agents who report to a supervisor. A single group may serve your entire call center or may be dedicated to one or more products, services, queues, or to a specific communication channel such as phone, email, or chat. Use groups to organize agents based on function, skill set, or media they use.

Administrator Role: The Primary Administrator inherits the Super User Role which has unrestricted access to manage and configure all objects in Configuration Manager

Analog Telephone Adapter (ATA): A device for connecting traditional analog telephones, fax machines and similar CPE to a digital telephone system or a VoIP telephone network

Automatic Number Identification (ANI): feature of a telecommunications network for automatically determining the origination telephone number on toll calls. This term is often interchangeably used in reference to Caller ID – See Caller ID

Auto Attendant: Is a way to route inbound calls to your business. Use auto attendant to let your callers interact with the automated voice menus you define, and self-direct the calls without requiring any manual operator or receptionist. You can plan what you want your callers to experience when they call your company, define schedules and rules, and set up professional greetings for your business

Barge-Monitor-Whisper: a tool that allows office managers and supervisors to optionally listen in on any active call in your phone system; whisper exclusively to the user being monitored (without the other party hearing), or actively join the call and make it a three-way conference.

Caller ID: Also called Calling Line Identification (“CLID”) or Calling Line Identification (“CLI”), is a telephone service, available in analog and digital telephone systems, including VoIP, that transmits a caller's telephone number to the called party's telephone equipment when the call is being set up. The caller ID service may include the transmission of a name associated with the calling telephone number, in a service called Calling Name (“CNAM”).

Carrier: A communications company that provides services such as telecommunications and internet

Channel: A channel facilitates communication of interactions in and out of a Virtual Contact Center tenant. When an interaction comes to the channel via phone, email, chat, or social media, it is directed to the appropriate queues via skill-based routing rules. For example, a phone channel directs inbound phone calls from customers to contact center agents, or an email channel is an email address that your customers use to send email requests to the contact center.

Configuration Manager: Interface to the 8x8 platform where configuration and management functions are conducted by system administrators

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Customer Premises Equipment (CPE): is any equipment located on the customers premises

Cross Connect (ref. MPLS): A cross connect is a physical, hardwired connection (copper or fiber) that provides a direct connection between two different termination locations within a data center to enable colocation customers to establish high-performance, dedicated connectivity to one another within the data center

Dial Plan: A dial plan specifies how to interpret phone number sequences dialed by an Agent or User using the phone tab, click-to-dial (or through API), and how to convert them into an ITU-T E.164 normalized outbound dial string. Dial plans can be used to include country codes and area codes, support extension-based dialing, correct the numbers from an external entity, and more.

DID: Direct Inward Dial is a service of a phone company that provides a single or block of telephone numbers for calling into a company's Private Branch Exchange "PBX" system.

Endpoint - For VoIP purposes, refers to any device at which a message (in on-screen text, print or audio) can originate or successfully reach. Includes all hard phones (desk phones and cell phones; IP and landline), as well as softphones (telephony software typically run on a computer or a smart device) and fax machines. Also includes computers, printers, and adapters – anything with a MAC address.

Go-Live Event: A go-live event is defined as the collection of configuration assets being deployed into production on a day. For example, if there is one go-live event in scope, all the Customer's in scope configuration will be deployed at once (aka big-bang deployment) in a single day. If there are in-scope configurations that are not deployed on that day then either the Customer will be deploying those remaining assets without the assistance of 8x8 Professional Services, or a Change Request will be required to add more go-live events to the scope.

Group Call Pickup: Allows employees to answer incoming calls for other group members, without requiring the user to walk to their colleague's phone

Group Paging: Group intercom paging is used to make real-time announcements to a department, team or work area using the intercom feature on your Polycom and Cisco phones. This feature allows Users to send a one-way message to specific paging groups or broadcast your page to all other Polycom or Cisco phones in your office.

Hot Desking: With Hot Desking, you can turn a device into a shared desk phone and allow other users to use it as their own, but during different time periods. A primary motivation for Hot Desking is cost reduction through space savings. Hot Desking is often found in workplaces with flexible schedules for employees, where not all employees are working in an office at the same time or on the same schedules. Employees in such workplaces use existing offices only occasionally or for short periods of time, which leaves offices vacant. By sharing such offices, employees make more efficient use of company space and resources.

MAC Address (MAC): Media Access Control address - MAC Address is a hardware identifier that uniquely identifies each device on a network

MACD: This refers to Moves, Add, Change, Delete of configuration objects on a platform. Examples are changing the email address of User, moving an Agent from one Queue to another, deleting or adding a User

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Network to Network Interface (NNI): is an interface that specifies signaling and management functions between two networks. An NNI circuit can be used for interconnection of signaling (e.g., SS7), Internet Protocol (IP) (e.g., MPLS) or ATM networks

Outbound Code: Outbound Phone Codes offer a means to set a unique calling line identifier (caller ID) for outbound calls. You can define outbound phone codes to assign caller ID to outbound calls from your tenant. You can also use outbound phone codes to identify the purpose of each outbound call.

Personalization Service (ref, Speech Analytics):

Prompt: a pre-recorded message which is played as a greeting or request for the caller to provide additional information in the form of pressing a key on their phone.

Public Switched Telephone Network (PSTN): is the aggregate of the world's circuit-switched telephone networks that are operated by national, regional, or local telephony operators, providing infrastructure and services for public telecommunication.

Quality Management (QM): Quality Management for 8x8 is a tool to monitor, manage and evaluate Agent performance

Queue: A queue is an ordered collection of interactions waiting to be served by agents who are qualified to respond to these interactions. Queues serve to present interactions flowing into Virtual Contact Center to agents based on skill set and availability. Virtual Contact Center provides sophisticated logic for matching customers to the agent who can best solve their problem. Queues direct interactions based on the skill level of agents serving the queue.

Ring Group: Ring groups allow incoming calls to be distributed efficiently among a group of users and throughout a business. A Ring group allows you to have multiple phones ring when one extension or number is dialed. It is often used to efficiently distribute calls within specific departments such as Sales, Customer Support and Accounting. You can have all the phones in a ring group ring at once or set up a “round robin” approach where the extensions in the group ring in a specific order until the call is answered. Available ring patterns are: cyclic, cyclic repetitive and simultaneous.

Schedule: Schedules define business hours, holidays, and special events that are followed by your company's departments. For example, if your sales and support teams have different hours of operation, use the Schedules tab to create separate schedules for each team.

Script: IVR scripts define how Virtual Contact Center processes an inbound and outbound interactions such as phone calls, post call surveys, chat, and email through an ordered series of script objects that perform real-time processing of the interaction in response to conditions.

Session Initiation Protocol (SIP): SIP is a signaling protocol used for initiating, maintaining, and terminating real-time sessions that include voice, video, and messaging applications. SIP is used for signaling and controlling multimedia communication sessions in applications of Internet telephony for voice and video calls, in private IP telephone systems, in instant messaging over Internet Protocol (IP) networks.

Site: A site in Virtual Office represents the location of your business. As your business grows, you can create additional sites. Sites in Virtual Office simplify administration for all endpoints within a site by applying common properties, such as emergency address,

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language, dial plan and time zone. Moreover, administrators can manage advanced call handling options such as receptionist dialing for the site.

Skill: The skill level determines the routing of interactions within a queue. Virtual Contact Center attempts to direct interactions to an agent with a higher skill level before directing them to an agent with a lower skill level.

Speech Analytics: With 8x8 Speech Analytics Audio data is converted to text which can be searched and analyzed for compliance, customer insights, and agent performance to improve your customer experience. With this you can analyze a full spectrum of your customer interactions and listen to the most important ones, rather than a random handful that have no predetermined context.

Status Code: Status codes enable contact center supervisors to track how an agent functions through a workday. When an agent is logged in to Agent Console, the agent accepts or rejects interactions, takes breaks, works offline, or logs out. The status codes associate an agent's status change with probable reasons for the change and enable supervisors or managers to track the work pattern of agents.

Telco: A provider of telecommunications services such as telephony and data communications

Tenant: A unique and secure contact center instance running on an 8x8 platform. Through Configuration Manager create and configure all aspects a contact center's resources and operational behaviors, including groups, incoming channels, queues, agents, routing scripts, skills, monitoring, recording, and reporting.

Transaction Code: Transaction codes offer a means to apply call disposition to inbound as well as outbound interactions. Each inbound or outbound interaction in a call center has some purpose and disposition. Transaction codes can be defined to collect call disposition information from the agents at the time of the call and supervisors can report on this information for analysis and to determine further processing.

User: A user is any Virtual Office contact assigned with 8x8 services (licenses) and permissions

Voice over Internet Protocol (VoIP): Also called IP telephony, is a methodology and group of technologies for the delivery of voice communications and multimedia sessions over Internet Protocol (IP) networks, such as the Internet.

Wallboard: The 8x8 Wallboard for Virtual Contact Center presents real-time metrics of your contact center operations on a desktop, display TV, or monitor on a contact center floor.

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NASPO ValuePoint
PARTICIPATING ADDENDUM

CLOUD SOLUTIONS 2016-2026
Led by the State of Utah

Master Agreement #: AR3084

Contractor: 8X8, INC.

Participating Entity: HAYS COUNTY, TEXAS

The following products or services are included in this contract portfolio:

- All products and accessories as listed and amended under the Contractor Master Agreement AR3084 (as may be detailed on the Contractor page of the NASPO ValuePoint website.

Master Agreement Terms and Conditions:

1. Scope: This addendum covers ***Cloud Solutions*** led by the State of *Utah* for use by state agencies and other entities located in the Participating State *[or State Entity]* authorized by that State's statutes to utilize State contracts with the prior approval of the State's Chief Procurement Official.

2. Participation: This NASPO ValuePoint Master Agreement may be used by Hays County, Texas. Issues of interpretation and eligibility for participation are solely within the authority of the State Chief Procurement Official.

3. Access to Cloud Solutions Services Requires State CIO Approval: Unless otherwise stipulated in this Participating Addendum, specific services accessed through the NASPO ValuePoint cooperative Master Agreements for Cloud Solutions by state executive branch agencies are subject to the authority and prior approval of the State Chief Information Officer's Office. The State Chief Information Officer means the individual designated by the state Governor within the Executive Branch with enterprise-wide responsibilities for leadership and management of information technology resources of a state.

4. Primary Contacts: The primary contact individuals for this Participating Addendum are as follows (or their named successors):

Contractor

Name:	8x8
Address:	2125 O'Nel Drive, San Jose, CA 95131
Telephone:	323-807-6559
Fax:	
Email:	holly@govdynamix.com

Participating Entity

Name:	Hays County, Texas
Address:	712 S. Stagecoach Trail, Ste. 1071
Telephone:	512-393-2267
Fax:	
Email:	purchasing@co.hays.tx.us

5. Participating Entity Modifications Or Additions To The Master Agreement

These modifications or additions apply only to actions and relationships within the Participating Entity.
Participating Entity must check one of the boxes below.

[X] No changes to the terms and conditions of the Master Agreement are required.

[___] The following changes are modifying or supplementing the Master Agreement terms and conditions.

[Removable Instruction: Insert text here to address specific changes to the terms and conditions. Indicate which section numbers of the Master Agreement are modified. If no changes are required, check the box above and delete this paragraph.]

6. Subcontractors: All contactors, dealers, and resellers authorized in the State of ***[xxxxxx]***, as shown on the dedicated Contractor (cooperative contract) website, are approved to provide sales and service support to participants in the NASPO ValuePoint Master Agreement. The contractor's dealer participation will be in accordance with the terms and conditions set forth in the aforementioned Master Agreement.

7. Orders: Any order placed by a Participating Entity or Purchasing Entity for a product and/or service available from this Master Agreement shall be deemed to be a sale under (and governed by the prices and other terms and conditions) of the Master Agreement unless the parties to the order agree in writing that another contract or agreement applies to such order.

IN WITNESS WHEREOF, the parties have executed this Addendum as of the date of execution by both parties below.

Participating Entity: Hays County, TX	Contractor: 8x8
Signature:	Signature:
Name: Ruben Beccera	Name:
Title: Hays County Judge	Title:
Date:	Date:

For questions on executing a participating addendum, please contact:

NASPO ValuePoint

Cooperative Development Coordinator:	Shannon Berry
Telephone:	775-720-3404
Email:	sberry@naspovaluepoint.org

Please email fully executed PDF copy of this document to PA@naspovaluepoint.org to support documentation of participation and posting in appropriate data bases.

From: Gerard MacCrossan
To: Stephanie Hunt
Cc: Vshealy@naspovaluepoint.org; Bobby Pounds
Subject: NASPO ValuePoint PA request — 8x8, Inc. and Hays County, Texas (Master Agreement No. AR3084)
Date: Thursday, August 5, 2021 2:22:47 PM

Sent on behalf of Bobby Pounds, Director, Statewide Procurement Division

Ms. Hunt,
This will respond to your request for permission from the Texas Comptroller's Statewide Procurement Division (SPD) for the Hays County, Texas, to sign a Participating Addendum in order to participate in the above-referenced NASPO contract.

The State of Texas has not signed a participating agreement for NASPO ValuePoint Master Agreement AR3084 (State of Utah Cooperative Contract) with 8x8, Inc. ("the NASPO 8x8 Contract"). SPD's authority as NASPO's primary member for the State of Texas aligns with our statutory authority to execute statewide contracts that may be used by eligible entities in accordance with state law. Hays County is a current Texas SmartBuy Member and is eligible to participate in Texas statewide contracts.

By way of background, for any NASPO ValuePoint contract where the State of Texas, through SPD, is participating and signing a Participating Addendum, SPD performs a careful review of the solicitation process to ensure it meets applicable procurement laws. Conversely, in cases where the State of Texas has not signed a Participating Addendum, SPD defers to any other entity eligible to participate, to determine whether the particular procurement complies with the competitive requirements of the Texas Local Government Code or other relevant laws.

As the State is not currently participating in the NASPO 8x8 Contract, SPD has not reviewed the related solicitation and therefore I am unable to speak to the specifics. That said, SPD has not experienced any issues with the competitive procurement requirements in any of the NASPO ValuePoint contracts for which SPD has signed a Participating Addendum, so I find no reason not to authorize NASPO to accept a request from the Hays County, Texas, to participate in the NASPO 8x8 Contract.

I hope that gives the Hays County attorney some assurance when he or she is doing their due diligence review. Feel free to let me know if you have any follow up questions.

Best regards,

Gerard

--
Gerard MacCrossan CPPO, CTCD, CTCM | Data Management, Analytics & Technology Manager| Statewide Procurement Division (SPD)
Texas Comptroller of Public Accounts | gerard.maccrossan@cpa.texas.gov | 512-463-4468 ofc |

IMPORTANT NOTICE: This communication and any attachments may contain privileged or confidential information under the Texas Public Information

Act and/or applicable state and federal laws. If you have received this message in error, please notify the sender immediately.

[SIGNATURE BLOCK]

From: Stephanie Hunt <stephanie.hunt@co.hays.tx.us>
Date: Thursday, August 5, 2021 at 12:05 PM
To: Gerard MacCrossan <Gerard.MacCrossan@cpa.texas.gov>, Voight Shealy <Vshealy@naspovaluepoint.org>
Subject: NASPO - 8x8 Cloud Solutions

CAUTION: This email originated from outside of the Texas Comptroller's email system.
DO NOT click links or open attachments unless you expect them from the sender and know the content is safe.

Good Morning guys,

Hays County is seeking to get authorization from the state CPO to enter into our own single entity PA with 8x8. Hays County is looking to upgrade our current phone system with the phone system offered by 8X8.

Here is their website from the NASPO ValuePoint website.
https://www.naspovaluepoint.org/portfolio/cloud-solutions-2016-2026/8x8/

Please let me know if you have any questions and if we are good to proceed.

Thank you,
Stephanie Hunt
Hays County Purchasing Manager
712 S. Stagecoach Trail, Suite 1071
San Marcos, TX 78610
(512) 393-2267

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court
Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Discussion and possible action to authorize the County Judge to execute a renewal Service Order with Grande Communications related to the Countywide Fiber contract.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
ACTION-MISCELLANEOUS	November 2, 2021	N/A

LINE ITEM NUMBER

N/A

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** MARISOL VILLARREAL-ALONZO

REQUESTED BY	SPONSOR	CO-SPONSOR
Jeff McGill	BECERRA	N/A

SUMMARY

The attached renewal is for the countywide fiber contract containing all the changes required to support the new phone system. This contract renewal also includes increased bandwidth, security, and redundancy throughout the county. By combining the two existing Grande contracts, it is anticipated that the overall countywide monthly charges will be reduced by approximately $8k.

Attachment: Grande Communications Service Order

Service Order

This Service Order (this "Service Order") is entered into as of the date of last signature below (the "Effective Date"), by and between GRANDE COMMUNICATIONS NETWORKS, LLC, a Delaware limited liability company ("Provider"), and the customer specified below ("Customer"). This Service Order is made pursuant to and will be governed by Provider's "Standard Terms and Conditions for Enterprise Services" which are posted on Provider's website at https://www.mygrande.com/business/standard-terms (the "T&Cs"). The T&Cs are incorporated into this Service Order by this reference. All capitalized terms used but not defined in this Service Order shall have the meanings given to them in the T&Cs.

CUSTOMER	DBA	CONTACT NAME	CONTACT INFO
HAYS COUNTY COMPUTER SERVICE			Office: Mobile: Email:
BILLING ADDRESS		**ALTERNATIVE CONTACT**	**BUSINESS PHONE NUMBER**
712 S Stagecoach Tr, San Marcos, TX, 78666, USA			
TAX ID	**ACCOUNT NUMBER**	**REFERENCE NUMBER**	**ACCOUNT SALES REP**
	44 - 80046401	OP238719	Chris Cox - 2618

INITIAL SERVICE TERM	SEGMENT
36 months	Enterprise

Provider shall provide to Customer the services set forth below (each, a "Service"), at the location(s) set forth below (each, a "Service Site"), in exchange for the one-time, non-recurring installation charge ("NRC"), and the monthly recurring service charges ("MRC") set forth below:

PRODUCT LINE ITEM	Z-LOC ADDRESS (PRIMARY)	Z-LOC DEMARC	A-LOC ADDRESS	A-LOC DEMARC	UNITS	MRC / UNIT	TOTAL MRC	NRC / UNIT	TOTAL NRC
Advanced Cloud Security 300 Mb	111 E San Antonio St, Ste 100, San Marcos, TX, 78666, USA	Cust Prem			1	$289.00	$289.00	$0.00	$0.00
DIA 300 Mb	111 E San Antonio St, Ste 100, San Marcos, TX, 78666, USA	Cust Prem			1	$955.00	$955.00	$0.00	$0.00
Advanced Cloud Security 300 Mb	1307 Uhland Rd, San Marcos, TX, 78666, USA	Cust Prem			1	$289.00	$289.00	$0.00	$0.00
DIA 300 Mb	1307 Uhland Rd, San Marcos, TX, 78666, USA	Cust Prem			1	$955.00	$955.00	$0.00	$0.00

PROPRIETARY AND CONFIDENTIAL

Advanced Cloud Security 300 Mb	195 Roger Hanks Pkwy, Dripping Springs, TX, 78620, USA	Cust Prem			1	$289.00	$289.00	$0.00	$0.00
DIA 300 Mb	195 Roger Hanks Pkwy, Dripping Springs, TX, 78620, USA	Cust Prem			1	$955.00	$955.00	$0.00	$0.00
Advanced Cloud Security 300 Mb	200 Stillwater, 1, 11, Wimberley, TX, 78676, USA	Cust Prem			1	$289.00	$289.00	$0.00	$0.00
DIA 300 Mb	200 Stillwater, 1, 11, Wimberley, TX, 78676, USA	Cust Prem			1	$1,350.00	$1,350.00	$0.00	$0.00
Advanced Cloud Security 300 Mb	2171 Yarrington Rd, San Marcos, TX, 78666, USA	Cust Prem			1	$289.00	$289.00	$0.00	$0.00
DIA 300 Mb	2171 Yarrington Rd, San Marcos, TX, 78666, USA	Cust Prem			1	$955.00	$955.00	$0.00	$0.00
Advanced Cloud Security 200 Mb	2250 Clovis R Barker Rd, San Marcos, TX, 78666, USA	Cust Prem			1	$209.00	$209.00	$0.00	$0.00
DIA 200 Mb	2250 Clovis R Barker Rd, San Marcos, TX, 78666, USA	Cust Prem			1	$760.00	$760.00	$0.00	$0.00
Advanced Cloud Security 200 Mb	401 Broadway Dr, San Marcos, TX, 78666, USA	Cust Prem			1	$209.00	$209.00	$0.00	$0.00
DIA 200 Mb	401 Broadway Dr, San Marcos, TX, 78666, USA	Cust Prem			1	$760.00	$760.00	$0.00	$0.00
Advanced Cloud Security 300 Mb	500 Jack C Hays Trl, Buda, TX, 78610, USA	Cust Prem			1	$289.00	$289.00	$0.00	$0.00
DIA 300 Mb	500 Jack C Hays Trl, Buda, TX, 78610, USA	Cust Prem			1	$955.00	$955.00	$0.00	$0.00
Advanced Cloud Security 300 Mb	5458 FM-2770, Kyle, TX, 78640, USA	Cust Prem			1	$289.00	$289.00	$0.00	$0.00
DIA 300 Mb	5458 FM-2770, Kyle, TX, 78640, USA	Cust Prem			1	$955.00	$955.00	$0.00	$0.00
Advanced Firewall 3 Gb	712 S Stagecoach Tr, San Marcos, TX, 78666, USA	Cust Prem			1	$1,675.00	$1,675.00	$0.00	$0.00
DIA 2 Gb	712 S Stagecoach Tr, San Marcos, TX, 78666, USA	Cust Prem			1	$1,870.00	$1,870.00	$0.00	$0.00
DIA 1 Gb	810 S Stagecoach Tr, San Marcos, TX, 78666, USA	Cust Prem			1	$1,135.00	$1,135.00	$0.00	$0.00
Advanced Cloud Security 1 Gb	810 S Stagecoach Trail, San Marcos, TX, 78666, USA	Cust Prem			1	$830.00	$830.00	$0.00	$0.00

NOTE: If the Demarcation Point listed above for a Service Site is the MPOE, then Customer is responsible for providing any necessary demarc extension / additional inside wiring to reach the Customer's premises/suite.	**TOTALS**	**$16,551.00**		**$0.00**

Note: The charges listed above do not include applicable taxes, fees and surcharges.

NOTES

Important Notice Regarding E911 Service. The telephone Services provided hereunder are provided by Provider's Internet Protocol voice network (aka "VoIP"). Federal Communications Commission rules require that providers of VoIP phone services remind customers of these important E911 facts: (i) Provider needs a correct service site address in order to deliver accurate location information to E911; (ii) If you move your VoIP phone equipment to a different physical address, you must call Provider immediately to update the location information, otherwise E911 will not have your correct location information on file; (iii) VoIP services operate using the standard electrical power provided to the service site, so unless you have arranged for a back-up power supply, the Services will be unavailable during a power outage; (iv) You may not be able to make E911 calls if there is a power outage, network outage or other technical problems, or if your phone service is terminated or suspended. **By signing below Customer indicates that Customer has read and understands this notice regarding E911 service.**

The submission of this Service Order to Customer by Provider does not constitute an offer. Instead, this Service Order will become effective only when both parties have signed it. The date this Service Order is signed by the last party to sign it (as indicated by the date associated with that party's signature) will be deemed the Effective Date of this Service Order.

Authorized Customer Signature	Authorized Provider Signature
Printed Name	Printed Name
Title	Title
Date Signed	Date Signed

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Discussion and possible action related to Fire Code regulation of properties under a Development Agreement with the City of Dripping Springs.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
ACTION-MISCELLANEOUS	November 2, 2021	

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
	SMITH	N/A

SUMMARY

Attached: Resolution

RESOLUTION RELATED TO ENFORCEMENT OF THE FIRE CODE IN CERTAIN SUBDIVISIONS

WHEREAS, Hays County adopted a Fire Code to be effective on or about January 1, 2020; and

WHEREAS, other municipalities and/or Emergency Services Districts within Hays County, including the City of Dripping Springs had prior to the adoption of the Hays County Fire Code, adopted their own Fire Codes; and

WHEREAS, through collaboration with local jurisdictions, Hays County representatives have come to recognize that there are occasions when a municipality is better-situated to provide Fire Code enforcement for development in its Extra-Territorial Jurisdiction; and

WHEREAS, the City of Dripping Springs has, via a Development Agreement with Anarene Investments Tract/Double L Development wherein it purports to provide fire protection review through its contract with Emergency Services District #6 (North Hays Fire and Rescue); and

WHEREAS, the City of Dripping Springs is providing primary review on all other aspects of the development of a subdivision by this entity; and

WHEREAS, the Hays County Commissioners Court is authorized by Texas Local Government Code, Section 233.061 to contract with any municipality within Hays County for the provision of Fire Code enforcement; and

WHEREAS, the Hays County Commissioners Court has determined that it is appropriate to delegate Fire Code enforcement to the City of Dripping Springs for the subdivisions falling under the Development Agreement cited above;

NOW THEREFORE BE IT RESOLVED AND AGREED, THIS THE 2nd of NOVEMBER 2021, THAT:

The Hays County Commissioners Court hereby delegates Fire Code enforcement to the City of Dripping Springs (from this date forward) for its Development Agreement with Anarene Investments Tract/Double L Development and requests that the individual authorized to agree to such delegation for the City of Dripping Springs do so by signing below.

_____

Judge Ruben Becerra
Hays County Judge

ATTEST:

_____

Elaine Cardenas, MBA, PhD
Hays County Clerk

AGREED: _____

BY:
TITLE:
CITY OF DRIPPING SPRINGS, TX

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

1:00PM - Workshop regarding a Needs Assessment roadmap and funding for a Mental Health Hospital. Possible action may follow.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
WORKSHOP	November 2, 2021	

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
	BECERRA	N/A

SUMMARY

Leadership from Hill Country Mental Health & Developmental Disabilities and Bluebonnet Trails Community Services will join in the conversation to determine the best roadmap to fund a Needs Assessment for a Mental Health Hospital.

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Executive Session pursuant to Sections 551.071 and 551.074 of the Texas Government Code: consultation with counsel and deliberation regarding the positions of the Hays County Fire Marshal and the Hays County Office of Emergency Services Director; and regarding state statutes on Fire Code. Possible discussion and/or action may follow in open court.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
EXECUTIVE SESSION	November 2, 2021	

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
	BECERRA	N/A

SUMMARY

Report to be presented during Executive Session

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Executive Session pursuant to Sections 551.071 and 551.072 of the Texas Government Code: consultation with counsel and deliberation regarding the purchase, exchange, lease and/or value of real property associated with the POSAC-recommended 2020 Parks and Open Space Bond Projects; and regarding POSAC reviewing criteria. Possible discussion and/or action may follow in open court.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
EXECUTIVE SESSION	November 2, 2021	

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
	SHELL	N/A

SUMMARY

Summary to be provided in Executive Session.

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Executive Session pursuant to Sections 551.071 and 551.072 of the Texas Government Code: consultation with counsel and deliberation regarding the purchase, exchange, lease and/or value of real property located on or near Stagecoach Trail in San Marcos, Texas and within Precinct 3. Possible discussion and/or action may follow in open court.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
EXECUTIVE SESSION	November 2, 2021	

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
	SHELL	N/A

SUMMARY

Summary to be provided in Executive Session.