

**Commissioners Court December 17, 2019  
NOTICE OF A MEETING OF THE  
COMMISSIONERS COURT OF HAYS COUNTY, TEXAS**



This Notice is posted pursuant to the Texas Open Meetings Act. (VERNON'S TEXAS CODES ANN. GOV. CODE CH.551). The Hays County Commissioners Court will hold a meeting at **9:00 A.M.** on the **17<sup>th</sup> day of December 2019**, 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	Presentation of Hays County Service Awards. <b>BECERRA/MILLER</b>
2	7	Recognize the outstanding achievement of Assistant Veterans Service Officer II Sasha Mathews. <b>INGALSBE/PRATHER</b>
3	8	Recognize the County Clerk's Office for receiving the Five Star Exemplary Award. <b>BECERRA/CARDENAS</b>

**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.

4	9	Approve payments of County invoices. <b>VILLARREAL-ALONZO</b>
5	10	Approve payments of Juror checks. <b>VILLARREAL-ALONZO</b>
6	11	Approve the payment of United Healthcare claims. <b>VILLARREAL-ALONZO</b>
7	12-23	Approve Commissioners Court Minutes of December 10, 2019. <b>BECERRA/CARDENAS</b>
8	24	Approve the payment of the December 31, 2019 payroll disbursements in an amount not to exceed \$3,800,000.00 effective December 31, 2019 and post totals for wages, withholdings, deductions and benefits on the Hays County website once finalized. <b>BECERRA/RICHEY</b>
9	25	Approve the re-appointment of Diane Hervol, to Emergency Service District (ESD) #9, two year term ending December 31, 2021. <b>INGALSBE</b>
10	26-29	Authorize the County Judge to execute a contract modification with Thomson Reuters Westlaw related to legal research for the District Attorney's Office. <b>INGALSBE/MAU</b>
11	30	Authorize On-Site Sewage Facility Permit for 2 office buildings and a 3 bedroom mobile home at 3030 Harris Hill Road, San Marcos, Texas 78666. <b>INGALSBE/STRICKLAND</b>
12	31	Authorize On-Site Sewage Facility Permit for 11 tiny homes/park model RV's at 3499 Fearless Treadway, Round Mountain, Texas 78663. <b>SMITH/STRICKLAND</b>
13	32-33	Authorize payment to AMG Printing & Mailing for the County Tax Office, for printed envelopes, in the amount of \$500.00 in which no purchase order was issued as required per County Purchasing Policy. <b>BECERRA/O'KANE</b>
14	34	Approve the re-appointment of John Rodriguez, Jr., to Emergency Service District (ESD) #5, two year term ending December 31, 2021. <b>INGALSBE</b>
15	35-36	Approve renewal of RFP 2018-P03 County Wide Plumbing Services with SI Mechanical for one (1) additional year as stated in the original bid. <b>BECERRA/T.CRUMLEY</b>
16	37	Approve out of state travel for Lieutenant Eric Batch and IT Support Specialist, Crystal Torres to Montgomery, Alabama related to jail equipment and inspections and amend the budget accordingly. <b>INGALSBE/CUTLER</b>
17	38-39	Authorize payment to Cellular Controlled Products for \$599.40 for the Feral Hog Abatement grant program in which no purchase order was issued as required per County Purchasing Policy. <b>JONES/T.CRUMLEY</b>
18	40-42	Authorize payment to Laser Service USA for \$515 for an FY19 invoice for toner cartridges in which no purchase order was issued as required per County Purchasing Policy. <b>INGALSBE/MORENO</b>

19	43-154	Approve specifications for RFP 2020-P05 Builder Services: Residential Rehabilitation, Reconstruction, and New Construction and authorize Purchasing to solicit for proposals and advertise. <b>JONES/T.CRUMLEY</b>
20	155-187	Approve specifications for IFB 2020-B04 Concrete and authorize Purchasing to solicit for bids and advertise. <b>BECERRA/BORCHERDING</b>
21	188-196	Authorize the County Judge to execute Work Authorization #3 to the Professional Service Agreement (PSA) between Hays County and Bowman Consulting Group, Ltd., and declare an exception to competitive procurement under Section 262.024(a)(4) of the Texas Local Government Code. <b>JONES/BORCHERDING</b>
22	197-198	Authorize the execution and submission of a Resolution and grant application to the Capital Area Council of Governments (CAPCOG), Regional Solid Waste Grant Program for up to \$60,000. <b>BECERRA/T.CRUMLEY</b>
23	199	Approve the re-appointments of Leighton Stallones and Lee Ann Kenworthy to Emergency Service District (ESD) #3, two year terms ending December 31, 2021. <b>SHELL</b>
24	200	Approve the cancellation of Hays County Commissioners Court on February 11, March 17, May 5, June 16, October 6, December 1, and December 29, 2020. <b>INGALSBE</b>
25	201	Authorize On-Site Sewage Facility Permit for My Real Life Church, 13701 FM 1826 Austin, Texas 78737. <b>SMITH/STRICKLAND</b>
26	202	Approve the re-appointment of Chris Baker to Emergency Service District (ESD) #9, a two year term ending December 31, 2021. <b>SMITH</b>
27	203	Approve the re-appointments of Daniel O'Brien, Walter Krudop and Geoffrey Tahuahua to Emergency Service District (ESD) #1, two year terms ending December 31, 2021. <b>SMITH</b>
28	204	Approve the re-appointment of Beth Smith to Emergency Service District (ESD) #5, a two term ending December 31, 2021. <b>SMITH</b>
29	205	Approve the re-appointments of Steve Janda and Marilyn Miller to Emergency Service District (ESD) #6, two year terms ending December 31, 2021. <b>SMITH</b>
30	206	Approve the re-appointments of Karen Brown and Erica Gallardo to the Hays County Child Protective Board, a 3 year term ending 12/31/22. <b>BECERRA/VILLALOBOS</b>
31	207-208	Authorize a waiver to the purchasing policy for the Sheriff's Office to utilize Biddle Consulting Group, Inc. related to Criticall, a 911 pre-employment software subscription license. <b>BECERRA/CUTLER</b>
32	209-215	Authorize the County Judge to execute an Agreement Related to the Installation of Low-Water Crossing Warning Systems within Hays County, between Hays County and Water and Earth Technologies (WET) for the installation of new flood warning gauges, precipitation gauges, flood cameras and soil moisture gauges to the Flood Warning System, and grant an exception from competitive procurement pursuant to Section 262.024(a)(7) of the Texas Local Government Code. <b>SHELL/MCINNIS</b>
33	216-231	Authorize the County Judge to execute a Professional Services Agreement (PSA) with Halff and Associates for advancements to the Hays County Flood Warning System, and grant an exception from competitive procurement pursuant to Section 262.024(a)(4) of the Texas Local Government Code. <b>SHELL/MCINNIS</b>

## ACTION ITEMS

## ROADS

34	232	Discussion and possible action to award contract for IFB 2020-B03 Chaparral Park Road at Little Bear Creek to Smith Contracting Company, Inc. <b>JONES/BORCHERDING</b>
35	233-236	SUB-1205; La Cima Phase 1, Section 2 (108 Lots). Discussion and possible action to accept Amendment to Letter of Credit No. 5308 for street and drainage improvements for La Cima Phase 1, Section 2. <b>SHELL/BORCHERDING</b>

## SUBDIVISIONS

36	237-238	SUB-1359; Discussion and possible action to Approve, Approve with Conditions, or Disapprove the final plat for La Puesta del Sol subdivision. <b>SHELL/MACHACEK</b>
37	239-240	PLN-1388-NP; Discussion and possible action to approve the final plat for Milagro Springs, Sec 1, Lot 1 subdivision. <b>SHELL/MACHACEK</b>
38	241-243	SUB-1103; Discussion and possible action to approve final plat for the Juve Posada Subdivision. <b>JONES/PACHECO</b>

## MISCELLANEOUS

39	244	Discussion and possible action to authorize the District Attorney to use Asset Forfeiture Funds to hire the Administrative Assistant II position budgeted effective April 1, 2020 to begin January 2nd and amend the budget accordingly. <b>INGALSBE/MAU</b>
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40	245	Discussion and possible action to award RFP 2020-P03 Inmate Commissary Services to Keefe Commissary Network and authorize staff and General Counsel to negotiate a contract. <b>BECERRA/CUTLER</b>
41	246-284	Discussion and possible action to approve a resolution to adopt a Countywide Fire Code and the rules necessary to administer and enforce the 2018 International Fire Code for Hays County. <b>BECERRA/MCINNIS/RAVEN</b>
42	285	Discussion and possible action to authorize the Sheriff's Office to hire the vacant Mechanic, slot 1060-003 at the 25th percentile effective December 30, 2019. <b>INGALSBE/CUTLER</b>
43	286-288	Discussion and possible action to authorize the County Judge to execute a Fourth Amendment to the Interlocal Cooperation Agreement with Hays Consolidated Independent School District to establish one (1) new School Resource Officer (SRO) effective January 1, 2020 for Johnson High School and amend the budget accordingly. <b>JONES/CUTLER</b>
44	289-309	Discussion and possible action to accept the \$19,056.76 Visionality Second Phase Proposal, adding individual monitors with access to agenda and backup, as well as automated parliamentary procedures and recording of votes and amend the budget accordingly. <b>INGALSBE/CARDENAS</b>
45	310-317	Discussion and possible action to authorize the County Judge to execute an agreement between Hays County and Tyler Technologies, Inc. related to training for Justice of the Peace legislative updates within Odyssey Case Manager and amend the budget accordingly. <b>SHELL/CABLE/MCGILL</b>
46	318-343	Discussion and possible action to authorize the County Judge to execute a Professional Services Agreement in the amount of \$25,500 between Hays County and Blair Wildlife Consulting, LLC, related to management of Hays County's Regional Habitat Conservation Plan. <b>SHELL/T.CRUMLEY</b>
47	344	Discussion and possible action to consider a variance from Section 10 W-1 of the Hays County Rules for On-Site Sewage Facilities to the owner at 107 High Road, Kyle, TX 78610. <b>JONES/STRICKLAND</b>
48	345-347	Discussion and possible action to approve additional naming on Utility Permits fee on the Hays County Development Services Fee Schedule. <b>JONES/STRICKLAND</b>
49	348-378	Discussion and possible action to authorize the County Judge to execute the First Amendment to the Anthem Subdivision Phasing Agreement. <b>JONES/STRICKLAND</b>
50	379-399	Discussion and possible action to authorize the County Judge to execute a new Master Services Agreement between Hays County, Texas and Securus Technologies, Inc. related, but not limited to, the inmate telephone communication system, video visitation system, deployment of tablets, and law library services. <b>SHELL/CUTLER</b>
51	400-404	Discussion and possible action to authorize the County Judge to execute the Tyler Technologies, Inc. Proposal related to Mobile CAD software licenses for Law Enforcement, Fire and EMS and amend the budget accordingly. <b>SHELL/CUTLER/MCGILL</b>
52	405-406	Discussion and possible action to authorize a grant budget adjustment for the FY20 Texas Indigent Defense Commission (TIDC) Hays County Indigent Defense Coordinator (IDC) Program grant in the amount of \$6,105 and amend the budget accordingly. <b>SHELL/T.CRUMLEY</b>

### 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.

53	407	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 or value of real property regarding Parks and Open Space within Hays County. Possible action may follow in Open Court. <b>SHELL</b>
54	408	Executive Session pursuant to 551.071 of the Texas Government Code: consultation with counsel regarding pending and/or contemplated litigation involving Hays County. Possible action may follow in open court. <b>BECERRA</b>
55	409	Executive Session pursuant to Sections 551.071 and 551.074 of the Texas Government Code: consultation with counsel and deliberation regarding all individual positions in the Hays County Office of Emergency Services. Possible discussion and/or action may follow in open Court. <b>SHELL/INGALSBE</b>
56	410	Executive Session pursuant to Sections 551.071 and 551.072 of the Texas Government Code: consultation with counsel and/or deliberation regarding the purchase, exchange, lease, use, or value of real property owned by Hays County located at 712 S. Stagecoach Trail, San Marcos, TX. Possible action to follow in open court. <b>BECERRA</b>

### 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.

57	Discussion and possible action related to the burn ban and/or disaster declaration. <b>BECERRA/J.MCINNIS</b>
58	Discussion related to the Hays County inmate population, to include current population counts and costs. <b>BECERRA</b>

59	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. <b>INGALSBE/CUTLER</b>
60	Discussion of issues related to the road bond projects, including updates from Mike Weaver, Prime Strategies, Wade Benton, HNTB and Allen Crozier, HDR. Possible action may follow. <b>BECERRA</b>
61	Discussion of issues related to Electro Purification including updates on the filed application. Possible action may follow. <b>SHELL</b>

## ADJOURNMENT

Posted by 5:00 o'clock P.M. on the 13<sup>th</sup> day of December, 2019

**COMMISSIONERS COURT, HAYS COUNTY, TEXAS**

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**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

Presentation of Hays County Service Awards.

#### ITEM TYPE

PROCLAMATIONS/PRESENTATIONS

#### MEETING DATE

December 17, 2019

#### AMOUNT REQUIRED

n/a

#### LINE ITEM NUMBER

n/a

#### AUDITOR USE ONLY

#### AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A

AUDITOR REVIEW: N/A

#### REQUESTED BY

Miller

#### SPONSOR

BECERRA

#### CO-SPONSOR

N/A

#### SUMMARY

Presentation of Hays County Service Awards

<b>5 YEARS</b>	
JO MARIE MONAGUE	District Attorney's Office
JAY TAYOR	Parks Department
CHRISTINA CORERO	District Clerk's Office
LYNNETTE DEE	Sheriff's Office
BRITTANY VILANUEVA	County Clerk
<b>10 YEARS</b>	
CHRISTIAN MARTINEZ	Juvenile Detention Center
KAREN STONE	Tax Assessor Collectors Office
<b>25 YEARS</b>	
ROLAND CUNNINGHAM	Sheriff's Office
<b>35 YEARS</b>	
LISA DAY	Juvenile Probation
<b>RETIREE</b>	
CATHY HILLIARD	Tax Assessor Collector's Office

## 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

Recognize the outstanding achievement of Assistant Veterans Service Officer II Sasha Mathews.

#### ITEM TYPE

PROCLAMATIONS/PRESENTATIONS

#### MEETING DATE

December 17, 2019

#### AMOUNT REQUIRED

0

#### LINE ITEM NUMBER

#### AUDITOR USE ONLY

#### AUDITOR COMMENTS:

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

#### REQUESTED BY

Jude Prather, Veterans Service Officer

#### SPONSOR

INGALSBE

#### CO-SPONSOR

N/A

#### SUMMARY

At the Texas Veterans Commission Annual Claims Training held December 3-5, 2019 here in San Marcos, TX, AVSO II Sasha Mathews was presented with 3 awards by the Texas Veterans Commission recognizing her outstanding achievement in the field of veterans' claims and benefits. She received an Achievement Award for the TVC Southwest District, a Claims Excellence Award chosen from benefits advisors throughout the State of Texas, and she was recognized as the Texas County Veterans Service Officer of the Year. Her nomination read as follows:

"Sasha Mathews served 3 years, 9 months and 5 days in the Marine Corps as a 6323 – Aircraft Avionics Technician before finding herself (somehow) in Hays County, TX. While pursuing her bachelor's degree in Anthropology from Texas State University, she was introduced to the world of veteran services as a VA work-study at the Hays County Veteran Services Office. She managed four months with the office before being hired as the new Hays County Veterans Treatment Court Coordinator in November of 2015. There, she would spend a year reorganizing the court and working to grow it to more than three times its previously managed capacity. However, she returned to the Veteran Services Office in November 2016 as an assistant service officer where due to her calm but no-nonsense nature and friendly rapport, she has been a key contributor to a more than 300% increase in productivity for the office. Often going far above and beyond to assist her claimants in developing their claims, she has managed an impressive success rate, and she continues to improve the process every day. She is also no stranger to assisting the service officers around her, often leading to other counties and sometimes TVC itself trying to steal her away. Sasha's contributions to the office and veteran services in general reflect a compassion and commitment that is far greater than she will ever admit. She is a highly valued member of the team and worthy of great recognition."

## 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

Recognize the County Clerk's Office for receiving the Five Star Exemplary Award.

#### ITEM TYPE

PROCLAMATIONS/PRESENTATIONS

#### MEETING DATE

December 17, 2019

#### AMOUNT REQUIRED

#### LINE ITEM NUMBER

#### AUDITOR USE ONLY

#### AUDITOR COMMENTS:

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

#### REQUESTED BY

CARDENAS

#### SPONSOR

BECERRA

#### CO-SPONSOR

N/A

#### SUMMARY

The County Clerk's Office is receiving the Five Star Exemplary Award from the Texas Department of State Health Services - Vital Statistics Unit for meeting ALL exemplary criteria. The criteria set forth pertains to Birth and Death records and consists of training, a self-assessment survey, customer service, security and maintaining a search-to-print ration of 75% or higher. This is the 3rd consecutive year of receiving the Five Star Exemplary Award.

## 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

CONSENT

#### MEETING DATE

December 17, 2019

#### AMOUNT REQUIRED

#### LINE ITEM NUMBER

#### AUDITOR USE ONLY

#### AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A

AUDITOR APPROVAL: N/A

#### REQUESTED BY

Auditor's Office

#### SPONSOR

VILLARREAL-  
ALONZO

#### CO-SPONSOR

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 payment of Juror checks.

#### ITEM TYPE

CONSENT

#### MEETING DATE

December 17, 2019

#### AMOUNT REQUIRED

#### LINE ITEM NUMBER

#### AUDITOR USE ONLY

#### AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A

AUDITOR APPROVAL: N/A

#### REQUESTED BY

Auditor's Office

#### SPONSOR

VILLARREAL-  
ALONZO

#### CO-SPONSOR

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 the payment of United Healthcare claims.

#### ITEM TYPE

CONSENT

#### MEETING DATE

December 17, 2019

#### AMOUNT REQUIRED

#### LINE ITEM NUMBER

#### AUDITOR USE ONLY

#### AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A

AUDITOR APPROVAL: N/A

#### REQUESTED BY

Auditor's Office

#### SPONSOR

VILLARREAL-  
ALONZO

#### CO-SPONSOR

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 December 10, 2019.

#### ITEM TYPE

CONSENT

#### MEETING DATE

December 17, 2019

#### AMOUNT REQUIRED

#### LINE ITEM NUMBER

#### AUDITOR USE ONLY

#### AUDITOR COMMENTS:

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

#### REQUESTED BY

CARDENAS

#### SPONSOR

BECERRA

#### CO-SPONSOR

N/A

#### SUMMARY





DECEMBER 10, 2019

STATE OF TEXAS \*  
COUNTY OF HAYS \*

ON THIS THE 10<sup>TH</sup> DAY OF DECEMBER A.D., 2019, IN THE HAYS COUNTY COURTHOUSE, 111 E. SAN ANTONIO ST., SUITE 301, SAN MARCOS, TEXAS, THE COMMISSIONERS' COURT OF HAYS COUNTY, TEXAS, MET IN REGULAR MEETING. THE FOLLOWING MEMBERS WERE PRESENT, TO-WIT:

RUBEN BECERRA  
DEBBIE GONZALES INGALSBE  
MARK JONES  
LON A. SHELL  
ELAINE H. CÁRDENAS

COUNTY JUDGE  
COMMISSIONER, PCT. 1  
COMMISSIONER, PCT. 2  
COMMISSIONER, PCT. 3  
COUNTY CLERK

**THE FOLLOWING PROCEEDINGS WERE HAD, THAT IS:**

Chaplin Mel Melendez gave the invocation. Judge Becerra led the court in the Pledge of Allegiance to the United States and Texas flags. Judge Becerra called the meeting to order.

**PUBLIC COMMENTS**

Dan Lyon, and Susan Raybuck gave public comments.

**34604 APPROVE PAYMENTS OF COUNTY INVOICES.**

A motion was made by Commissioner Jones seconded by Commissioner Ingalsbe to approve payments of County invoices. All present voted "Aye." MOTION PASSED.

Marisol Villarreal-Alonzo, Auditor's office, spoke on this item. A motion was made by Commissioner Ingalsbe seconded by Commissioner Jones to approve amended payments of County invoices. All present voted "Aye." MOTION PASSED.

**34605 APPROVE PAYMENTS OF JUROR CHECKS.**

A motion was made by Commissioner Jones seconded by Commissioner Ingalsbe to approve payments of Juror checks. All present voted "Aye." MOTION PASSED.

**34606 APPROVE THE PAYMENT OF UNITED HEALTHCARE CLAIMS.**

A motion was made by Commissioner Jones seconded by Commissioner Ingalsbe to approve the payment of United Healthcare claims. All present voted "Aye." MOTION PASSED.

**34607 APPROVE COMMISSIONERS COURT MINUTES OF NOVEMBER 26, 2019.**

A motion was made by Commissioner Jones seconded by Commissioner Ingalsbe to approve Commissioners Court Minutes of November 26, 2019. All present voted "Aye." MOTION PASSED.

**34608 APPROVE THE PAYMENT OF THE DECEMBER 15, 2019 PAYROLL DISBURSEMENTS IN AN AMOUNT NOT TO EXCEED \$2,850,000.00 EFFECTIVE DECEMBER 13, 2019 AND POST TOTALS FOR WAGES, WITHHOLDINGS, DEDUCTIONS AND BENEFITS ON THE HAYS COUNTY WEBSITE ONCE FINALIZED.**

A motion was made by Commissioner Jones seconded by Commissioner Ingalsbe to approve the payment of the December 15, 2019 payroll disbursements in an amount not to exceed \$2,850,000.00 effective December 13, 2019 and post totals for wages, withholdings, deductions and benefits on the Hays County website once finalized. All present voted "Aye." MOTION PASSED.

**34609 APPROVE THE REAPPOINTMENTS OF JB KOLODZY, HALLEY ORTIZ, AND BERT BRONAUGH TO SERVE ON EMERGENCY SERVICES DISTRICT #2, A TWO YEAR TERM ENDING DECEMBER 31, 2021.**



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DECEMBER 10, 2019

A motion was made by Commissioner Jones seconded by Commissioner Ingalsbe to approve the reappointments of JB Kolodzy, Halley Ortiz, and Bert Bronaugh to serve on Emergency Services District #2, a two year term ending December 31, 2021. All present voted "Aye." MOTION PASSED.

- 34610        APPROVE THE REAPPOINTMENTS OF CAROL GREAVES AND MITCH JOHNSON TO SERVE ON EMERGENCY SERVICES DISTRICT #8, A TWO YEAR TERM ENDING DECEMBER 31, 2021.**

A motion was made by Commissioner Jones seconded by Commissioner Ingalsbe to approve the reappointments of Carol Greaves and Mitch Johnson to serve on Emergency Services District #8, a two year term ending December 31, 2021. All present voted "Aye." MOTION PASSED.

- 34611        AUTHORIZE THE COUNTY JUDGE TO EXECUTE REQUEST FOR ADDITIONAL CONSTRUCTION MATERIALS OBSERVATION AND TESTING SERVICES NO. 4 DATED OCTOBER 18, 2019, FOR THE PSB FROM TERRACON FOR WORK RELATED TO THE HAYS COUNTY PUBLIC SAFETY BOND PROJECT.**

Marisol Villarreal-Alonzo, Auditor's Office, Mark Kennedy, General Counsel, and Commissioner Ingalsbe spoke on this item. A motion was made by Commissioner Ingalsbe seconded by Commissioner Jones to authorize the County Judge to execute Request for Additional Construction Materials Observation and Testing Services No. 4 dated October 18, 2019, for the PSB from Terracon for work related to the Hays County Public Safety Bond project under the Local Government Code 262.024. All present voted "Aye." MOTION PASSED.

- 34612        AUTHORIZE PAYMENT TO AUTOMATION DESIGNS, INC. FOR \$1,062.45 FOR FY19 REPLACEMENT SECURITY CAMERAS IN THE PRECINCT 3 BUILDING IN WHICH NO PURCHASE ORDER WAS ISSUED AS REQUIRED PER THE COUNTY PURCHASING POLICY AND AMEND THE BUDGET ACCORDINGLY.**

A motion was made by Commissioner Jones seconded by Commissioner Shell to authorize payment to Automation Designs, Inc. for \$1,062.45 for FY19 replacement security cameras in the Precinct 3 Building in which no purchase order was issued as required per the County Purchasing Policy and amend the budget accordingly. All present voted "Aye." MOTION PASSED.

- 34613        AUTHORIZE ON-SITE SEWAGE FACILITY PERMIT FOR 2 LONG-TERM RENTAL MOBILE HOMES AT 210 ELLA LANE, DRIPPING SPRINGS, TEXAS 78620.**

A motion was made by Commissioner Jones seconded by Commissioner Shell to authorize On-Site Sewage Facility Permit for 2 long-term rental mobile homes at 210 Ella Lane, Dripping Springs, Texas 78620. All present voted "Aye." MOTION PASSED.

- 34614        AUTHORIZE ON-SITE SEWAGE FACILITY PERMIT FOR THE BELL ELECTRIC OFFICE/WAREHOUSE AT 7410 CREEK ROAD, DRIPPING SPRINGS, TEXAS 78620.**

A motion was made by Commissioner Jones seconded by Commissioner Shell to authorize On-Site Sewage Facility Permit for the Bell Electric office/warehouse at 7410 Creek Road, Dripping Springs, Texas 78620. All present voted "Aye." MOTION PASSED.

- 34615        AUTHORIZE ON-SITE SEWAGE FACILITY PERMIT FOR THE HOT-MIX ASPHALT PLANT AT 1365 JACK C HAYS TRAIL, BUDA, TEXAS 78610.**

A motion was made by Commissioner Jones seconded by Commissioner Shell to authorize On-Site Sewage Facility Permit for the Hot-Mix Asphalt Plant at 1365 Jack C Hays Trail, Buda, Texas 78610. All present voted "Aye." MOTION PASSED.

- 34616        APPROVE THE REAPPOINTMENTS OF JERRY BORCHERDING, DIRECTOR OF TRANSPORTATION, AS THE PRIMARY VOTING MEMBER ON THE TECHNICAL ADVISORY COMMITTEE OF CAMPO, AND TIM VAN DE**



DECEMBER 10, 2019

**VORDE, ASSISTANT TRANSPORTATION SUPERINTENDENT, AS THE ALTERNATE VOTING MEMBER.**

A motion was made by Commissioner Jones seconded by Commissioner Shell to approve the reappointments of Jerry Borcharding, Director of Transportation, as the primary voting member on the Technical Advisory Committee of CAMPO, and Tim Van de Vorde, Assistant Transportation Superintendent, as the alternate voting member. All present voted "Aye." MOTION PASSED.

**34617 APPROVE THE APPOINTMENT OF JOHN NETT, CITY OF BUDA ENGINEER AND FLOODPLAIN ADMINISTRATOR, AS THE PRIMARY VOTING MEMBER ON THE TECHNICAL ADVISORY COMMITTEE OF CAMPO, AND APPOINT LEON BARBA, CITY OF KYLE ENGINEER, AS THE ALTERNATE VOTING MEMBER.**

A motion was made by Commissioner Jones seconded by Commissioner Shell to approve the appointment of John Nett, City of Buda Engineer and Floodplain Administrator, as the primary voting member on the Technical Advisory Committee of CAMPO, and appoint Leon Barba, City of Kyle Engineer, as the alternate voting member. All present voted "Aye." MOTION PASSED.

**34618 AUTHORIZE THE COUNTY JUDGE TO EXECUTE A PUBLIC UTILITY EASEMENT AGREEMENT BETWEEN HAYS COUNTY AND THE CITY OF SAN MARCOS RELATED TO UTILITIES LOCATED UPON HAYS COUNTY-OWNED PROPERTY ON UHLAND ROAD IN PRECINCT 1.**

A motion was made by Commissioner Shell seconded by Commissioner Ingalsbe to Authorize the County Judge to execute a Public Utility Easement agreement between Hays County and the City of San Marcos related to utilities located upon Hays County-owned property on Uhland Road in Precinct 1. All present voted "Aye." MOTION PASSED.

**34619 APPROVE OUT OF STATE TRAVEL UTILIZING THE SHERIFF'S OFFICE CONTINUING EDUCATION FUNDS FOR CAPTAIN JULIE VILLALPANDO AND LIEUTENANT ERIC BATCH TO ATTEND THE AMERICAN JAIL ASSOCIATION CONFERENCE AND JAIL EXPO IN AURORA, COLORADO ON APRIL 4-8, 2020 IN THE AMOUNT OF \$4,500.**

A motion was made by Commissioner Shell seconded by Commissioner Ingalsbe to Approve out of state travel utilizing the Sheriff's Office Continuing Education Funds for Captain Julie Villalpando and Lieutenant Eric Batch to attend the American Jail Association Conference and Jail Expo in Aurora, Colorado on April 4-8, 2020 in the amount of \$4,500. All present voted "Aye." MOTION PASSED.

**34620 APPROVE THE REAPPOINTMENTS OF CHUCK WARE AND JOE PENDLETON FOR EMERGENCY SERVICES DISTRICT #4, TWO YEAR TERMS ENDING DECEMBER 31, 2021.**

A motion was made by Commissioner Shell seconded by Commissioner Ingalsbe to approve the reappointments of Chuck Ware and Joe Pendleton for Emergency Services District #4, two year terms ending December 31, 2021. All present voted "Aye." MOTION PASSED.

**34621 AUTHORIZE THE SHERIFF'S OFFICE TO UTILIZE PARABELLUM RESEARCH FOR AMMUNITION PURCHASES TOTALING \$29,688 AS BUDGETED DURING THE FY20 BUDGET PROCESS PER DISCRETIONARY EXEMPTION LGC 262.024(A)(2).**

A motion was made by Commissioner Jones seconded by Commissioner Shell to authorize the Sheriff's Office to utilize Parabellum Research for ammunition purchases totaling \$29,688 as budgeted during the FY20 budget process per discretionary exemption LGC 262.024(a)(2). All present voted "Aye." MOTION PASSED.

**34622 APPROVE THE APPOINTMENTS OF MIKE JONES TO THE HAYS CONSOLIDATED INDEPENDENT SCHOOL DISTRICT (HAYS CISD) SAFETY AND SECURITY COMMITTEE AS REQUIRED BY SECTION 37.109 OF THE TEXAS EDUCATION CODE.**



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A motion was made by Commissioner Jones seconded by Commissioner Shell to approve the appointments of Mike Jones to the Hays Consolidated Independent School District (Hays CISD) Safety and Security Committee as required by Section 37.109 of the Texas Education Code. All present voted "Aye." MOTION PASSED.

**34623      AUTHORIZE THE OFFICE OF EMERGENCY SERVICES / FIRE MARSHAL'S OFFICE TO ADJUST THE FEE SCHEDULE TO SET A FEE FOR CONSTRUCTION PERMITS WITH PLAN REVIEWS WITH A MAXIMUM FEE OF \$1000.00.**

Judge Becerra spoke on this item. A motion was made by Commissioner Jones seconded by Commissioner Shell to Authorize the Office of Emergency Services / Fire Marshal's Office to adjust the fee schedule to set a fee for Construction Permits with plan reviews with a maximum fee of \$1000.00. All present voted "Aye." MOTION PASSED.

**34624      AUTHORIZE THE OFFICE OF EMERGENCY SERVICES / FIRE MARSHAL'S OFFICE TO PARTICIPATE IN THE 1033 DEFENSE LOGISTICS AGENCY.**

A motion was made by Commissioner Jones seconded by Commissioner Ingalsbe to authorize the Office of Emergency Services / Fire Marshal's Office to participate in the 1033 Defense Logistics Agency. All present voted "Aye." MOTION PASSED.

**34625      AUTHORIZE THE OFFICE OF EMERGENCY SERVICES TO HOST THE ANNUAL LOCAL EMERGENCY PLANNING COMMITTEE LUNCHEON FOR \$850.**

A motion was made by Commissioner Jones seconded by Commissioner Ingalsbe to Authorize the Office of Emergency Services to host the annual Local Emergency Planning Committee Luncheon for \$850. All present voted "Aye." MOTION PASSED.

**34626      APPROVE UTILITY PERMITS.**

A motion was made by Commissioner Jones seconded by Commissioner Ingalsbe to approve Utility Permits. All present voted "Aye." MOTION PASSED.

**34627      AUTHORIZE ON-SITE SEWAGE FACILITY PERMIT FOR THE BEERBURG BREWERY, AUSTIN, TEXAS 78736.**

A motion was made by Commissioner Jones seconded by Commissioner Smith to authorize On-Site Sewage Facility Permit for the Beerburg Brewery, Austin, Texas 78736. All present voted "Aye." MOTION PASSED.

**34628      AUTHORIZE REPAIRS AT THE HISTORIC COURTHOUSE RELATED TO WATER DAMAGE FUNDED FROM THE TEXAS ASSOCIATION OF COUNTIES (TAC) INSURANCE CLAIM AND AMEND THE BUDGET ACCORDINGLY.**

Tammy Crumley, County Wide Operations, presented to the court. Commissioner Smith and Judge Becerra spoke on this item. A motion was made by Commissioner Jones seconded by Commissioner Smith to Authorize repairs at the Historic Courthouse related to water damage funded from the Texas Association of Counties (TAC) insurance claim and amend the budget accordingly. All present voted "Aye." MOTION PASSED.

**34629      AUTHORIZE THE COUNTY JUDGE TO EXECUTE A FIRST AMENDMENT TO THE HAYS COUNTY REGIONAL HABITAT CONSERVATION PLAN PARTICIPATION AGREEMENT BETWEEN HAYS COUNTY AND LAZY OAKS RANCH, LP, A TEXAS LIMITED PARTNERSHIP.**

A motion was made by Commissioner Jones seconded by Commissioner Smith to authorize the County Judge to execute a First Amendment to the Hays County Regional Habitat Conservation Plan Participation Agreement between Hays County and Lazy Oaks Ranch, LP, a Texas Limited Partnership. All present voted "Aye." MOTION PASSED.



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- 34630 AUTHORIZE A WAIVER TO THE PURCHASING POLICY FOR THE ELECTIONS OFFICE TO UTILIZE HART INTERCIVIC RELATED TO BALLOT PAPER FOR NEW ELECTIONS EQUIPMENT.**

A motion was made by Commissioner Jones seconded by Commissioner Smith to authorize a waiver to the purchasing policy for the Elections Office to utilize Hart Intercivic related to ballot paper for new elections equipment. All present voted "Aye." MOTION PASSED.

- 34631 AUTHORIZE THE COUNTY JUDGE TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT (PSA) BETWEEN HAYS COUNTY AND PAPE-DAWSON ENGINEERS, INC. FOR \$450,000 TO PROVIDE SCHEMATIC, ENVIRONMENTAL DOCUMENTATION AND PLANS, SPECIFICATIONS & ESTIMATES (PS&E) SERVICES FOR THE RM 12 INTERSECTION IMPROVEMENTS AT JACOBS WELL ROAD AND GOLDS ROAD PROJECT AS PART OF THE HAYS COUNTY 2016 ROAD BOND PROGRAM.**

Commissioner Shell spoke on this item. A motion was made by Commissioner Shell seconded by Commissioner Smith to Authorize the County Judge to execute a Professional Services Agreement (PSA) between Hays County and Pape-Dawson Engineers, Inc. for \$450,000 to provide schematic, environmental documentation and Plans, Specifications & Estimates (PS&E) services for the RM 12 Intersection Improvements at Jacobs Well Road and Golds Road Project as part of the Hays County 2016 Road Bond Program. All present voted "Aye." MOTION PASSED.

- 34632 AUTHORIZE THE COUNTY JUDGE TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT (PSA) BETWEEN HAYS COUNTY AND DANNENBAUM ENGINEERING COMPANY - AUSTIN, LLC IN THE AMOUNT OF \$400,000 TO PROVIDE SCHEMATIC, ENVIRONMENTAL DOCUMENTATION AND PLANS, SPECIFICATIONS & ESTIMATES (PS&E) SERVICES FOR THE POSEY ROAD CORRIDOR IMPROVEMENTS PROJECT FROM I-35 TO HUNTER ROAD (FM 2439) AS PART OF THE HAYS COUNTY 2016 ROAD BOND PROGRAM.**

Dan Lyon gave a public comment. Marisol Villarreal-Alonzo, Auditor office, Mark Kennedy, General Counsel, Commissioner Smith, Commissioner Shell, and Judge Becerra, spoke on this item. A motion was made by Commissioner Shell seconded by Commissioner Jones to authorize the County Judge to execute a Professional Services Agreement (PSA) between Hays County and Dannenbaum Engineering Company - Austin, LLC in the amount of \$400,000 to provide schematic, environmental documentation and Plans, Specifications & Estimates (PS&E) services for the Posey Road Corridor Improvements Project from I-35 to Hunter Road (FM 2439) as part of the Hays County 2016 Road Bond Program. All present voted "Aye." MOTION PASSED.

- 34633 AUTHORIZE THE COUNTY JUDGE TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT (PSA) BETWEEN HAYS COUNTY AND JONES & CARTER, INC. FOR \$700,000 TO PROVIDE SCHEMATIC, ENVIRONMENTAL DOCUMENTATION AND PLANS, SPECIFICATIONS & ESTIMATES (PS&E) SERVICES FOR THE CENTERPOINT ROAD CORRIDOR IMPROVEMENTS PROJECT FROM I-35 TO HUNTER ROAD (FM 2439) AS PART OF THE HAYS COUNTY 2016 ROAD BOND PROGRAM.**

Commissioner Shell spoke on this item. A motion was made by Commissioner Shell seconded by Commissioner Jones to authorize the County Judge to execute a Professional Services Agreement (PSA) between Hays County and Jones & Carter, Inc. for \$700,000 to provide schematic, environmental documentation and Plans, Specifications & Estimates (PS&E) services for the Centerpoint Road Corridor Improvements Project from I-35 to Hunter Road (FM 2439) as part of the Hays County 2016 Road Bond Program. All present voted "Aye." MOTION PASSED.

- 34634 AUTHORIZE THE COUNTY JUDGE TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT (PSA) BETWEEN HAYS COUNTY AND JONES & CARTER, INC. FOR \$650,000 TO PROVIDE SCHEMATIC, ENVIRONMENTAL DOCUMENTATION AND PLANS, SPECIFICATIONS & ESTIMATES (PS&E) SERVICES FOR THE MCCARTY LANE CORRIDOR IMPROVEMENTS PROJECT FROM I-35 TO HUNTER ROAD (FM 2439) AS PART OF THE HAYS COUNTY 2016 ROAD BOND PROGRAM.**





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Commissioner Shell spoke on this item. A motion was made by Commissioner Shell seconded by Commissioner Smith to authorize the County Judge to execute a Professional Services Agreement (PSA) between Hays County and Jones & Carter, Inc. for \$650,000 to provide schematic, environmental documentation and Plans, Specifications & Estimates (PS&E) services for the McCarty Lane Corridor Improvements Project from I-35 to Hunter Road (FM 2439) as part of the Hays County 2016 Road Bond Program. All present voted "Aye." MOTION PASSED.

**34635      AUTHORIZE THE COUNTY JUDGE TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT (PSA) BETWEEN HAYS COUNTY AND K FRIESE & ASSOCIATES, INC. FOR \$750,000 TO PROVIDE PRELIMINARY ENGINEERING AND PUBLIC INVOLVEMENT SERVICES FOR THE PROPOSED RM 150 EXTENSION FROM RM 12 TO US 290 AS PART OF THE HAYS COUNTY 2016 ROAD BOND PROGRAM.**

Commissioner Smith spoke on this item. A motion was made by Commissioner Smith seconded by Commissioner Jones to authorize the County Judge to execute a Professional Services Agreement (PSA) between Hays County and K Friese & Associates, Inc. for \$750,000 to provide preliminary engineering and public involvement services for the proposed RM 150 Extension from RM 12 to US 290 as part of the Hays County 2016 Road Bond Program. All present voted "Aye." MOTION PASSED.

**34636      APPROVE THE AGREEMENT FOR A LOCAL ON-SYSTEM IMPROVEMENT PROJECT (RM 150 CENTER TURN LANE) BETWEEN HAYS COUNTY AND THE TEXAS DEPARTMENT OF TRANSPORTATION (TXDOT) FOR \$880,367 AND AUTHORIZE THE COUNTY JUDGE TO EXECUTE SAID AGREEMENT ON BEHALF OF HAYS COUNTY.**

Commissioner Ingalsbe spoke on this item. A motion was made by Commissioner Ingalsbe seconded by Commissioner Jones to approve the Agreement for a Local On-System Improvement Project (RM 150 Center Turn Lane) between Hays County and the Texas Department of Transportation (TxDOT) for \$880,367 and authorize the County Judge to execute said Agreement on behalf of Hays County. All present voted "Aye." MOTION PASSED.

**34637      HOLD A PUBLIC HEARING WITH POSSIBLE ACTION TO REDUCE THE CURRENT SPEED LIMIT OF 45 MPH ON HILLIARD ROAD NEAR VALLEY VIEW WEST DRIVE & NORTHWEST HILLS ROAD TO 40 MPH, WITH ANOTHER REDUCTION TO 30 MPH BEFORE THE ROAD MAKES A CURVE AT THIS INTERSECTION.**

Judge Becerra opened the public hearing at 11:34 a.m. Dan Lyon made a public comment. Judge Becerra closed the public hearing at 11:45 a.m. Commissioner Shell, Commissioner Smith, Jerry Borcharding, Director of Transportation, spoke on this item. A motion was made by Commissioner Shell seconded by Commissioner Smith to reduce the current speed limit of 45 MPH on Hilliard Road near Valley View West Drive & Northwest Hills Road to 40 MPH, with another reduction to 30 MPH before the road makes a curve at this intersection. All present voted "Aye." MOTION PASSED.

**34638      RELEASE OF THE MAINTENANCE BOND #1051956 IN THE AMOUNT OF \$106,841.02, AND THE ACCEPTANCE OF ROADS INTO THE COUNTY ROAD MAINTENANCE SYSTEM FOR BELTERRA SUBDIVISION, PHASE 21, SECTION 1.**

A motion was made by Commissioner Smith seconded by Commissioner Ingalsbe to release of the maintenance bond #1051956 in the amount of \$106,841.02, and the acceptance of roads into the county road maintenance system for Belterra subdivision, Phase 21, Section 1. All present voted "Aye." MOTION PASSED.

**34639      AUTHORIZE THE COUNTY JUDGE TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT BETWEEN HAYS COUNTY AND LJA ENGINEERING, AS PART OF THE AWARD FOR RFQ 2020-Q01, RELATED TO RIGHT OF WAY COORDINATION SERVICES ALONG COTTON GIN ROAD IN PRECINCT 2, AND AMEND THE BUDGET ACCORDINGLY.**

Dan Lyon gave a public comment. Mark Kennedy, General Counsel, and Commissioner Jones spoke on this item. A motion was made by Commissioner Jones seconded by Commissioner Smith to authorize the County Judge to execute a Professional Services Agreement between Hays County and LJA



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Engineering, as part of the award for RFQ 2020-Q01, related to right of way coordination services along Cotton Gin Road in Precinct 2, and amend the budget accordingly. All present voted "Aye." MOTION PASSED.

- 34640      AUTHORIZE GENERAL COUNSEL TO EXECUTE AN AGREEMENT FOR LEGAL SERVICES BETWEEN HAYS COUNTY AND DAVIDSON, TROILO, REAM, AND GARZA ("DTRG"), AS PART OF THE AWARD FOR RFQ 2020-Q01, RELATED TO RIGHT OF WAY ACQUISITION SERVICES FOR PROPERTIES ALONG COTTON GIN ROAD IN PRECINCT 2.**

Mark Kennedy, General Counsel, and Commissioner Jones spoke on this item. A motion was made by Commissioner Jones seconded by Commissioner Ingalsbe to authorize General Counsel to execute an Agreement for Legal Services between Hays County and Davidson, Troilo, Ream, and Garza ("DTRG"), as part of the award for RFQ 2020-Q01, related to right of way acquisition services for properties along Cotton Gin Road in Precinct 2. All present voted "Aye." MOTION PASSED.

- 34641      AUTHORIZE THE COUNTY JUDGE TO EXECUTE AN INTERLOCAL UTILITY RELOCATION AGREEMENT BETWEEN HAYS COUNTY AND THE CITY OF KYLE, RELATED TO THE RELOCATION OF A 10 INCH FORCE MAIN SEWER LINE ALONG DACY LANE, BETWEEN SUNFLOWER CIRCLE AND AMBERWOOD DRIVE AND AMEND THE BUDGET ACCORDINGLY.**

Commissioner Jones, and Commissioner Ingalsbe spoke on this item. A motion was made by Commissioner Jones seconded by Commissioner Ingalsbe to authorize the County Judge to execute an Interlocal Utility Relocation Agreement between Hays County and the City of Kyle, related to the relocation of a 10 inch force main sewer line along Dacy Lane, between Sunflower Circle and Amberwood Drive and amend the budget accordingly. All present voted "Aye." MOTION PASSED.

- 34642      APPROVE PRELIMINARY PLAN FOR SUB-1103; JUVE POSADA SUBDIVISION (2 LOTS).**

Colby Machacek, Development services, spoke on this item. A motion was made by Commissioner Jones seconded by Commissioner Ingalsbe to approve preliminary plan for SUB-1103; Juve Posada Subdivision (2 Lots). All present voted "Aye." MOTION PASSED.

- 34643      APPROVE THE FINAL PLAT FOR THE SHEKINAH GROVE SUBDIVISION SUB-1277.**

Colby Machacek, Development services, spoke on this item. A motion was made by Commissioner Jones seconded by Commissioner Ingalsbe to approve the final plat for the Shekinah Grove subdivision SUB-1277. All present voted "Aye." MOTION PASSED.

- 34644      GRANT A VARIANCE FROM CHAPTER 721.5.05 OF THE HAYS COUNTY DEVELOPMENT REGULATIONS AND APPROVE THE PRELIMINARY PLAN; PLN-1388-NP; MILAGRO SPRINGS, SECTION 1, LOT 1 (1 LOT).**

Colby Machacek and Caitlyn Strickland, Development services, Commissioner Shell, and Judge Becerra spoke on this item. A motion was made by Commissioner Jones seconded by Commissioner Ingalsbe to grant a variance from Chapter 721.5.05 of the Hays County Development Regulations and approve the Preliminary Plan; PLN-1388-NP; Milagro Springs, Section 1, Lot 1 (1 Lot). All present voted "Aye." MOTION PASSED.

- 34645      AWARD CONTRACT FOR IFB 2020-B01 SAWYER RANCH ROAD PEDESTRIAN IMPROVEMENTS TO D & S CONCRETE CONTRACTORS.**

Commissioner Smith spoke on this item. A motion was made by Commissioner Smith seconded by Commissioner Shell to award contract for IFB 2020-B01 Sawyer Ranch Road Pedestrian Improvements to D & S Concrete Contractors. All present voted "Aye." MOTION PASSED.

- 34646      AUTHORIZE PAYMENT TO ALLEN BOOT'S FROM THE HAYS CO. CONSTABLE, PCT. 4, FROM LAW ENFORCEMENT SUPPLIES, RELATED**



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**TO THE PURCHASE OF ONE (1) PAIR OF MOTORCYCLE BOOTS FOR \$339.98.**

Constable Hood, Commissioner Ingalsbe, Commissioner Jones, Commissioner Shell, Commissioner Smith, and Judge Becerra spoke on this item. A motion was made by Commissioner Smith seconded by Commissioner Shell to authorize payment to Allen Boot's from the Hays Co. Constable, Pct. 4, from Law Enforcement Supplies, related to the purchase of one (1) pair of motorcycle boots for \$339.98. Commissioner Shell and Commissioner Smith voted "Aye". Commissioner Ingalsbe, Commissioner Jones, and Judge Becerra voted "No". MOTION NOT PASSED.

**34647 AUTHORIZE THE SUBMISSION OF A GRANT APPLICATION TO THE TEXAS DEPARTMENT OF EMERGENCY MANAGEMENT FOR THE PRE-DISASTER MITIGATION (PDM) GRANT FUNDING FOR THE HAYS COUNTY COMMUNITY FLOOD MITIGATION PROJECT.**

Tammy Crumley, County Wide Operations, Commissioner Ingalsbe, Commissioner Shell, Commissioner Smith and Judge Becerra spoke on this item. A motion was made by Commissioner Shell seconded by Commissioner Ingalsbe to authorize payment to authorize the submission of a grant application to the Texas Department of Emergency Management for the Pre-Disaster Mitigation (PDM) grant funding for the Hays County Community Flood Mitigation Project. All present voted "Aye." MOTION PASSED.

**34648 AUTHORIZE THE EXECUTION OF AMENDMENT NO. 03 TO A CONTRACT WITH THE TEXAS DEPARTMENT OF STATE HEALTH SERVICES (DSHS) FOR THE PUBLIC HEALTH EMERGENCY PREPAREDNESS IN THE AMOUNT OF \$2,971 AND AMEND THE BUDGET ACCORDINGLY.**

Tammy Crumley, County Wide Operations, spoke on this item. A motion was made by Commissioner Ingalsbe seconded by Commissioner Jones to authorize the execution of Amendment No. 03 to a contract with the Texas Department of State Health Services (DSHS) for the Public Health Emergency Preparedness in the amount of \$2,971 and amend the budget accordingly. All present voted "Aye." MOTION PASSED.

**34649 ADOPT A RESOLUTION OF SUPPORT FOR ESTABLISHING THE HAYS COUNTY MENTAL HEALTH COURT.**

Ed Kany and Jim Strauos made public comments on this item. Judge Tacie Zelhart recognized several people in the courtroom for their service to the Mental Health field. Commissioner Ingalsbe, Commissioner Jones, Commissioner Shell, Commissioner Smith, and Judge Becerra thanked Judge Zelhart for her service to the Mental Health community. A motion was made by Commissioner Ingalsbe seconded by Commissioner Jones to adopt a Resolution of support for establishing the Hays County Mental Health Court. All present voted "Aye." MOTION PASSED.

**34650 DISCUSSION AND POSSIBLE ACTION REGARDING THE WORKINGS OF THE CITIZENS ELECTION ADVISORY COMMISSION.**

Linda Calvert, Roland Saucedo, Susan Raybuck, Elaine Cardenas, and Trevor Newman gave public comments. Mark Kennedy, General Counsel, Anita Collins, Executive Assistant to the Hays County Judge, Jennifer Anderson, Elections Administrator, Commissioner Ingalsbe, Commissioner Jones, Commissioner Shell, Commissioner Smith, and Judge Becerra spoke on this item. Commissioners Court gave authority to members of the Citizens Election Committee to make decisions about administrative support and whether or not to keep the meetings public. Several commissioners, including Commissioners Ingalsbe and Shell, recommended keeping the meetings public. Mark Kennedy advised against adopting the Open Meetings Act. A motion was made by Commissioner Smith seconded by Commissioner Jones to ensure that no political candidate or office holder will serve on the Citizen Election Advisory Commission. All present voted "Aye." MOTION PASSED.

**48 DISCUSSION AND POSSIBLE ACTION REGARDING THE AVAILABILITY OF INDIGENT MENTAL HEALTH SERVICES IN NORTH HAYS COUNTY AND REPORT PROVIDED ON RECENT ACTIONS PROVIDED BY CHARLES CAMPISE.**

Mr. Charles Campise reported to the Court about a grant application that was recently submitted. No action was taken.





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Clerk's note: Court took a recess at 10:33 a.m. and resumed into open session at 10:49 a.m.

- 34651      AUTHORIZE THE COUNTY JUDGE TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT (PSA) BETWEEN HAYS COUNTY AND COSTELLO, INC. FOR \$13,000 REGARDING ENGINEERING SERVICES OF COTTONWOOD CREEK TRIBUTARY 1 ALONG THE CREEK BETWEEN COTTONWOOD PKWY AND CLOVIS BARKER ROAD IN PCT 1 AND AMEND THE BUDGET ACCORDINGLY.**

Greg Frank, representative of Costello, Inc. was present to answer questions for the court. Mark Kennedy, General Counsel, Commissioner Ingalsbe, Commissioner Shell, Commissioner Smith, and Judge Becerra spoke on this item. A motion was made by Commissioner Ingalsbe seconded by Commissioner Shell to authorize the County Judge to execute a Professional Services Agreement (PSA) between Hays County and Costello, Inc. for \$13,000 regarding engineering services of Cottonwood Creek Tributary 1 along the creek between Cottonwood Pkwy and Clovis Barker Road in Pct 1 and amend the budget accordingly. All present voted "Aye." MOTION PASSED.

- 34652      AUTHORIZE THE COUNTY JUDGE TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT BETWEEN HAYS COUNTY AND WATER AND EARTH TECHNOLOGIES FOR THE MAINTENANCE OF THE HAYS COUNTY FLOOD WARNING SYSTEM; TO INCLUDE DETENTION BASINS, LOW WATER CROSSING GAUGES/WARNING SYSTEMS, CAMERAS, AND RAIN GAGES THROUGHOUT HAYS COUNTY.**

Justin McInnis, Emergency Services presented the court information about the systems. Mark Kennedy, General Counsel, made note to add Local Govt. Code 262.024 to the motion. Commissioner Ingalsbe and Judge Becerra spoke on this item. A motion was made by Commissioner Jones seconded by Commissioner Shell to authorize payment to authorize the County Judge to execute a Professional Services Agreement under the Local Government Code 262.024(a)(7) between Hays County and Water and Earth Technologies for the maintenance of the Hays County Flood Warning System; to include detention basins, low water crossing gauges/warning systems, cameras, and rain gages throughout Hays County. All present voted "Aye." MOTION PASSED.

- 34653      AUTHORIZE THE COUNTY JUDGE TO EXECUTE A \$7,500 INTERLOCAL AGREEMENT WITH THE TEXAS A&M AGRILIFE EXTENSION SERVICE FOR THE GRANT FUNDED FERAL HOG ABATEMENT PROGRAM AND AMEND THE BUDGET ACCORDINGLY.**

Dan Lyon gave a public comment. Tammy Crumley, County Wide Operations, Commissioner Jones, and Commissioner Shell spoke on this item. A motion was made by Commissioner Jones seconded by Commissioner Shell to Authorize the County Judge to execute a \$7,500 Interlocal Agreement with the Texas A&M AgriLife Extension Service for the grant funded Feral Hog Abatement Program and amend the budget accordingly. All present voted "Aye." MOTION PASSED.

- 34654      10:00 AM - HOLD A PUBLIC HEARING FOR COMMENTS RELATED TO THE USE OF THE COUNTYWIDE POLLING PLACE PROGRAM IN THE NOVEMBER 5, 2019 CONSTITUTIONAL AMENDMENT ELECTION AND APPLICATION TO THE OFFICE OF SECRETARY OF STATE FOR "SUCCESSFUL STATUS" FOR THE USE OF THIS PROGRAM IN FUTURE ELECTIONS.**

Judge Becerra opened the public hearing at 10:50 a.m. Jon Leonard made public comments. Judge Becerra closed the public hearing at 10:55 a.m. Jennifer Anderson read a comment on behalf of Donna Haschke, Hays County Democrat County Chair. Commissioner Ingalsbe and Commissioner Smith spoke on this item. No action taken.

- 34655      ADOPT A RESOLUTION IN SUPPORT OF REQUESTING "SUCCESSFUL STATUS" FOR HAYS COUNTY'S APPLICATION TO USE OF THE COUNTYWIDE POLLING PLACE PROGRAM IN FUTURE ELECTIONS.**

A motion was made by Commissioner Jones seconded by Commissioner Ingalsbe to adopt a Resolution in support of requesting "Successful Status" for Hays County's application to use of the Countywide Polling Place Program in future elections. All present voted "Aye." MOTION PASSED.



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**34656 APPROVE THE JOINT ELECTION AGREEMENT FOR THE PRIMARY 2020 ELECTION AND ANY RESULTING RUNOFF ELECTION.**

Jennifer Anderson, Elections Administrator, and Judge Becerra spoke on this item. A motion was made by Commissioner Ingalsbe seconded by Commissioner Jones to approve the Joint Election Agreement for the Primary 2020 election and any resulting runoff election. All present voted "Aye." MOTION PASSED.

**34657 AWARD RFP 2020-P02 COUNTY WIDE JANITORIAL SERVICES TO PBS OF TEXAS, OPTION A AND AUTHORIZE STAFF AND GENERAL COUNSEL TO NEGOTIATE A CONTRACT.**

Tammy Crumley, County Wide Operations, Marisol Villarreal-Alonzo, Auditors office, spoke on this item. A motion was made by Commissioner Smith seconded by Commissioner Shell to award RFP 2020-P02 County Wide Janitorial Services to PBS of Texas, Option A and authorize staff and General Counsel to negotiate a contract. All present voted "Aye." MOTION PASSED.

Court convened into Executive Session 12:48 p.m. Then reconvened into open court at 1:25 p.m.

**Clerk's Note Agenda Item #56 RE:** 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 OR VALUE OF REAL PROPERTY REGARDING PARKS AND OPEN SPACE WITHIN HAYS COUNTY. POSSIBLE ACTION MAY FOLLOW IN OPEN COURT. – **WAS PULLED.**

**Clerk's Note Agenda Item #57 RE:** EXECUTIVE SESSION PURSUANT TO 551.071 OF THE TEXAS GOVERNMENT CODE: CONSULTATION WITH COUNSEL REGARDING PENDING AND/OR CONTEMPLATED LITIGATION INVOLVING HAYS COUNTY. POSSIBLE ACTION MAY FOLLOW IN OPEN COURT. – **WAS PULLED.**

**34658 Executive Session pursuant to Sections 551.071 and 551.072 of the Texas Government Code: consultation with counsel and deliberation regarding the purchase, exchange or value of Right of Way along Dacy Lane in Pct 2. Possible action may follow in open court.**

A motion was made by Commissioner Jones seconded by Commissioner Ingalsbe to authorize the County Judge to execute a purchase agreement between Hays County and Rolando and Miriam Robles (Parcel 64) for the acquisition of approximately 0.345 acres of right of way for the Dacy Lane project, as presented in Executive Session.

A motion was made by Commissioner Jones seconded by Commissioner Ingalsbe to authorize the County Judge to execute a purchase agreement between Hays County and Lena Ormand, individually, and Lena Ormand and William Clyde Ormand, as Co-Trustees (Parcel 71) for the acquisition of approximately 0.770 acres of right of way for the Dacy Lane project, as presented in Executive Session.

**59 Executive Session pursuant to Sections 551.071 and 551.074 of the Texas Government Code: consultation with counsel and deliberation regarding all individual positions in the Hays County Office of Emergency Services. Possible discussion and/or action may follow in open Court.**

No action taken.

**34659 Executive Session pursuant to Sections 551.071 and 551.072 of the Texas Government Code: consultation with counsel and deliberation regarding the purchase, exchange, donation, lease and/or value of real property located on Lime Kiln Road, San Marcos in Pct. 4. Possible action to follow in open court.**

A motion was made by Commissioner Smith seconded by Commissioner Jones to authorize the County Judge to execute 5 agreements concerning the donation of property within the County of Hays, State of Texas between Hays County and the following parties: Parcel 2 – Jeri Lynn Rutledge Trust, Parcel 3 – Ser 1991 Trust, Parcel 4 – Jass 1991 Trust, Parcel 5 – S.E. and Jeri Lynn Rutledge Charitable Unitrust, Parcel 6 – Jeri Lynn Rutledge Trust. All of this is being done for the acquisition of right of way along Lime Kiln road project, as presented in Executive Session.



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**61 Discussion and possible action related to the burn ban and/or disaster declaration.**

Judge Becerra announced Scott Raven, Fire Marshall, recommendation to continue the burn ban lift.

**62 Discussion related to the Hays County inmate population, to include current population counts and costs.**

Judge Becerra read Sheriff Cutler's report of the inmate population and cost of inmate outsourcing.

**Clerk's Note Agenda Item #64 RE:** 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. - **WAS PULLED.**

**Clerk's Note Agenda Item #65 RE:** DISCUSSION OF ISSUES RELATED TO THE ROAD BOND PROJECTS, INCLUDING UPDATES FROM MIKE WEAVER, PRIME STRATEGIES, WADE BENTON, HNTB AND ALLEN CROZIER, HDR. POSSIBLE ACTION MAY FOLLOW - **WAS PULLED.**

**Clerk's Note Agenda Item #66 RE:** DISCUSSION OF ISSUES RELATED TO ELECTRO PURIFICATION INCLUDING UPDATES ON THE FILED APPLICATION. POSSIBLE ACTION MAY FOLLOW - **WAS PULLED.**

**ADJOURNMENT**

A motion was made by Commissioner Jones, seconded by Commissioner Shell to adjourn court at 1:27 p.m.

I, ELAINE H. CÁRDENAS, COUNTY CLERK and EXOFFICIO CLERK OF THE COMMISSIONERS' COURT, do hereby certify that the foregoing contains a true and accurate record of the proceedings had by the Hays County Commissioners' Court on December 10, 2019.



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ELAINE H. CÁRDENAS, COUNTY CLERK AND EXOFFICIO  
CLERK OF THE COMMISSIONERS' COURT OF  
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 the payment of the December 31, 2019 payroll disbursements in an amount not to exceed \$3,800,000.00 effective December 31, 2019 and post totals for wages, withholdings, deductions and benefits on the Hays County website once finalized.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
CONSENT	December 17, 2019	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
Britney Richey, Hays County Treasurer	BECERRA	N/A

#### SUMMARY

Approve the December end of month payroll disbursements not to exceed \$3,800,000.00.

## 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 re-appointment of Diane Hervol, to the Emergency Service District (ESD) #9, a two year term ending December 31, 2021.

#### ITEM TYPE

CONSENT

#### MEETING DATE

December 17, 2019

#### AMOUNT REQUIRED

N/A

#### LINE ITEM NUMBER

N/A

#### AUDITOR USE ONLY

#### AUDITOR COMMENTS:

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

#### REQUESTED BY

Commissioner Ingalsbe

#### SPONSOR

INGALSBE

#### CO-SPONSOR

N/A

#### SUMMARY

This is for a 2 year term beginning January 1, 2020 and ending December 31, 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

Authorize the County Judge to execute a contract modification with Thomson Reuters Westlaw related to legal research for the District Attorney's Office.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
CONSENT	December 17, 2019	\$500

#### LINE ITEM NUMBER

001-607-00.5448

#### AUDITOR USE ONLY

##### AUDITOR COMMENTS:

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

REQUESTED BY	SPONSOR	CO-SPONSOR
Mau	INGALSBE	N/A

#### SUMMARY

The District Attorney's legal staff currently utilizes Westlaw for legal research and requests the Court to consider the modification to the terms to the current contract. The attached amendment will add one additional attorney, effective January 1, 2020, to the current plan.

Thomson Reuters offers an unparalleled suite of legal resources and tools for legal counsel and government professionals. The software allows access to the most comprehensive collection of legal information. Funds are available within the DA's Office operating budget to fund this request. Funds for the additional user were budgeting in the FY 20 budget.

Attachment: Thomson Reuters Westlaw Modification Addendum



## Order Form

Order ID: Q-00651824

Contact your representative [william.lavelle@thomsonreuters.com](mailto:william.lavelle@thomsonreuters.com) with any questions. Thank you.

### Account Address

Account #: 1000623393  
HAYS COUNTY  
HAYS COUNTY JUDGE  
111 E SAN ANTONIO ST RM 300  
SAN MARCOS TX 78666-5534 US

### Shipping Address

Account #: 1000623393  
HAYS COUNTY  
HAYS COUNTY JUDGE  
111 E SAN ANTONIO ST RM 300  
SAN MARCOS TX 78666-5534 US

### Billing Address

Account #: 1000623393  
HAYS COUNTY  
HAYS COUNTY JUDGE  
111 E SAN ANTONIO ST RM 300  
SAN MARCOS, TX 78666-5534 US

This Order Form is a legal document between West Publishing Corporation and Subscriber. West Publishing Corporation also means "West", "we" or "our" and Subscriber means "you", or "I". Subscription terms, if any, follow the ordering grids below.

### ProFlex Modifications

Service Number	Product	Agreement Number	New Monthly Charge
40757482	Existing ProFlex	0000060533	\$1,800.00

If this modification is of a WestlawPRO Select product or ProFlex under a current WestPack, this Agreement serves as a modification of the Principal product.

If you are licensing banded products, you certify that the number of attorneys (partners, shareholders, associates, contract or staff attorneys, of counsel, and the like), corporate users, personnel or full-time-equivalent students provided to us in the attached form is accurate and complete as of the date you signed this document. Pricing for banded products is made in reliance upon your certification. If we learn that the actual number is greater, we reserve the right to issue additional passwords and increase your Monthly Charges to the price for the correct band.

The terms of this modification will be effective on the date we process the modification. The Monthly Charges will increase to new Monthly Charges identified in the New Monthly Charges column and will begin billing the first of the month following processing. All other terms and conditions of the Order Form including, but not limited to, annual Monthly Charges increases and the length of the term remain unchanged.

### Miscellaneous

**Charges, Payments & Taxes.** You agree to pay all charges in full within 30 days of the date of invoice. You are responsible for any applicable sales, use, value added tax (VAT), etc. unless you are tax exempt. If you are a non-government subscriber and fail to pay your invoiced charges, you are responsible for collection costs including attorneys' fees.

**Settling a Disputed Balance.** Payments marked 'paid in full', or with any other restrictive language will not operate as an accord and satisfaction without our prior written approval. We reserve our right to collect any remaining amount due to us on your account. Partial payments intended to settle an outstanding balance in full must be sent to: Customer Service, 610 Opperman Drive, P.O. Box 64833, Eagan, MN 55123-1803, along with a written explanation of the disagreement or dispute. This address is different from the address you use to make account payments.

**Credit Verification.** If you are applying for credit as an individual, we may request a consumer credit report to determine your creditworthiness. If we obtain a consumer credit report, you may request the name, address and telephone number of the agency that supplied the credit report. If you are applying for credit on behalf of a business, we may request a current business financial statement from you to consider your request.

**Auto Charge Credit Card/Electronic Funds Transfer Election Payment Terms.** You may authorize us to automatically charge a credit card, debit card or electronic fund transfer to pay charges due. Contact Customer Service at 1-800-328-4880 for authorization procedures. If you have previously authorized us to bill a credit card, debit card or make electronic fund transfers for West subscriptions on an ongoing basis, or authorizing the same as part of this order, no further action is needed.

**Returns and Refunds.** You may return a print product to us within 45 days of the original shipment date if you are not completely satisfied. Assured Print Pricing, Library Savings Plan, West Complete, Library Maintenance Agreements, ePack, WestPack, Westlaw, CLEAR, Monitor Suite, ProView eBook, Software, West LegalEdcenter, Practice Solutions, TREWS, Peer Monitor, and Data Privacy Advisor charges are not refundable. Please see <http://static.legalsolutions.thomsonreuters.com/static/returns-refunds.pdf> or contact Customer Service at 1-800-328-4880 for additional details regarding our policies on returns and refunds.

**Applicable Law.** If you are a state or local governmental entity, your state's law will apply and any claim may be brought in the state or federal courts located in your state. If you are a non-government entity, this Order Form will be interpreted under Minnesota state law. Any claim by one of us may be brought in the state or federal courts in Minnesota. If you are a United States Federal Government subscriber, United States federal law will apply and any claim may be brought in any federal court.

**Excluded Charges.** If you access services that are not included in your subscription you will be charged our then-current rate ("Excluded Charges"). Excluded Charges will be invoiced and due with your next payment. For your reference, the current Excluded Charges schedules are located at the links below. Excluded Charges may change after at least 30 days written or online notice.

<http://static.legalsolutions.thomsonreuters.com/static/agreement/schedule-a-concourse-case-notebook-hosted.pdf>

**Banded Product Subscriptions** You certify the total number of attorneys (partners, shareholders, associates, contract or staff attorneys, of counsel, and the like), corporate users, personnel or full-time-equivalent students is indicated in the applicable Quantity column. Our pricing for banded products is made in reliance upon your certification. If we learn that the actual number is greater, we reserve the right to increase your charges as applicable

**Product Specific Terms.** The following products have specific terms which are incorporated by reference and made part of this Order Form if they apply to your order. They can be found at <https://static.legalsolutions.thomsonreuters.com/static/ThomsonReuters-General-Terms-Conditions-PST.pdf> If the product is not part of your order, the product specific terms do not apply. If there is a conflict between product specific terms and the Order Form, the product specific terms control.

- Campus Research
- Contract Express
- Hosted Practice Solutions
- ProView eBooks
- Time and Billing
- West km Software
- West LegalEdcenter
- Westlaw
- Westlaw Doc & Form Builder
- Westlaw Paralegal
- Westlaw Patron Access
- Westlaw Public Records

**Acknowledgement: Order ID: Q-00651824**

\_\_\_\_\_  
Signature of Authorized Representative for order

\_\_\_\_\_  
Title

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

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This Order Form will expire and will not be accepted after 12/27/2019.





THOMSON REUTERS®

**Attachment****Order ID: Q-00651824**

Contact your representative [william.lavelle@thomsonreuters.com](mailto:william.lavelle@thomsonreuters.com) with any questions.  
Thank you.

**Payment, Shipping, and Contact Information****Payment Method:**

Payment Method: Bill to Account

Account Number: 1000623393

SA ID: TX CALIR MSA-WEST(TXMS)

**Order Confirmation Contact (#28)**

Contact Name: MELODY BARRON

Email: [melody.barron@co.hays.tx.us](mailto:melody.barron@co.hays.tx.us)**Shipping Information:**

Shipping Method: Ground Shipping - U.S. Only

**ProFlex Multiple Location Details**

Account Number	Account Name	Account Address	Action
1000623393	HAYS COUNTY	111 E SAN ANTONIO ST RM 300 SAN MARCOS TX 78666-5534 US	Existing

**Modifications to ProFlex**

Material Number	Product Title	Agreement Number	Quantity	Unit	Subscription Type
41985643 41985644	Gvt - Trial Court Documents For Government (Westlaw PRO™)	0000060533	31	Attorneys	Exist
42077751 42076680	Gvt - National Primary Core	0000060533	31	Attorneys	Exist
40757482 40757481	West Proflex	0000060533	1	Each	Exist

**Account Contacts**

## 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 On-Site Sewage Facility Permit for 2 office buildings and a 3 bedroom mobile home at 3030 Harris Hill Road, San Marcos, Texas 78666.

#### ITEM TYPE

CONSENT

#### MEETING DATE

December 17, 2019

#### AMOUNT REQUIRED

#### LINE ITEM NUMBER

#### AUDITOR USE ONLY

#### AUDITOR COMMENTS:

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

#### REQUESTED BY

Caitlyn Strickland, Director of Development Services

#### SPONSOR

INGALSBE

#### CO-SPONSOR

N/A

#### SUMMARY

Claudia Serna of Serna's Trucking, LLC is proposing an On-Site Sewage System to serve 2 office buildings and a 3-bedroom mobile home. This system is designed to accommodate up to 18 employees. This 13.71-acre tract of land is Lot 1 of the Garza Ranch subdivision and will be served by a public water supply. The system designer, Dan Balboa, R.S., has designed a proprietary treatment system. After treatment, the effluent will be dispersed via subsurface drip irrigation for a maximum daily rate of 360 gallons.

## 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 On-Site Sewage Facility Permit for 11 tiny homes/park model RV's at 3499 Fearless Treadway, Round Mountain, Texas 78663.

#### ITEM TYPE

CONSENT

#### MEETING DATE

December 17, 2019

#### AMOUNT REQUIRED

#### LINE ITEM NUMBER

#### AUDITOR USE ONLY

#### AUDITOR COMMENTS:

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

#### REQUESTED BY

Caitlyn Strickland, Director of Development Services

#### SPONSOR

SMITH

#### CO-SPONSOR

N/A

#### SUMMARY

Mace Picken is proposing an On-Site Sewage System to 11 tiny homes/park model RV's. These homes will be long-term rental houses. This 20.00-acre tract of land is Lot 1C-R of the J. M. J. subdivision and will be served by a private well for a potable water supply.

The system designer, Doug Dowlearn, R.S., has designed a proprietary treatment system. After treatment, the effluent will be dispersed via surface application for a maximum daily rate of 1100 gallons.

## 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 AMG Printing & Mailing for the County Tax Office, for printed envelopes, in the amount of \$500.00 in which no purchase order was issued as required per County Purchasing Policy.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
CONSENT	December 17, 2019	\$500.00

#### LINE ITEM NUMBER

001-619-00.5461 - Printing Services

#### AUDITOR USE ONLY

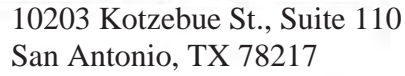
##### AUDITOR COMMENTS:

**PURCHASING GUIDELINES FOLLOWED:** NO      **AUDITOR REVIEW:** MARISOL VILLARREAL-ALONZO

REQUESTED BY	SPONSOR	CO-SPONSOR
Jenifer O'Kane	BECERRA	N/A

#### SUMMARY

Our print vendor printed a surplus of envelopes with our letterhead in error and offered them to us at 'cost'.



Date	Invoice #
11/20/2019	111496

Bill To
Hays County Tax Office Jenifer O'Kane 712 S Stagecoach Trail San Marcos, Texas 78666-5071

Ship To
Hays County Tax Office Jenifer O'Kane 712 S Stagecoach Trail San Marcos, Texas 78666-5071

P.O. Number	Terms	Rep	Ship
#10 Regulars	Net 30		11/20/2019

Quantity	Item Code	Description	Price Each	Amount
25,000	printing	#10 Regulars	0.02	500.00

Thank you for your business.

Total	\$500.00
-------	----------

## 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 re-appointment of John Rodriguez, Jr., to Emergency Service District (ESD) #5, a two year term ending December 31, 2021.

#### ITEM TYPE

CONSENT

#### MEETING DATE

December 17, 2019

#### AMOUNT REQUIRED

N/A

#### LINE ITEM NUMBER

N/A

#### AUDITOR USE ONLY

#### AUDITOR COMMENTS:

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

#### REQUESTED BY

Commissioner Ingalsbe

#### SPONSOR

INGALSBE

#### CO-SPONSOR

N/A

#### SUMMARY

This is for a 2 year term beginning January 1, 2020 and ending December 31, 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 RFP 2018-P03 County Wide Plumbing Services with SI Mechanical for one (1) additional year as stated in the original bid.

#### ITEM TYPE

CONSENT

#### MEETING DATE

December 17, 2019

#### AMOUNT REQUIRED

#### LINE ITEM NUMBER

#### AUDITOR USE ONLY

#### AUDITOR COMMENTS:

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

#### REQUESTED BY

Crumley

#### SPONSOR

BECERRA

#### CO-SPONSOR

N/A

#### SUMMARY

All terms and conditions remain unchanged and in full force and effect as stated in the original bid. The Building Maintenance Department, Juvenile Detention Center, and Jail Division utilize this contract for plumbing services throughout the County as needed.

Attachment: SI Mechanical Renewal Letter



## 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](mailto:marisol.alonzo@co.hays.tx.us)

Vickie G. Dorsett  
*Assistant County Auditor*  
[vickie.dorsett@co.hays.tx.us](mailto:vickie.dorsett@co.hays.tx.us)

December 9, 2019

SI Mechanical  
PO Box 1617  
Manchaca, Texas 78652

RE: Annual contract renewal

The annual contract for Countywide Plumbing Services, RFP 2018-P03 expired on November 30, 2019. This letter will serve as official notice that Hays County would like to exercise its second (2nd) option to renew the existing contract for one (1) additional year effective December 1, 2019-November 30, 2020, 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](mailto: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

Printed Name

Company

Date

Approved by the Hays County  
Commissioners Court on: \_\_\_\_\_

\_\_\_\_\_  
Ruben Becerra  
Hays County Judge



## 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 out of state travel for Lieutenant Eric Batch and IT Support Specialist, Crystal Torres to Montgomery, Alabama related to jail equipment and inspections and amend the budget accordingly.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
CONSENT	December 17, 2019	TBD

#### LINE ITEM NUMBER

001-618-03.5301

#### AUDITOR USE ONLY

##### AUDITOR COMMENTS:

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

REQUESTED BY	SPONSOR	CO-SPONSOR
Sheriff Gary Cutler	INGALSBE	N/A

#### SUMMARY

Out of state travel is requested to send both Lt. Eric Batch and IT Support Specialist, Crystal Torres, for 'factory acceptance' of detention security electronics for the new jail. While onsite in Cornerstone's factory, they will interact with the master control security system to ensure that it meets operational needs as well as the needs of the Texas Commission of Jail Standards. HOK and ECM/Vanir will confirm that the security control system meets contract documents.

Currently, travel fees are estimated at \$1,500.00 for airfare and hotel accommodations for both individuals. Additional funds may be needed if prices have increased at the time of booking all accommodations. Dates for travel are tentative for January 6th, 2020. The Jail Division does not have a travel budget, therefore requests the Courts consideration to move funds from contingencies.

The total funds moved will not exceed the actual costs of all related travel items.

Budget Amendment:

Increase Jail Travel: 001-618-03.5501 - TBD

Decrease County-Wide Contingencies: 001-645-00.5399 - TBD

## 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 Cellular Controlled Products for \$599.40 for the Feral Hog Abatement grant program in which no purchase order was issued as required per County Purchasing Policy.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
CONSENT	December 17, 2019	\$599.40

#### LINE ITEM NUMBER

001-899-99-109.5411

#### AUDITOR USE ONLY

##### AUDITOR COMMENTS:

**PURCHASING GUIDELINES FOLLOWED:** NO      **AUDITOR REVIEW:** MARISOL VILLARREAL-ALONZO

REQUESTED BY	SPONSOR	CO-SPONSOR
Crumley	JONES	N/A

#### SUMMARY

Commissioners' Court accepted this grant on December 10, 2019. The Feral Hog Abatement grant program consists of controlled wireless traps which has an equipment maintenance fee for service. Funds are available within the grant budget to cover this expenditure.

Attachment:

Cellular Controlled Products Invoice 17208

## Home of CellGate & Wireless Traps

# Invoice

Bill To:

Ship To Address:

<b>Subtotal</b>	<b>\$599.40</b>
<b>Sales Tax (0.0%)</b>	<b>\$0.00</b>
<b>Total</b>	<b>\$599.40</b>
<b>Payments/Credits</b>	<b>\$0.00</b>
<b>Balance Due</b>	<b>\$599.40</b>

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## 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 Laser Service USA for \$515 for an FY19 invoice for toner cartridges in which no purchase order was issued as required per County Purchasing Policy.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
CONSENT	December 17, 2019	\$515.00

#### LINE ITEM NUMBER

001-626-00.5211

#### AUDITOR USE ONLY

##### AUDITOR COMMENTS:

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

REQUESTED BY	SPONSOR	CO-SPONSOR
Maggie Moreno	INGALSBE	N/A

#### SUMMARY

The JP 1-2 Office ordered printer cartridges and failed to obtain a purchase order as required per County Purchasing Policy. Funds are available in their FY19 operating budget for this expense.

Attachment:  
Laser Service USA Invoice 25121

Laser Service USA  
415 N. Guadalupe St. #240  
San Marcos, TX 78666



# Invoice

Date	Invoice #
8/28/2019	25121

**PAST DUE**

Bill To	Ship To
Hays County Auditor's Office Accounts Payable 712 S. Stagecoach Trail Suite 1071 San Marcos, TX 78666	JP1-2 712 S. Stagecoach Dr. Suite 2235 San Marcos, TX 78666

P.O. #	Terms		Ship	Rep
	Net 30	Please remit payment in full before 9/27/2019	8/28/2019	Craig

Qty	Item Code	Description	Price Each	Amount
1	78A R	HP PRO P1566, P160, P1606, M1536mfp BLACK Toner Cartridge Re-manufactured 2,100 yield	49.00	49.00
1	90X R	M602, M603, M4555mfp Laser jet printers Toner Cartridge CE390X Re-manufactured 24000 yield.	119.00	119.00
1	Lexmark 52D4H00 R	Compatible toner for Lexmark MS710, MS711, MS810, MS811, MS812	149.00	149.00
2	Lexmark 50F1H00/501H R	50F1H00/50F0HA0/500HA/501H. Black toner for Lexmark MS310, MS312, MS315, MS410, MS415, MS510, MS610, MX310, MX410, MX510, MX511, MX610, MX611. Yield 5,000	99.00	198.00

		Total	\$515.00
		Payments/Credits	\$0.00
		<b>Balance Due</b>	<b>\$515.00</b>

Phone: 512-353-4600

Fax: 512-243-9997

mail@LaserServiceUSA.com

www.LaserServiceUSA.com



## OFFICE OF THE COUNTY AUDITOR

712 S. Stagecoach Trail, Suite 1071

San Marcos, Texas 78666

512-393-2283

Fax: 512-393-2248

www.co.hays.tx.us

Marisol Villarreal-Alonzo, CPA, MPA

County Auditor

marisol.alonzo@co.hays.tx.us

Vickie Dorsett

Assistant County Auditor

vickie.dorsett@co.hays.tx.us

---

# MEMORANDUM

Date: October 23, 2019

To: Maggie Moreno, Justice of the Peace, Pl. 1-2

From: Marisol Villarreal-Alonzo, CPA, Hays County Auditor

RE: Non-Compliance with County Purchasing Policy

The attached invoice from Laser Service USA for \$515.00 was submitted to the Auditor's office for payment without the issuance of a purchase order. In accordance with the County Purchasing Policy, a single invoice or multiple invoices totaling \$500 or more require a purchase order be issued prior to making the purchase or securing the services. In order to process these invoices for payment, Commissioners' Court approval must be obtained. Once approval is granted by the Court, please resubmit the invoice along with the approved Court minutes.

Please contact Marcus Smith at 393-2271 if you need assistance with requisitions or have questions regarding our purchasing policies and procedures. As always, feel free to contact my office if you have any questions or need additional information. Thank You.

## 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 2020-P05 Builder Services and authorize Purchasing to solicit for proposals and advertise.

#### ITEM TYPE

CONSENT

#### MEETING DATE

December 17, 2019

#### AMOUNT REQUIRED

#### LINE ITEM NUMBER

#### AUDITOR USE ONLY

#### AUDITOR COMMENTS:

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

#### REQUESTED BY

Tammy Crumley

#### SPONSOR

JONES

#### CO-SPONSOR

N/A

#### SUMMARY

Hays County is requesting proposals from highly qualified construction contractors to perform rehabilitation, reconstruction, and new construction of single-family residential structures in compliance with local, Federal, and State statutory requirements for grants under the United States Department of Housing and Urban Development ("HUD") Community Development Block Grant Disaster Recovery ("CDBG-DR") program for the 2015 Texas flood events.



## SOLICITATION, OFFER AND AWARD

Hays County Auditor  
Purchasing Office  
712 S. Stagecoach Trail, Suite 1071  
San Marcos, Texas 78666

**Solicitation No.: RFP 2020-P05**  
**Builder Services: Residential Rehabilitation,  
Reconstruction, and New Construction**

**Date Issued: December 18, 2019**

### 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:

**2:30 p.m. local time January 10, 2020**

**Proposals received after the time and date set for submission will be returned unopened.**

For information please email:  
[purchasing@co.hays.tx.us](mailto:purchasing@co.hays.tx.us)

Questions concerning this RFP must be  
received in writing no later than 5:00  
p.m. on January 3, 2020

Phone No.: (512) 393-2267

### 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:		Name:	
Mailing Address:		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.**

	Attest:	Approved as to Form:
Ruben Becerra, Hays County Judge	Elaine Cardenas, Hays County Clerk	Hays County Office of General Counsel



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## I. RFP Submittal Checklist

This checklist is provided for Respondent's convenience only and identifies documents that must be submitted with the Solicitation Response in order to be considered responsive. Any Solicitation Responses received without these requisite documents may be deemed nonresponsive and may not be considered for contract award.

### **A COMPLETE SOLICITATION RESPONSE PACKAGE SHALL INCLUDE:**

- \_\_\_ 1. Solicitation, Offer and Award completed and signed
- \_\_\_ 2. Vendor Reference Form
- \_\_\_ 3. Form 1295 (Certificate of Interested Parties) filed online with the Texas Ethics Commission and signed
- \_\_\_ 4. Conflict of Interest Questionnaire completed and signed
- \_\_\_ 5. Code of Ethics signed
- \_\_\_ 6. HUB Practices signed
- \_\_\_ 7. House Bill 89 Verification signed and notarized
- \_\_\_ 8. Senate Bill 252 Certification
- \_\_\_ 9. Debarment & Licensing Certification signed and notarized
- \_\_\_ 10. Vendor/Bidder's Affirmation completed and signed
- \_\_\_ 11. Federal Affirmations & Solicitation Acceptance
- \_\_\_ 12. FHWA 1273 Certification
- \_\_\_ 13. DBE Commitment Agreement Form (SMS 4901)
- \_\_\_ 14. Related Party Disclosure Form
- \_\_\_ 15. Cost Proposal for New Construction & Sample 2-bedroom, 3-bedroom, and 4-bedroom floor plans
- \_\_\_ 16. Quality Control Program
- \_\_\_ 17. Any addenda applicable to this solicitation
- \_\_\_ 18. Two originals of the proposal and a digital copy on a thumb drive are in a sealed envelope with the Solicitation Number and Respondent'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 Proposals
- 2. Solicitation Number:** RFP 2020-P05 Builder Services: Residential Rehabilitation, Reconstruction, and New Construction  
  
Perform rehabilitation, reconstruction, and new construction of single-family residential structures in compliance with local, Federal, and State statutory requirements for grants under the United States Department of Housing and Urban Development ("HUD") Community Development Block Grant Disaster Recovery ("CDBG-DR") program for the 2015 Texas flood events.
- 3. Issuing Office:** Hays County Auditor  
Purchasing Office  
712 S. Stagecoach Trail, Suite 1071  
San Marcos, TX 78666
- 4. Responses to Solicitation:** Sealed Summary of Qualifications marked with Solicitation Number and Respondent Name on the outermost envelope  
Two (2) originals and one (1) digital copy on a thumb drive
- 5. Deadline for Responses:** In issuing office no later than:  
**January 10, 2020; 2:30 p.m. Central Time (CT)**
- 6. Initial Contract Term:** Approximately February 2020 through project completion
- 7. Optional Contract Terms:** none
- 8. Designated Contact:** Hays County Purchasing  
Email: [purchasing@co.hays.tx.us](mailto: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 January 3, 2019; 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 posted on CivicPlus and the ESBD.

All questions regarding the RFP shall be submitted via email to the Hays County Purchasing email above. Informal verbal inquiries are not allowed. No questions will be accepted after the deadline stated above. Responses will be posted at the CivicPlus and ESBD websites for the benefit of all potential respondents. The County reserves the right to contact the person submitting a question to clarify the question received, if necessary. Each clarification, supplement, or addenda to this

RFP, if any, will be posted on the CivicPlus and ESBD websites. All potential or actual respondents are responsible for monitoring the websites for such materials. Respondents are deemed to have notice of, and are required to comply with, any such material posted in accordance with this paragraph. Respondents should not rely upon any other sources of written or oral responses to inquiries.

#### 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 Respondent's responsibility to acknowledge receipt of all addenda with qualification submission.

#### 11. Contact with County Staff (Antilobbying Requirement):

Except as authorized under this RFP with respect to questions and clarifications concerning this RFP, starting on **December 18, 2019**, and ending on the date the County has executed a contract with the successful respondent under this RFP, a prospective or actual respondent may not directly or indirectly contact a member of the County's Commissioner's Court, its employees, consultants, or contractors performing work for the County concerning the subject matter of this RFP. Violation of this restriction is grounds for disqualification from consideration. Any contact with the County is to be via CivicPlus, the ESBD or the Purchasing email listed above.

#### Anticipated Schedule of Events

December 18, 2019	Issuance of RFP
January 3, 2019	Deadline for Submission of Questions (5:00 PM CT)
January 10, 2019	Deadline for Submission of ProposalsBids (2:30 PM CT) <b>Late proposalsbids will not be accepted.</b>
February, 2020	Anticipated contract award date

### III. Specifications

#### A. Introduction

Hays County, Texas ("County") is requesting proposals from highly qualified construction contractors to perform rehabilitation, reconstruction, and new construction of single-family residential structures in compliance with local, Federal, and State statutory requirements for grants under the United States Department of Housing and Urban Development ("HUD") Community Development Block Grant Disaster Recovery ("CDBG-DR") program for the 2015 Texas flood events.

The County intends to issue multiple Indefinite Delivery/Indefinite Quantity (IDIQ) contracts to create a pool of contractors to perform the services requested under this Solicitation. The County shall assign projects to contractors based upon capacity, capability, performance and price. Respondents to this Solicitation must demonstrate the ability to mobilize within 45 days of award and complete assigned construction projects within six (6) months of Notice to Proceed (NTP).

After the contracts are awarded the County will solicit individual quotes from the pool of selected contractors for each rehabilitation, reconstruction, and new construction jobs. Because the scope of work for the rehabilitation, reconstruction and new construction jobs will be site specific, contractors will be able to review the anticipated repairs or location of reconstruction or new construction home site before developing a quote. All quotes will utilize The Texas General Land Office's form 11.17 Scope of Work Write-Up (Attachment B).

#### B. Background

In 2015, Hays County experienced flooding from two separate events that brought heavy wind and rain in the months of May (DR-4223) and October (DR-4245). Because of the significant damage caused by these storms, Hays County was determined by HUD (U.S. Department of Housing and Urban Development) to be one of the Most Impacted and Distressed counties in the State of Texas, receiving an award of \$2,349,747 from the Texas General Land Office (GLO) for housing recovery.

Grant funds will be utilized to rehabilitate, reconstruct or construct new homes for individuals impacted by the 2015 Texas flood events.

#### C. Qualifications

Hays County is seeking to contract with competent rehabilitation, reconstruction, and new construction builders. Specifically, Hays County is seeking builders with the following minimum qualifications:

- Respondents must have been in the residential construction business for a minimum of five years, or the principals/owners must have had a minimum of five years of ownership/executive management experience in a previous company that provided residential construction services;
- Respondents must either: 1) hold a current license (where applicable) issued by any jurisdictions which Respondent states are within the geographical boundaries in which they wish to work; **or** 2) commit to securing such licenses prior to entering any contractual obligations to work within those areas;
- Respondents must demonstrate the ability to carry residential rehabilitation, reconstruction, and new construction projects to completion within 120 days;

- Respondents must demonstrate the ability to, and have experience with, lead based paint and asbestos removal and environmental mitigation related to the rehabilitation, reconstruction, and new construction of residential properties;
- Respondents must have experience in achieving compliance and reporting on compliance with state and federal construction laws, regulations, and procedures, including the Davis Bacon Act, and producing the payroll documentation necessary for compliance;
- Respondents must be financially solvent, adequately capitalized, and demonstrate it has the financial resources to perform and complete the work and to provide all required warranties.

#### **D. Scope of Work**

The selected Contractors will perform, or cause to be performed, rehabilitation, reconstruction, or new construction of residential construction projects (the “Project”) for the Hays County CDBG-DR program. Contractors will be awarded Projects at the sole discretion of the County.

##### **1. Rehabilitation Scope of Work**

It is anticipated that homes eligible for rehabilitation will require an array of repairs ranging from minor to major. The scope of work for each repaired structure will vary, but may include, although not be limited to, the following:

- a. Development of a thorough scope of necessary repairs using a GLO- prescribed form;
- b. Coordination with the property owner and his/her family and case management from assignment to obtaining a certificate of occupancy for closing;
- c. Obtaining all necessary state and local permits and approvals prior to the commencement of the work for each structure;
- d. Providing architectural and house plan renderings;
- e. Demolition of damaged interior and exterior materials;
- f. Foundation leveling, repair, and/or elevation;
- g. Structural damage repair;
- h. Building envelope repair, including:
  - Roof repair or replacement and attendant damage
  - Door and window replacement
  - Siding /veneer repair or replacement
  - Mechanical (HVAC), electrical, and plumbing systems repair or replacement
  - Drywall repair or replacement
  - Rough and trim carpentry;
- i. Surface preparation and painting;
- j. Flooring repair or replacement;
- k. Cabinet and appliance replacement;

- l. Lead-based paint mitigation;
- m. Specialty construction elements associated with historic properties, including coordination with Texas Historical Commission, the City of San Marcos' Historic Preservation Commission and other local historic districts and stakeholders in other jurisdictions;
- n. Specialty construction elements associated with Green Building Construction techniques as required by HUD;
- o. Addressing special needs accessibility requirements;
- p. Conducting close-outs for each project, which may include obtaining certificate(s) of occupancy from applicable state and local authorities; and
- q. Debris removal in accordance with all federal, state, and local requirements, including the disposal of potential asbestos containing material.

## **2. Reconstruction and New Construction Scope of Work**

In certain cases, a property owner may only be eligible for the complete reconstruction of his/her home, either substantially within the same footprint as the prior home (reconstruction) or new construction on a different footprint. The scope of work for each reconstructed or newly constructed structure will vary but may include, although not be limited to, the following:

- a. Coordination with the property owner and his/her family from assignment to obtaining a certificate of occupancy for closing;
- b. Utility disconnection and deactivation;
- c. Demolition of existing structure;
- d. Debris removal in accordance with all federal, state, and local requirements, including the disposal of potential asbestos containing materials;
- e. Providing architectural and house plan renderings;
- f. Site preparation;
- g. Construction of new residential structures including 2, 3, and 4-bedroom floor plans in accordance with all applicable local and state codes and standards as well as the specified Green Standard (see Attachment A: Hays County CDBG-DR Housing Guidelines for further information);
- h. Meeting 24 CFR 982.401, Housing Quality Standards, and County building requirements;
- i. Accessibility and design of projects to comply with the American with Disabilities Act of 1990 (if applicable) known as ADA requirements with HUD exceptions; and

- j. Meeting the requirements of the GLO's Visitability Standards (Attachment A: Hays County Housing CDBG-DR Guidelines for further information).

#### **E. Description of Services and Requirements**

In addition to the services and requirements described below and in the scope of work, Contractors must perform any other ancillary construction-related services that may be required for a given property. Thus, it is imperative that Respondent enumerate any other services they can provide. These ancillary services may go beyond what would be required for the repair/construction of a property.

Respondent must be familiar with County, local, and/or regional Housing Guidelines, if applicable. (Attachment A: The Hays County CDBG-DR Housing Guidelines)

The Respondent will provide a 2-bedroom, 3-bedroom, and 4-bedroom sample floor plan along with a cost estimate in price per square foot for each sample floor plan. See table below for square foot range for each sample floor plan. The sample plans shall be the basis of Respondent's proposal and the County's evaluation of the proposals.

Sample Floor Plan Square Foot Range	
2 bedroom/1-2 bath home	1,000-1,330 SF
3 bedroom/1-2 bath home	1,331-1,425 SF
4 bedroom/2 bath home	1,426-1,500 SF

After the contracts are awarded, the County, in consultation with third-party experts, may approve additional Contractor-developed plans for use if they are found to be comparable in quality and price to those included in the Respondents submittal.

**INSURANCE:** The successful respondents will be required to furnish proof of insurance for Worker' Compensation, Auto Liability and General Liability before any work may begin.

#### **F. Additional Requirements**

1. Provide professional labor, equipment, and materials adequate to perform the work in accordance with the scope of work issued for each eligible applicant's residential structure while ensuring that all applicable housing standards and codes are met;
2. Comply with all applicable local, state, and federal laws, regulations, and guidelines, which may include: HUD Community Development Block Grant disaster laws, regulations, and guidelines; the Davis Bacon Act (for repairs to properties containing more than eight (8) units); and Section 3 of the Housing and Urban Development Act of 1968;
3. Mobilize within 45 days from the execution of a Work Order;
4. Provide documentation and tracking of construction progress;
5. Meet with individual property owners to review the scope of work to be performed, including establishing a work schedule acceptable to property owners and reviewing work upon final inspection;



6. Meet County's six (6) month work completion requirement from the Notice to Proceed;
7. Provide a certificate of compliance from the Green Standard governing body (see the County Minimum Design Standards for further information);
8. Respond to County open records requests in a timely manner;
9. Meet all federal, state, and local requirements for the transport and disposal of municipal solid, industrial, hazardous, and other wastes from demolished structures; and
10. Provide a one-year warranty, and a third party ten-year structural warranty.
11. Provide a Quality Control Program: respondents must provide the name and job title of the person responsible for the respondent's quality control program, as well as a description of the quality control program. A copy of the respondent's quality control manual may be required.

#### **G. No Guarantee of Volume or Usage**

The County makes no guarantee of volume or usage under any contract resulting from this Solicitation.

#### **H. Work Order Authorization and Compensation**

During the term of any contract awarded under this Solicitation, the County may request Contractors to perform certain Projects as described above, subject to specific work authorization in the form of a General Work Order (Work Order). Work Orders will be assigned to Contractors based on demonstrated capacity in accordance with each Zone's rebuilding needs and demands at program implementation. A builder assignment procedure will be developed once a pool of eligible applicants has been determined and shall be provided to Contractors prior to work being assigned.

The County shall consider the Cost Proposal provided by Respondent along with site-specific and area-specific construction cost data to establish the cost benchmarks for each Project.

#### **I. Submittal Requirements**

Respondent must deliver the following to the Issuing Office by the specified deadline:

- Two (2) original proposals with required forms manually signed by Respondent with original signatures
- One (1) digital copy of the full proposal with all required forms and any Appendix material on a thumb drive

Proposals shall not exceed twenty (20) pages (10 sheets front and back) in length, but not including: a) Letter of Transmittal; b) Title Page; c) Table of Contents; d) Appendix materials; and, e) front and rear covers. Sheet size is limited to 8½" x 11" sheets only, using 12-point font. Appendix materials (related project graphics, resumes, etc.) are not included in the 20-page limit but should be conservative in their inclusion. The proposal must include an organizational chart containing the names, addresses, telephone numbers, fax 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 included in the 20-page limit and it 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. While the County does not desire tab dividers in the proposals, if included they would not count towards the 20-page limit. Required forms (see Section I. RFP Submittal Checklist) do not count towards the 20-page limit.

All items must be in a sealed envelope marked with the Solicitation Number and Respondent Name on the outermost envelope.

**LATE SUBMITTALS WILL NOT BE ACCEPTED.**

Submittals may be withdrawn at any time prior to the official opening. After the official opening, submittals may not be amended, altered or withdrawn without the recommendation of the County Purchasing Office and the approval of Commissioners Court.

Submittals will be publicly opened at the Office of the Hays County Auditor upon the deadline for submittal. Respondents, their representatives and interested persons may be present.

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.

ALTERING PROPOSALS: Any interlineations, alteration, or erasure made before receiving time must be initialed by the signer of the proposal, guaranteeing authenticity.

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 Hays County Purchasing Manager. It is the Respondent's responsibility to acknowledge receipt of all addenda with proposal submission.

FORMS: Changes to forms herein, made by respondents, shall disqualify the respondent. Proposals cannot be altered or amended after submission deadline.

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.

**J. State of Texas federally-approved DBE program**

Hays County will require compliance with the State of Texas federally-approved DBE program and compliance with the requirements established by 49 CFR part 26. For some projects, Hays County may be required to set an aspirational goal, as recommended by the State, to secure a certain percentage of its competitively procured contracts with vendors that qualify as Disadvantaged Business Enterprises, as defined by the Act. Regardless of the project, Hays County, and qualified respondents, shall not discriminate on the basis of Race, color, national origin, or sex in the award and/or performance of the work described herein. Failure by the selected respondent to comply with the requirements described in this section will be considered a material breach of any contract that issues from this RFQ and may result in the termination of that agreement or the assertion of other remedies by Hays County.

## K. 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)**

- |  |                  |
|--|------------------|
| <b>1. Cost</b>   | <b>40 points</b> |
| <b>2. Experience, Qualification, and References</b>                                  | <b>45 points</b> |
| <b>3. Proposed Methodology/Technical Proposal</b>                                    | <b>10 points</b> |
| <b>4. Overall Responsiveness, clarity, and organization of solicitation Response</b> | <b>5 points</b>  |

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.

THE CONTRACTS AWARDED shall be based on but not necessarily limited to, the following factors:

- 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

RESPONSIBILITY: 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

BASIS OF AWARD: The County reserves the right to award a contract for named project to a respondent 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.

## L. Cost Proposal for New Construction Services

Cost information must **not** be included with Respondent's Narrative Proposal. Respondent must submit a Cost Proposal for the services described in this Solicitation for new construction services. The County shall consider the Cost Proposal provided by Respondent(s) along with site-specific and area-specific construction cost data to establish the cost benchmarks for each Project. These benchmarks shall be documented on the Texas General Land Office's Form 11.17 (Attachment B).

Respondent shall submit the Cost Proposals on the Texas General Land Office's Form 11.17, which is attached hereto as **Attachment B**. The pricing listed on the Form 11.17 shall include all of Respondent's costs for completing new construction of the sample homes provided by the Respondent, including all labor, materials, tools, supplies, equipment, personnel, travel expenses, bonding and insurance, permitting, licensure, and all other associated costs and incidental costs necessary to provide the products and services according to the minimum specifications, requirements, provisions, terms, and conditions set forth in this Solicitation.

Incorrectly completed forms may result in disqualification of the Solicitation Response.

#### **M. Best and Final Offer (BAFO)**

Clarification discussions, at the County's sole option, may be conducted with Respondents who submit Solicitation Responses determined to be acceptable and competitive. Respondents shall be accorded fair and equal treatment with respect to any opportunity for discussion and/or written revisions of the Solicitation Responses. Such revisions may be permitted after submission and prior to award to obtain BAFOs. In conducting discussions, there shall be no disclosure by the County of any information derived from the Solicitation Responses submitted by competing Respondents.

#### **N. Multiple Awards**

It is the intent of the County to award multiple contracts under this Solicitation. Award notice(s) will be sent to the selected Respondents. Any award is contingent upon the successful negotiation of final contract terms and upon approval of the County. Final contract amounts may be subject to negotiation between the County and the selected Respondents. Final contract amounts must provide the best value for the state, considering the effect of the purchase on agency productivity and all other best value factors described herein.

#### **O. 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**

1. **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.
2. **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.

**P. Elements of a Contract**

1. **RFP.** This Request for Proposals is an invitation for individuals and companies to submit Proposals.
2. **AWARD IS ACCEPTANCE.** The selection of a contractor or individual and award of a contract by the Hays County Commissioners Court based upon a negotiated price is acceptance on the part of the County, thereby resulting in a binding contract between the County and the selected contractor.

3. **CONSIDERATION.** Consideration consists of the services to be performed under the contract awarded in exchange for compensation, based upon a final negotiated project price, to be paid by the County to the selected firm or individual.
4. **AGREEMENT; EXCEPTIONS.**
  - a. Submission of a proposal is a representation by a submitter that the submitting contractor or individual agrees to the terms, conditions, and other provisions contained in the RFP, unless the submitter clearly and specifically presents in its proposal any exceptions to the terms, conditions, and other provisions contained in the RFP.
  - b. Exceptions presented in a proposal are not to be considered incorporated into the contract between the County and the selected contractor or individual unless and until the County agrees to accept such exceptions.
  - c. The selected contractor must acknowledge and agree that the negotiated contract resulting from this RFP includes the terms, conditions, and other provisions contained in the RFP, the Proposal selected (including any exceptions accepted by the County) which is acceptable to the County and is not in conflict or contravention of the RFP, and any other documents mutually agreed upon by the County and the selected contractor or individual.
  - d. No oral statement of any person shall modify or otherwise change or affect the terms, conditions, or specifications stated in the RFP or the resulting negotiated contract.
5. **CONFIDENTIALITY OF DOCUMENTS.**
  - a. ALL PROPOSALS SUBMITTED WILL BE SUBJECT TO THE TEXAS PUBLIC INFORMATION ACT.
  - b. On each page where confidential information appears, the Contractor or Individual must label the confidential information. Failure to so label the confidential information shall be considered as a waiver of any confidentiality rights or interests by said Contractor or Individual.
  - c. Marking your entire proposal CONFIDENTIAL/PROPRIETARY is not in conformance with the Texas Open Records Act.
6. **MISCELLANEOUS.**
  - a. All costs directly or indirectly related to the preparation of a response to this proposal shall be the sole responsibility of and shall be borne by the contractor.
  - b. During the evaluation process, the County reserves the right, where it may serve the County's best interest, to request additional information or clarifications from contractor or individuals, or to allow corrections of errors or omissions.
  - c. The County reserves the right to retain all proposals submitted and to use non-confidential information in a proposal regardless of whether or not that proposal is selected.
  - d. Each proposal shall state that it is valid for a period of one hundred twenty (120) days from the date of opening of the proposal by the County.
7. **NON-NEGOTIABLE TERMS.** The following terms or conditions are not negotiable:
  - a. **Unfunded Liability.** The County will not incur a debt or obligation to pay selected contractor or individual any amounts the County does not have the current funds available to pay, unless the contract includes a provision for the County to appropriate funding for the debt or obligation.
  - b. **Indemnification.** The County does not assume any liability to third persons, nor will the County reimburse the contractor for its liability to a third person, with respect to loss due to death, bodily injury, or damage to property resulting in any way from the performance of this contract or any subcontract hereunder, and the contractor further agrees to provide the defense for, and indemnify and hold harmless County from any and all claims, suits, causes of action, and liability, arising in connection with this contract.

- c. Advance Payments. The County will not make advance payments to a selected contractor or individual or any third party pursuant to this RFP or resulting contract.
- d. Gift of Public Property. The County will not agree to any terms or conditions that cause the County to lend its credit or grant public money or anything of value to the selected contractor or individual.
- e. Procurement Laws. The County will not agree to any terms or conditions that cause the County to violate any federal, Texas, or local procurement laws.
- f. Limitation of Liability. The County will not agree to allow the selected contractor or individual to limit its liability for breach or default of contract to the contract amount or to the amount the County has paid up to the time of the breach or default.
- g. Attorney's fees; Legal Costs. The County will not agree to pay the selected contractor or individual's attorney's fees or other legal costs under any circumstances.
- h. Venue; Applicable Law. This RFP and any resulting contract will be governed and construed according to the laws of the State of Texas. The terms and conditions of the contract awarded pursuant to the RFP are fully performable in Hays County, Texas and venue for any dispute regarding contract shall be in Hays County, Texas.

#### **Q. Warranty of Performance**

A 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. A successful respondent 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 respondent(s), in terms of specifications, shall be basis for the termination of the contract(s) 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 proposal. Any contract(s) 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 Qualifications (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 and negotiated cost proposal.
- 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 DBEs maximum opportunity to be subcontractors under this Contract. Contractor must obtain County approval of all proposed DBE 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. For this project there is no specific DBE participation goal. See Section VIII. HUB Practices for more information regarding the County's practices related to Historically Underutilized Businesses.

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 right 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 CAUSE:** 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. **DAVIS-BACON ACT – PREVAILING WAGE RATES:** All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949, in the construction or development of the project) will be paid unconditionally and not less often than once a week and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3) the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determinations of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b) (2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5 (a) (1) (iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the regular weekly period, Such laborers and mechanics shall be paid not less than the appropriate wage rate and fringe benefits in the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5 (a) (4). Laborers or mechanics may

perform work in more than one classification for the time actually worked therein, provided that Contractor's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5 (a)(1)(11) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers. The prime Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all these provisions.

23. **CONTRACT WORK HOURS AND SAFETY STANDARDS:** If, in the course of fulfilling the terms of this Agreement, Contractor employs mechanics or laborers to perform work, Contractor recognizes that it must comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, Contractor shall compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible, provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Contractor further recognizes that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous.

24. **CLEAN AIR – CLEAN WATER:** The Contractor under this contract/subcontract agrees as follows:

- a. To comply with all the requirements of section 114 of the Clean Air Act as amended (42 U.S.C. 1857, et seq., as amended by Public Law 91-604) and section 308 of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq., as amended by Public Law 92-500), respectively, relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in section 114 and section 308 of the Air Act and the Water Act, respectively, and all regulations and guidelines issued thereunder before the signing of this contract by the Contracting Local Organization.
- b. That no portion of the work required by this contract will be performed in a facility listed on the Environmental Protection Agency List of Violating Facilities on the date when this contract was signed by the Contracting Local Organization unless and until the EPA eliminates the name of such facility or facilities from such listing.
- c. To use their best efforts to comply with clean air standards and clean water standards at the facilities in which the contract is being performed.
- d. To insert the substance of the provisions of this article in any nonexempt subcontract, including this subparagraph.

25. **BYRD ANTI-LOBBYING CERTIFICATION:** Contractor certifies, to the best of its knowledge and belief, that:

- 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 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 this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure From to Report Lobbying", in accordance with its instructions.
- c. Contractor shall require that the language of this certification be included in the award documents for all subcontractors at all tiers and that all subcontractors shall certify and disclose accordingly.
- d. 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.

26. **PROCUREMENT OF RECOVERED MATERIALS:** The County seeks to comply with Section 6002 of the Solid Waste Disposal Act including “procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.” Contractor agrees to ensure the County’s compliance with the above-stated Section 6002, if and when applicable to this Agreement. For the purposes of this Section, “Recovered Materials” means waste materials and byproducts which have been recovered or diverted from solid waste, but such term does not include those materials and byproducts generated from, and commonly reused within, an original manufacturing process.
27. **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.
28. **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.
29. **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.
30. **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.
31. **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.

32. **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](http://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.

33. **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.

34. **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.

35. 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.

36. 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 Qualifications;
  - 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).

37. 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.

38. **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.

39. **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, 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:

<b>Automobile Liability:</b>	
Bodily Injury (Each person)	\$1,000,000.00
Bodily Injury (Each accident)	\$1,000,000.00
Property Damage	\$1,000,000.00
<b>Commercial General Liability (Including Contractual Liability):</b>	
General Aggregate	\$2,000,000.00
Product completed operations aggregate	\$2,000,000.00
Bodily Injury (Each accident)	\$2,000,000.00
Property Damage	\$2,000,000.00
<b>Employers Liability:</b>	
Each accident	\$1,000,000.00
Each employee for disease	\$1,000,000.00
Policy limit for disease	\$1,000,000.00

**Excess Liability:**

Umbrella Form		Not Required
Labor Liability:		
Worker's Compensation		Meeting Statutory Requirements

## V. Vendor Reference Form

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](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.

Failure to return this document may disqualify your response from consideration.

If you do not have access to the link provided above or if you have any questions, contact Purchasing at 512-393-2283.

## VII. Conflict of Interest Questionnaire

<b>CONFLICT OF INTEREST QUESTIONNAIRE</b> <b>For vendor doing business with local governmental entity</b>		<b>FORM CIQ</b>
<p><b>This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.</b></p> <p>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).</p> <p>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.</p> <p>A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.</p>	<b>OFFICE USE ONLY</b>  Date Received _____	
<b>1 Name of vendor who has a business relationship with local governmental entity.</b>  _____		
<b>2</b> <input type="checkbox"/> <b>Check this box if you are filing an update to a previously filed questionnaire.</b> (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.)		
<b>3 Name of local government officer about whom the information is being disclosed.</b>  <div style="text-align: center;">             _____              Name of Officer           </div>		
<b>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.</b>		
<div style="margin-bottom: 20px;"> <p>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?</p> <div style="display: flex; justify-content: space-around; margin-top: 10px;"> <span><input type="checkbox"/> Yes</span> <span><input type="checkbox"/> No</span> </div> </div> <p>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?</p> <div style="display: flex; justify-content: space-around; margin-top: 10px;"> <span><input type="checkbox"/> Yes</span> <span><input type="checkbox"/> No</span> </div>		
<b>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.</b>		
<b>6</b> <input type="checkbox"/> <b>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).</b>		
<b>7</b>		
Signature of vendor doing business with the governmental entity _____		Date _____

## **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 of 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.

Contractor understands and agrees that, if it is unable to certify any of the above terms, or provide an acceptable explanation related to its inability to make such certification, that the County shall have cause to terminate this Agreement for cause. Contractor agrees to require compliance with the terms of this Section, and certification thereof, in any subcontract for performance of work under this Agreement.

\_\_\_\_\_  
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. FHWA 1273 CERTIFICATION

I have read, understand, and agree to comply with the FHWA 1273 presented in Attachment C.  
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.



## XVI. 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 2<sup>nd</sup> degree of consanguinity or affinity to either of the above<sup>(1)</sup> (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

<sup>(1)</sup>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*
<b>Person</b>	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
<b>Person</b>	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.



# Hays County CDBG-DR Housing Guidelines 2015 Flood Events

Texas General Land Office Community Development and Revitalization (GLO-CDR) Program  
Community Development Block Grant – Disaster Recovery (CDBG-DR)

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## Introduction

In 2015, Hays County experienced flooding from two separate events that brought heavy wind and rain in the months of May (DR-4223) and October (DR-4245). Because of the significant damage caused by these storms, Hays County was determined by HUD (U.S. Department of Housing and Urban Development) to be one of the Most Impacted and Distressed<sup>1</sup> counties in the State of Texas, receiving an award of \$3,703,459 from the Texas General Land Office (GLO) for housing recovery.

Eligible housing activities supported by these funds will be administered by Hays County under the guidelines and oversight of the GLO. Thus, Hays County adopts with minor changes the general housing guidelines put forth by GLO published August 3, 2018 for the 2015-2016 Community Development Block Grant Disaster Recovery (CDBG-DR) Flood Recovery.

### The Texas General Land Office (GLO) and Long-Term Recovery

The GLO's Community Development and Revitalization division (GLO-CDR) oversees the administration of CDBG-DR funds allocated to Texas by the U.S. Department of Housing and Urban Development (HUD) following a disaster. These funds support communities working to build back stronger and more resilient.

CDBG-DR funds are a special appropriation from Congress associated with a Presidentially declared disaster pursuant to Stafford Disaster Relief and Emergency Assistance Act. These GLO Housing Guidelines (the Guidelines) address the 2015 storms and flooding disaster events associated with the following CDBG-DR funds:

**Table 1. Regulatory Applicability**

Event	Federal Register (FR)	Date of Publication	Public Law(s)	FR Located at:
2015	81 FR 39687, Vol. 82, No. 117	06/17/2016	P.L. 114-113	<a href="http://texasrebuilds.org/Documents/2015%20Floods%20Federal%20Register.pdf">http://texasrebuilds.org/Documents/2015%20Floods%20Federal%20Register.pdf</a>
	82 FR 36812, Vol. 82, No. 150	08/07/2017	P.L. 115-31	<a href="https://www.gpo.gov/fdsys/pkg/FR-2017-08-07/pdf/2017-16411.pdf">https://www.gpo.gov/fdsys/pkg/FR-2017-08-07/pdf/2017-16411.pdf</a>

Recovery projects using CDBG-DR funds must meet one of three HUD-designated National Objectives to be an eligible housing activity:

- Benefiting Low- to Moderate-Income Persons (LMI)
  - Low- and Moderate-Income Housing (LMH) provides that any assisted activity that involves the acquisition or rehabilitation of property to provide housing shall be

<sup>1</sup> Most Impacted and Distressed is defined on page 21 of 81 FR 39687, published June 17, 2016. Found at: <https://www.gpo.gov/fdsys/pkg/FR-2016-06-17/pdf/2016-14110.pdf>

- considered to benefit persons of low- to moderate-income only to the extent such housing will, upon completion, be occupied by such persons;
  - Low to Moderate Buyout (LMB): Benefiting low- to moderate-income persons where the award amount is greater than their post-disaster fair market value of the property; and
  - Low to Moderate Housing Incentive (LMHI): Benefiting low- to moderate-income persons participating in the voluntary buyout or other voluntary acquisition of housing to move outside of the affected floodplain or to a lower-risk area; or when the housing incentive is for the purpose of providing or improving residential structures that, upon completion, will be occupied by an LMI household.
- Preventing or Eliminating Slum or Blight (SB) through buyout or acquisition with demolition.
  - Meeting an Urgent Need (UN) by providing housing assistance to applicants making in excess of 80 percent of the area median income (AMI).

Hays County will make every effort to expend 100% of CDBG-DR funds on activities benefiting low-to-moderate income households. At minimum, the County will comply with HUD 2015 allocation requirements to expend 70% of funds overall grant funds on low-to-moderate income benefit.

The purpose of these Guidelines is to aid in the long-term recovery efforts following the 2015 storms and floods; specifically, to facilitate the replenishment of housing stock lost during the storms and subsequent flooding and to assist in moving eligible homeowners out of harm's way through fair market value buyouts or acquisitions. Questions regarding these Guidelines or requests for more information should be directed to Hays County at [cdbg-dr@co.hays.tx.us](mailto:cdbg-dr@co.hays.tx.us).

Hays County will administer the 2015 housing recovery with the support of a grant administrator, Langford Community Management Services, Inc.

## 1. PROGRAM OBJECTIVES

The primary focus of the housing recovery program is to provide relief for survivors affected by the 2015 storm and flood events while complying with all CDBG-DR requirements and addressing recognized impediments to fair housing choice as required under the Fair Housing Act. Assistance may be provided to survivors under a variety of eligible housing option activities including acquisition, rehabilitation, reconstruction, new construction, demolition, elevation, hazard mitigation, or down payment assistance, as allowable by approved Action Plans. All housing activities should consider the following objectives:

- Provide high-quality, durable, resilient, mold-resistant, energy-efficient, decent, safe, and sanitary housing that meets Green Standards and mitigates impact from future disasters. Resilient measures may include elevating the first floor of the habitable area; breakaway ground floor walls; reinforced roofs; and storm shutters, etc.
- Prioritize households based on income criteria first, and a second consideration of the presence of any additional social characteristics that may qualify the household as historically vulnerable to recovery barriers such as: households with members that are age-dependent meaning 5 years or under or 65 years or over, under the age of 18, disabled, and/or Veteran households while affirmatively furthering fair housing.

**Table 2. Applicant Priority Matrix**

HAYS COUNTY APPLICANT PRIORITY MATRIX				
One or more members of the household demonstrate:	HOUSEHOLD AREA MEDIAN INCOME (AMI)			
	Extremely Low 30% AMI or Below	Very Low 31% - 50% AMI	Low 51% to 80% AMI	Non-LMI Above 80%
Two or more of the following characteristics: <ul style="list-style-type: none"> <li>• Age-dependent<sup>2</sup></li> <li>• Disabled</li> <li>• Veteran</li> <li>• 1 or more household members between the ages of 6 and 18</li> </ul>	1 <sup>st</sup> priority	2 <sup>nd</sup> priority	3 <sup>rd</sup> priority	10 <sup>th</sup> priority
One or more of the following characteristics: <ul style="list-style-type: none"> <li>• Age-dependent</li> <li>• Disabled</li> <li>• Veteran</li> <li>• 1 or more household members between the ages of 6 and 18</li> </ul>	4 <sup>th</sup> priority	5 <sup>th</sup> priority	6 <sup>th</sup> priority	11 <sup>th</sup> priority
<ul style="list-style-type: none"> <li>• None of the social characteristics listed above</li> </ul>	7 <sup>th</sup> priority	8 <sup>th</sup> priority	9 <sup>th</sup> priority	12 <sup>th</sup> priority

- Emphasize housing choices and designs to reduce maintenance and insurance costs, as well as provide the provision of independent living options.

## 2. DEFINITIONS

**Adjusted Gross Income (AGI):** AGI is an individual's total gross income minus specific deductions. The GLO-CDR Adjusted Gross Income Methodology may be found at [www.texasrebuilds.org](http://www.texasrebuilds.org).

**Affirmative Fair Housing Marketing Plan (AFHMP):** A document used to help subrecipients offer equal housing opportunities regardless of race, color, national origin, religion, sex, familial status, or disability<sup>3</sup> (24 CFR Part 200, Subpart M). Implementing Affirmative Fair Housing Marketing Requirements Handbook (8025.1) can be obtained from HUD's website [https://www.hud.gov/program\\_offices/administration/hudclips/handbooks/ftheo/80251](https://www.hud.gov/program_offices/administration/hudclips/handbooks/ftheo/80251).

**Affirmatively Furthering Fair Housing (AFFH):** AFFH is a legal requirement that federal agencies and federal grantees further the purposes of the Fair Housing Act. HUD's AFFH rule provides an effective planning approach to aid program participants in taking meaningful actions to overcome historic patterns of segregation, promote fair housing choice, and foster inclusive communities that are free

<sup>2</sup> 65 years of age or above, or 5 years and below

<sup>3</sup> 24 CFR 200.625

from discrimination. The HUD AFFH assessment tool and final rule can be found here:  
[https://www.huduser.gov/portal/affht\\_pt.html](https://www.huduser.gov/portal/affht_pt.html).

**Applicant/Homeowner/Survivor:** (Used interchangeably) Individuals whose homes or housing units were destroyed, made uninhabitable, in need of repairs, or who suffered disaster-related displacement from their primary residences and/or loss of property.

**Area Median Family Income (AMFI):** Calculated annual limits based on HUD-estimated median family income with adjustments based on family size used for demonstrating LMI beneficiaries in the programs.

**Beneficiary:** The recipient deriving advantage from CDBG-DR funding.

**Builder/Contractor:** (Used interchangeably) A person who contracts to construct or repair houses or buildings and/or supervises building operations.

**Builder Assignments:** A qualified pool of builders developed by subrecipients or the GLO. They must also meet state and federal procurement requirements and possess controls that will ensure quality construction based on the Housing Quality Standards.

**Buyout:** Purchase of an eligible property at the fair market value of the land and structures with the intent to reduce risk from future flooding or to reduce risk from future hazard. Buyouts are properties within defined Disaster Reduction Risk Areas (DRRA), determined in consultation with county and local governments such as areas within the 100-year floodplain and/or in the highest risk areas as defined by FEMA flood map "V Zone." The property acquired will be dedicated and maintained in perpetuity for a use that is compatible with open space, recreational use, or floodplain and wetlands management practices. Buyout-only is typically not considered a complete activity in the Program and may be combined with another eligible activity (i.e., relocation assistance and new construction of housing).

**Case Management:** Working with individual survivors and their families to understand the Program's housing options, resulting in clear and transparent determination of eligibility. Case managers must consider all special circumstances of the survivor's needs to decrease their barriers to participate in the program where possible. Staff should meet at designated locations and supply information in a standard format.

**Damage Assessment:** An inspection of the housing unit to document damage from the event. The assessment by a certified or licensed inspector (HQS, TREC, or similar license) is required to specifically and clearly document storm-related property damage via photographic evidence and detailed narratives (see the GLO's Damage Assessment Guidelines, found at [www.texasrebuilds.org](http://www.texasrebuilds.org)). Damage assessments must include final cost of repair estimates according to local code, HUD's Housing Quality Standards, and mold remediation, to bring the home up to code at completion.

**Davis-Bacon Act of 1931 (40 USC Part 3141 et seq.) and Related Acts:** All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance received under this chapter shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance



with the Davis-Bacon Act, as amended. This applies to the rehabilitation and reconstruction of residential property only if such property contains not less than 8 units.<sup>4</sup>

**Duplication of Benefits:** The Robert T. Stafford Disaster Assistance and Emergency Relief Act (Stafford Act) prohibits any person, business concern, or other entity from receiving financial assistance from CDBG-DR funding with respect to any part of a loss resulting from a major disaster as to which he/she has already received financial assistance under any other program or from insurance or any other source.

**Elevation Standards:** Standards that apply to new construction, repair of substantial damage, or substantial improvement of structures located in an area delineated as a flood hazard area or equivalent in FEMA's data source identified in 24 CFR 55.2(b)(1).

**Environmental Review:** All qualified projects must undergo an environmental review process. This process ensures that the activities comply with National Environmental Policy Act (NEPA) and other applicable state and federal laws.

**Event:** The 2015 Texas Presidentially declared storm and flooding disaster events.

**Family:** A household composed of two or more related persons. The term family also includes one or more eligible persons living with another person or persons who are determined to be important to their care or well-being and the surviving member or members of any family described in this definition who were living in a unit assisted under the Housing Opportunities for Persons With AIDS (HOPWA) Program at the time of his or her death.

**Federal Emergency Management Agency (FEMA)-Designated High-Risk Area:** Areas designated by FEMA as vulnerable to significant wind and/or storm surge damage and areas located in 100-year flood zones. These areas will be identified during the environmental review process for each participating jurisdiction.

**Federal Register (FR):** A daily publication of the US federal government that issues proposed and final administrative regulations of federal agencies.

**Flood Disaster Protection Act of 1973 and Sec. 582(a) of the National Flood Insurance Reform Act of 1994:** Compliance with the legal requirements of Section 582(a) mandates that HUD flood disaster assistance that is made available in Special Flood Hazard Areas (SFHAs) may not be used to make a payment (including any loan assistance payment) to a person for repair, replacement or restoration for flood damage to any personal, residential or commercial property if: (1) the person had previously received federal flood disaster assistance conditioned on obtaining and maintaining flood insurance; and (2) that person failed to obtain and maintain flood insurance as required under applicable federal law on such property.

**Flood Hazard Area:** Areas designated by FEMA as having risk of flooding.

<sup>4</sup> <https://www.hudexchange.info/resources/documents/Housing-and-Community-Development-Act-1974.pdf>

**Flood Insurance:** The Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a) requires that projects receiving federal assistance and located in an area identified by FEMA as being within a Special Flood Hazard Area (SFHA) be covered by flood insurance under the National Flood Insurance Program (NFIP). In order to be able to purchase flood insurance, the community must be participating in the NFIP. If the community is not participating in the NFIP, federal assistance cannot be used in those areas.

**Floodplain:** FEMA designates floodplains as geographic zones subject to varying levels of flood risk. Each zone reflects the severity or type of potential flooding in the area.

- “100-year floodplain” — the geographical area defined by FEMA as having a one percent chance of being inundated by a flooding event in any given year.
- “500-year floodplain” — the geographical area defined by FEMA as having a 0.2 percent chance of being inundated by a flooding event in any given year.

**General Land Office (GLO):** The Texas General Land Office is the lead state agency for managing the state's Community Development Block Grant - Disaster Recovery funds through the U.S. Department of Housing and Urban Development.

**Grant Agreement:** A funding agreement detailing eligible program costs and project-specific award agreements between HUD and the GLO, including regulatory provisions, certifications, and requirements.

**Green Building Standards:** All rehabilitation (meets the definition of substantial improvement), reconstruction, or new construction must meet an industry-recognized standard that has achieved certification under at least one of the following programs: (1) ENERGY STAR (Certified Homes or Multifamily High-Rise), (2) Enterprise Green Communities, (3) LEED (New Construction, Homes, Midrise, Existing Buildings Operations and Maintenance, or Neighborhood Development), or (4) ICC–700 National Green Building Standard.

**Home/Housing Unit:** (used interchangeably) a house, apartment, group of rooms, or single room occupied or intended for occupancy as separate living quarters.

**Homeowner Assistance Activity:** The utilization of CDBG-DR funding to rehabilitate or reconstruct damaged homes for the applicant to remain in the original home at the original home site. The home to be assisted must have been owner-occupied at the time of the event.

**Household:** A household is defined as all persons occupying the same housing unit, regardless of their relationship to each other. The occupants could consist of a single family, two or more families living together, or any other group of related or unrelated persons who share living arrangements. For housing activities, the test of meeting the LMI National Objective is based on the LMI of the household.

**Housing and Community Development Act of 1974, as amended by the Supplemental Appropriations Act of 1984:** Established the program of Community Development Block Grants to finance the acquisition and rehabilitation of real property and which defined the recipients and uses of such grants, with the primary goal of benefitting LMI persons.

**Housing and Urban Development Act of 1968, Section 3:** Requires program administrators ensure that training, employment, and other economic opportunities generated by HUD financial assistance shall be directed to the greatest extent feasible and consistent with existing federal, state, and local laws and regulations, to low- and very low-income persons. Recipients of Section 3-covered funding ensure compliance and the compliance of their contractors/subcontractors with the Section 3 requirements, as outlined in 24 CFR 135.32.<sup>5</sup>

**Housing Incentives:** Incentive payments are generally offered in addition to other programs (e.g., buyout) or funding (such as insurance) to encourage households to relocate in a suitable housing development or an area promoted by the community's comprehensive recovery plan. The housing incentive may be offered to improve a residential structure that upon completion will be occupied by a low- to moderate- income household. An incentive may be offered in addition to a buyout payment for households that volunteer to relocate outside of the floodplain or to a lower-risk area. A buyout incentive is not available for properties that served as second homes at the time of the disaster, or following the disaster.

**Housing Quality Standards (HQS):** The HQS establish certain minimum standards for buildings constructed under HUD housing programs. This includes new single family homes and multifamily housing as outlined in 24 CFR 982.401.

**Low to Moderate Buyout (LMB) National Objectives:** LMB is used for a buyout award to acquire housing owned by a qualifying LMI household, where the award amount (including optional relocation assistance) is greater than the post-disaster (current) fair market value of that property.

**Low to Moderate Housing (LMH) National Objective:** Any activity that involves the buyout, acquisition, or rehabilitation of property to provide housing or improve permanent residential structures will upon completion benefit and must be occupied by low- and moderate-income households (42 U.S.C. 5305(c)(3)). Income eligibility will be determined using Area Median Income (AMI), adjusted for family size and verified in accordance with GLO's Adjusted Gross Income Methodology. The most current income limits, published annually by HUD, shall be used by the subrecipient to verify the income eligibility of each household applying for assistance at the time assistance is provided.

**Low to Moderate Housing Incentive (LMHI) National Objectives:** LMHI benefits are used for a housing incentive award, tied to the voluntary buyout or other voluntary acquisition of housing owned by a qualifying LMI household, for the purpose of moving outside of the affected floodplain or to a lower- risk area; or when the housing incentive is for the purpose of providing or improving residential structures that, upon completion, will be occupied by an LMI household.

**Low to Moderate Income National Objective:** Activities which benefit persons of income that does not exceed 80 percent of the area median income:

- Very low: Household's annual income is up to 30 percent of the area median family income, as determined by HUD, adjusted for family size;
- Low: Household's annual income is between 31 percent and 50 percent of the area median family income, as determined by HUD, adjusted for family size; and

<sup>5</sup> <https://www.hudexchange.info>

- **Moderate:** Household's annual income is between 51 percent and 80 percent of the area median family income, as determined by HUD, adjusted for family size.

**Manufactured Housing Unit (MHU):** A structure, transportable in one or more sections which in the traveling mode is 8 body-feet or more in width, or 40 body-feet or more in length, or when erected on site, is at least 320 square feet, and which is built on a permanent chassis and is designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein.

**Modular Housing:** A home built in sections in a factory to meet state, local, or regional building codes. Once assembled, the modular unit becomes permanently fixed to one site.

**Needs Assessment:** A needs assessment is a critical component in the allocation of funding across and within National Objectives for CDBG-DR funds. A given needs assessment will recommend the proportions of funding that should be set aside to benefit each LMI and non-LMI economic group. The needs assessment will determine the activities to be offered, the demographics to receive concentrated attention, the disabled, "special needs," vulnerable populations, and target areas to be served. The needs assessment will also include an assessment of the types of public services activities that may be needed to complement the program, such as housing counseling, legal counseling, job training, mental health, and general health services. The needs assessment should set goals within the income brackets similar to the housing damage sustained within the impacted areas. Deviations from goals must be approved by the GLO before the Program may move forward. The GLO will work with subrecipients to develop regional local needs assessment. Each needs assessment will be posted for a 14-day public comment period and approved by the GLO before implementation.

**New Construction:** A replacement home that substantially exceeds the original footprint on the existing lot (if permitted) or the construction of a new home in a new location.

**One for One Replacement:** Subpart B Requirements Under Section 104(d) of the Housing and Community Development Act of 1974, 24 CFR 42.375 provides for public and/or assisted lower-income dwelling units to be demolished or converted to a use be replaced with comparable lower-income dwelling units.

**Overall Benefit:** The state must certify that, in the aggregate, not less than 70 percent of the CDBG-DR funds received by the state during a period specified by the state will be used for activities that benefit persons of LMI. Hays County will make every effort to spend 100 percent of grant funds on LMI benefit.

**Program:** The GLO's plan, process, and procedures to assist communities and distribute CDBG-DR funds to rebuild disaster affected areas and provide a broad range of housing recovery activities as provided in the GLO's approved Action Plans and subsequent amendments.

**Program Design:** The selection and development of programs and activities based on a needs assessment. The Program Design must include the type of housing activities that will be offered by the subrecipient; how the program will be marketed; how Fair Housing Objectives will be achieved, as described in the AFHMP; and how funding will be prioritized as determined through a needs assessment.

**Program Income:** Net income derived from the sale of program assets that exceeds \$35,000 in the aggregate, in a single fiscal year, received by the subrecipient and directly generated from the use of housing CDBG-DR funds.

**Reconstruction:** Demolition and rebuilding of a stick-built or modular housing unit on the same lot in substantially the same footprint and manner. This activity also includes replacing an existing substandard manufactured housing unit (MHU) with a new or standard MHU or stick-built/modular housing unit. The number of units on the lot may not increase, and the total square footage of the original, principal residence structure to be reconstructed may not be substantially exceeded; however, the number of rooms in a unit may be increased or decreased.

**Rehabilitation:** Repair or restoration of storm-damaged housing units in the impacted areas to applicable construction codes and standards.

**Single Family Home:** A single-unit family residence detached or attached to other housing structures.

**Slum and Blight National Objective:** Activities which help to eliminate slum and blighted conditions. (Use of this National Objective is limited due to its inability to contribute towards the overall requirement for 70 percent LMI to benefit low- to moderate-income beneficiaries.) See 24 CFR 570.208(b).

Slum and Blight activities must meet the criteria of one of the three following categories:

- Prevent or eliminate slum and blight on an area basis;
- Prevent or eliminate slum and blight on a spot basis; or
- Be in an urban renewal area.

**Subrecipient (Hays County):** GLO defines Subrecipients as cities, counties, Indian tribes, local governmental agencies (including COGs), other entities identified in approved Action Plans, private non-profits (including faith-based organizations), or a for-profit entity authorized under 24 CFR 570.201(o). The definition of subrecipient does not include procured vendors, private grant administrators, or contractors providing supplies, equipment, construction, or services and may be further restricted by Program rules or other guidance including applications. See vendor definition for further clarification.

**Subrogation Agreement:** An agreement executed by the beneficiary agreeing to repay any duplicative assistance if the beneficiary later receives other disaster assistance for the same purpose as disaster recovery funds already received.

**Substantial Damage:** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred (44 CFR 59.1).

**Substantial Improvement:** Any reconstruction, rehabilitation, addition, or other improvement of a structure which the cost equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either: (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code

enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure”(44 CFR 59.1).

**Texas Integrated Grant Reporting (TIGR):** TIGR is the GLO system of record for all CDBG-DR grant management and reporting.

**Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970, as amended (Title 49 CFR Part 24) (42 U.S.C. 4601 et seq.) (URA):** Applies to all acquisitions of real property or displacements of persons resulting from federal or federally assisted program or projects. URA’s objective is to provide uniform, fair, and equitable treatment of persons whose real property is acquired or who are displaced in connection with federally funded projects. For the purposes of these guidelines, URA mostly applies to residential displacements in involuntary (49 CFR Subpart B) acquisition or multifamily damaged/occupied activities that require the relocation of the tenants. A displaced person is eligible to receive a rental assistance payment that is calculated to cover a period of 42 months, as waived by the FR.

**Unsecured Forgivable Promissory Note:** If the applicant qualifies for disaster recovery assistance and has been awarded funding, there are conditions placed on the applicant receiving the assistance. The conditions are outlined in an Unsecured Forgivable Promissory Note (the Note) between the assisted beneficiary and the Hays County or the state that requires applicants to comply with several terms during a set affordability period. Once the homeowner complies with all the terms of the Note and the affordability period ends, the terms are forgiven.

**Urgent Need National Objective:** An urgent need that exists because conditions pose serious and immediate threat to the health or welfare of the community; the existing conditions are recent or recently became urgent; and the subrecipient cannot finance the activities on its own because other funding sources are not available. Subrecipients must document how each program and/or activity funded under this category responds to a disaster-related impact. See 24 CFR 570.208(c).

**Vendor:** The subrecipient procured vendors, or private grant administrators, providing supplies or services to administer the Program and to serve homeowner assistance needs. Upon approval, the vendor may implement the Program or act on behalf of the subrecipient.

**Table 3. Eligible Counties and Most Impacted Counties**

Impacted Areas	
2 0 1 5	<b>Most Impacted Counties (4) Harris**, Hays**, Hidalgo, Travis</b>  <i>**The cities of Houston and San Marcos (and their respective Housing Authorities) will receive direct allocations and will administer their own programs; therefore, homes which lie outside of the city limits in Harris and Hays County will solely be inclusive.</i>
	<b>Impacted Competition Counties (112)</b> Angelina, Archer, Atascosa, Austin, Bastrop, Baylor, Blanco, Bosque, Bowie, Brazoria, Brown, Burleson, Caldwell, Callahan, Cameron, Cass, Cherokee, Clay, Collingsworth, Colorado, Comal, Comanche, Cooke, Coryell, Dallas, Delta, Denton, DeWitt, Dickens, Duval, Eastland, Edwards, Ellis, Erath, Fannin, Fayette, Fort Bend, Frio, Gaines, Galveston, Garza, Gillespie, Gonzales, Grayson, Grimes, Guadalupe, Hall, Hardin, Harrison, Hartley, Henderson, Hill, Hood, Hopkins, Houston, Jack, Jasper, Jim Wells, Johnson, Jones, Kaufman, Kendall, Lamar, Lee, Leon, Liberty, Lubbock, Lynn, Madison, McLennan, Milam, Montague, Montgomery, Nacogdoches, Navarro, Newton, Nueces, Orange, Palo Pinto, Parker, Polk, Real, Red River, Refugio, Robertson, Rusk, Sabine, San Augustine, San Jacinto, Shelby, Smith, Somervell, Starr, Tarrant, Throckmorton, Tom Green, Trinity, Tyler, Uvalde, Van Zandt, Victoria, Walker, Waller, Washington, Wharton, Wichita, Willacy, Williamson, Wilson, Wise, Young, Zavala

### 3. PROGRAM DESIGN

To develop the Program Design for all activities offered through this funding, each subrecipient must use qualified data (HUD/FEMA/SBA, insurance data, or other data as approved by the GLO in advance, to allocate the disaster funding). Section 3.A.2 explains an unmet needs assessment, which will be required by all participating subrecipients. The GLO will assist subrecipients in the development and approval of its needs assessment.

- Qualified data will be used to document the impact of the relevant event on the LMI subcategories which will aid in the development of a goal for targeting the use of housing funds in the appropriate levels and to the appropriate economic categories.
- The method of data evaluation utilized by the state and the subrecipient (i.e., class distribution categories by income, raw number of homes impacted versus the aggregated dollar amounts impacting communities, etc.) must be made available to the public for 14 days on a publicly accessible website. Notice of the posting of the method of review must be provided to the GLO not later than the day the method is posted on a website. If any public comment is made, the subrecipient must address the comment in a public response.

#### A. Program Design Requirements

##### (1) National Objective

All housing activities must meet a National Objective required under the authorizing statute of the CDBG-DR Program. Hays County will utilize the following National Objectives to meet this program requirement:

- LMI — Benefitting Low- to Moderate- Income persons:
  - LMH — Benefitting Low and Moderate-Income Housing (LMH) where any assisted activity that involves the acquisition or rehabilitation of property to provide housing shall be considered to benefit persons of low- and moderate-income only to the extent such housing will, upon completion, be occupied by such persons;
  - LMB — Benefitting Low to Moderate Income persons where the award amount is greater than their post-disaster fair market value; and
  - LMHI — Low to Moderate Housing Incentive assisted with a housing incentive tied to the voluntary buyout or other voluntary acquisition of housing owned by the qualifying LMI household for the purpose of moving outside of the affected floodplain or to a lower-risk area; or when the housing incentive is for the purpose of providing or improving residential structures that, upon completion will be occupied by an LMI household.
- Slum and Blight — Aid in the prevention or elimination of slums or blight; or
- Urgent Need — Meet a need having a particular urgency.

## *(2) Unmet Needs Analysis*

In accordance with GLO guidelines, Hays County will complete an Unmet Needs Analysis with the completion of initial outreach efforts and amend these Housing Guidelines to include the report as an appendix, upon approval by the GLO.

An Unmet Needs Analysis of HUD/FEMA or other housing demographic disaster victim data may be considered when determining the proportions of funding awarded that must be set aside to benefit each LMI and non-LMI economic group. The use of FEMA claims data (when available) and other applicant demographic data allows for goals to be established to fairly allocate funds across jurisdictions and neighborhoods to serve survivors in proportion to need. The Needs Assessment will determine the activities to be offered, the demographics to receive concentrated attention, and any target areas to be served.

The GLO will assist subrecipients on the methodology and data analysis and provide applicable raw data needed to develop and assist in development of their regional Needs Assessments.

Applicants applying for disaster assistance must meet certain eligibility standards to qualify for assistance. Eligibility standards are further discussed in the activity-specific Guidelines.

The Needs Assessment will document goals within the income brackets in proportion to the damaged units in the impacted area. Deviations from goals must be approved by the GLO before subrecipients can move forward:



- 0% - 30% AMFI
- 31% - 50% AMFI
- 51% - 80% AMFI

### *(3) Environmental Review*

Hays County will ensure all sites undergo a complete environmental review prior to any commitment of funds. The environmental review shall document compliance with 24 CFR Part 58 and all related laws and authorities. Properties with adverse environmental conditions will not be permitted to proceed under housing activities unless the adverse conditions are corrected. No work can start on a site until the environmental review is complete.

### *(4) Proof of Event Damage*

Hays County will verify proof of damage caused by one of the qualifying storms. For assistance activities, the property must demonstrate that the damage or destruction to the property occurred by the event. Disaster damage can be documented as follows:

- a) FEMA, Small Business Administration (SBA) or Insurance Award Letters;
- b) If the above-referenced documentation is not available, an inspection report/Damage Assessment (complete with photos of the damage and a written assessment of the damage with each photo taken) conducted by a certified or licensed inspector (HQS, TREC, or similar license) must be supplied by the subrecipients that certifies the damage occurred as a result of the event (refer to the GLO's Damage Assessment Guidelines found at [www.texasrebuilds.org](http://www.texasrebuilds.org)); or
- c) If FEMA, SBA, or Insurance Award Letters are not available and an inspection report is inconclusive as to the cause of the damage, subrecipients may provide alternative evidence, such as neighborhood-level media reports or documentation of damage by disaster response/relief organizations. GLO approval is required for this form of proof.

If an applicant was denied assistance by FEMA, assistance through the CDBG-DR Program may still be available. Applicants are not solely ineligible based on a denial by FEMA.

A Damage Assessment must be performed by a certified or licensed inspector (HQS, TREC or similar license) to specifically and clearly document event related damage via photographic evidence and detailed narratives if the survivor did not receive FEMA or SBA funds for the repair or replacement of a home. The Damage Assessment may also include a final cost of repair estimate. Damage to homes will be repaired according to local code and HUD's Housing Quality Standards.

### *(5) Size of Unit*

Hays County will follow HUD standards for the number of bedrooms and size of unit based on household size. HUD guidelines provide minimum size of unit based on anticipated household size and occupancy policies that allow for two persons per bedroom as reasonable. The GLO follows the HUD HOME Program in determining household size. Household composition determinations should be made by

communities early in the eligibility process as this may affect the applicant's decision to proceed with recovery assistance.

Exceptions to this standard are based on the following factors:

- No more than two persons are required to occupy a bedroom.
- Persons of different generations (i.e., grandparents, parents, children), persons of the opposite sex (other than spouses/couples), and unrelated adults are not required to share a bedroom. Note: All persons over the age of 18 are considered adults.
- Couples living as spouses (whether or not legally married) must share the same bedroom for issuance size purposes.
- A live-in aide who is not a member of the family is not required to share a bedroom with another member of the household. Note: The need for a full-time live-in aide must be documented.
- Individual medical problems (e.g., chronic illness) sometimes require separate bedrooms for household members who would otherwise be required to share a bedroom. Documentation supporting the larger-sized unit and related subsidy must be provided and verified as valid.
- In most instances, a bedroom is not provided for a family member who will be absent most of the time, such as a member who is away in the military. If individual circumstances warrant special consideration, a waiver request may be approved.
- To comply with the standard, subrecipients must follow and document the reason for a requested exception as noted in the issuance size exception section below.

**When determining family issuance size, include all children expected to reside in the unit in the next year as members of the household. Examples include, but are not limited to, the following:**

- Pregnant women: Children expected to be born to pregnant women are included as members of the household.
- Adoption: Children who are in the process of being adopted are included as members of the household.
- Foster Children: Foster children residing in the unit along with families who are certified for foster care and are awaiting placement of children are included as members of the household. If children are anticipated to occupy the unit within a reasonable period of time, they must be considered when determining the issuance size.
- Joint/Shared Custody Arrangements: In most instances, children in joint/shared custody arrangements should occupy the unit at least 50 percent of the time. However, if individual circumstances merit special consideration, a waiver request may be approved as outlined in the section on Issuance Size Exceptions. The custody arrangement may be verified by the divorce decree/legal documents or by self-certification.

- Custody of Children in Process: Children whose custody is in the process of being obtained by an adult household member may be included as members of the household. Evidence that there is a reasonable likelihood that the child will be awarded to the adult (e.g., within 3 months) must be provided for such child to be included.
- Children Temporarily Absent from Household:
  - Children temporarily absent from the home due to placement in foster care may be included as members of the household. Evidence that there is a reasonable likelihood that the child will return to the household (e.g., within 3 months) must be provided for such child to be included.
  - Children who are away at school but live with the family during school recesses are included as members of the household.
- Chronic Illness — An individual with an ongoing health problem who requires at least part-time assistance on a regular basis;
- Pending Child Custody cases — Includes, but is not limited to, children in foster care who may be returning home, foster children, pending adoptions, etc.; and
- Parental Custody Situations — Children physically occupy the unit less than 50 percent of the time as documented by a divorce decree and/or self-certification.

Issuance size exceptions may be granted by Hays County.

Waivers for other individual circumstances may be granted with pre-approval by the GLO. The family must request a waiver in writing and explain the need and justification.

#### *(6) Timeliness of Application Status*

Hays County will ensure timely communication of application status to homeowner applicants who apply for disaster recovery assistance. Email will be the default method of communication for updates regarding verified paperwork and eligibility determination. Any applicants who identify that they have limited to no email access may opt in at the time of application for telephone updates. All applicants will receive an official determination of eligibility mailed to the address on their application with enclosed information on how to appeal a decision of ineligibility.

In addition to this procedure, Hays County will maintain a dedicated call-in number to reach case management staff at any time during business hours Monday-Friday from 8am to 5pm and select extended hours to accommodate working families. Hays County will also develop a housing application portal that will allow applicants to login and view their application status at any time.

Hays County adheres to strict privacy protection practices to protect Personally Identifiable Information (PII). The County will ensure the accessibility and privacy of individualized information for all applicants.

#### *(7) Affirmatively Furthering Fair Housing Review*

Hays County will utilize HUD data, local data and local knowledge to affirmatively further fair housing opportunities in the County's jurisdiction. In accordance with GLO guidelines, Hays County will complete an AFFH analysis and amend these Housing Guidelines to include the report as an appendix, upon approval by the GLO.

All projects must undergo an AFFH review by the GLO prior to any commitment of funds. Such review will include assessment of a proposed project's area demography, socioeconomic characteristics, housing configuration and need, educational, transportation, health care opportunities, environmental hazards or concerns, and all other factors material to the determination. Applications should show that projects are likely to lessen area racial, ethnic, and low-income concentrations, and/or promote affordable housing in low-poverty, non-minority areas in response to natural hazard related impacts.

## B. Housing Assistance Caps

Unit Costs must be necessary, reasonable, allowable, and allocable. Refer to 2 CFR Part 200 Subpart E. The following table (Table 3) charts monetary caps for assistance apply to applicants based on project type.

**Table 4. Housing Assistance Caps**

Project Type	Buyout**	Recon/New Construction	Rehabilitation
Base Unit	Fair Market Value (Pre- or Post-Disaster)	*Local Composite Bid	*Local Composite Bid <i>max</i> \$65,000
Replacement With Energy Efficient Manufactured Housing Unit (MHU)		*\$75,000	
Non-Coastal Elevation		\$35,000	\$35,000
Coastal Elevation		\$60,000	\$60,000
Water Well		\$30,000	\$30,000
Septic System		\$25,000	\$25,000
Accessibility		\$20,000	\$20,000
Abatement		\$20,000	\$20,000
***Project Soft Costs		***Actual and max \$10,000	***Actual and max \$7,000

Project Type	Buyout**	Recon/New Construction	Rehabilitation
Relocation Assistance	Up to \$5,000 for temporary moving and relocation costs \$35,000 for a lot or newly constructed home****	Up to \$5,000 for temporary moving and relocation costs	Up to \$5,000 for temporary moving and relocation costs
	Up to \$10,000 for an existing home****		
Down Payment	Up to 100% of the Required Amount		
Buyout Incentives	Up to \$35,000****		

**\*Local Composite Bid:** All program units will require a local composite bid. Composite bid costs are set costs resulting from procured builders and include the builder's house plans to be used in the program. Builders will have their architect and engineering firm design or modify the plans as necessary for the program. This is included in the architecture costs of a unit. Note: if floor plans are re-used, there shall be a one-time fee for the original production of the blueprints. That fee cannot be charged for every house built from that floor plan going forward. Only a nominal fee for producing copies of the floor plan will be allowed. Builder plans will be provided to the GLO for review and approval. See 4.H.(1)(b) Building Specifications for Reconstruction/New Construction of the Guidelines for further information.

**\*\*Buyout:** See section 4.H(3)(a) for additional information

**\*\*\*Project Soft Costs:** Project soft costs are direct costs specifically related to the replacement of an MHU, rehabilitation, reconstruction, or new construction. These costs include site-specific utility disconnect or reconnect fees, permits, elevation certificate work, topographic survey costs, damage assessments/inspections, and code inspections. Additionally, one year of homeowner insurance(s) may be purchased for each unit. If a property was damaged by a flood but was outside of the 100-year flood plain, subrecipients may purchase flood insurance to reduce the economic risk from future floods. The GLO may grant an exception to increase the unit soft cost for unexpected or unforeseen costs during construction. Subrecipients will be required to use the GLO's 11.17 Work Write-Up/Cost Estimate form.

Additionally, a change order request must be submitted with the necessary support documentation to warrant an exception. All change order requests must follow federal and state procurement requirements to obtain reasonable costs.

**\*\*\*\*Buyout Incentives:** The purpose of the incentive is to encourage maximum participation by property owners and remove as many properties as possible from high-risk areas. Incentive payments should assist the household with necessary funds to buy an existing home or construct a home on a newly purchased lot, as applicable. Incentives are only allowable if the post-disaster fair market value is used to purchase the home. Subrecipients may provide relocation assistance outside of buyout activities, as necessary. Subrecipients must document how the assistance will be determined and issued to applicants when determining final eligibility assistance costs. The vacant land limit is set at \$35,000. Although this is the cap, it is not the floor; the actual lot cost should not exceed the standard single lot size in the community.

### C. Affirmative Marketing Outreach Plan

In accordance with GLO guidelines, Hays County will complete an Affirmative Marketing Outreach Plan and amend these Housing Guidelines to include the report as an appendix, upon approval by the GLO.

Local jurisdictions administering the Program are committed to affirmatively furthering fair housing through established affirmative marketing policies. Hays County affirmative marketing efforts for the disaster funding will include the following:

- An Affirmative Fair Housing Marketing Plan, based on HUD regulations. The plan must include items on the GLO's checklist to affirmatively market units financed through the Program. The procedures cover dissemination of information, technical assistance to applicants, project management, reporting requirements, and project review.
- The goal is to ensure that outreach and communication efforts reach eligible survivors from all racial, ethnic, national origin, religious, familial status, the disabled, "special needs," and gender groups. For each project or program, notification to these populations should include the opportunity to rehabilitate their primary residence that sustained damages due to the event and/or its after-effects.
- Emphasis should be focused on successful outreach to LMI areas and those communities with minority concentrations that were affected by the disaster. Outreach efforts should include door-to-door canvassing and special outreach efforts to hard-to-reach populations (e.g., seniors, and persons with severe disabilities who either do not have information about the resources available or are unable to apply for resources).
- In addition to marketing through widely available media outlets, efforts may be taken to affirmatively market the CDBG-DR Program as follows:
  - Advertise with the local media outlets, including newspapers and broadcast media, that provide unique access for persons who are considered members of a protected class under the Fair Housing Act;
  - Include flyers in utility and tax bills advertising the Program;
  - Reach out to public or non-profit organizations and hold/attend community meetings; and
  - Other forms of outreach tailored to reaching the eligible population, including door-to-door outreach, and on the weekends, if necessary.

- Measures will be taken to make the Program accessible to persons who are considered members of a protected class under the Fair Housing Act by holding informational meetings in buildings that are compliant with the Americans with Disabilities Act (ADA), providing sign language assistance when requested, and providing special assistance for those who are visually impaired when requested.
- Applications and forms will be offered in English and other languages prevailing in the region in accordance with Title VI of the Civil Rights Act of 1964, including persons with disabilities (24 CFR 8.6), Limited English Proficiency (LEP), and other fair housing and civil rights requirements such as the effective communication requirements under the Americans with Disabilities Act. Every effort will be made to assist such applicants in the application process.
- Case managers will help navigate and inform survivors who may qualify for acquisition and buyout of their damaged unit to remove them from flood hazards, environmental hazards, segregated areas, and other unsafe conditions while meeting AFFH obligations.
- Documentation of all marketing measures used, including copies of all advertisements and announcements, will be retained and made available to the public upon request.
- Hays County will be required to use the Fair Housing logo in Program advertising, post Fair Housing posters and related information and, in general, inform the public of its rights under Fair Housing regulations law.
- Evaluation of outreach activities and applications received will be necessary to determine if outreach is successful and applications that are being received accurately reflect the socioeconomic and other forms of demographic diversity. Evaluation should be an ongoing process. The GLO will assist Hays County by reviewing application intake reports before subrecipients begin qualifying applicants, and periodically thereafter.
- Hays County is also required to coordinate with HUD-certified housing counseling organizations to ensure that information and services are made available to both homeowners. Additional information is available here:  
<https://apps.hud.gov/offices/hsg/sfh/hcc/hcs.cfm?weblistaction=summary>

#### D. Reporting Requirements

Compliance will be maintained in accordance with the reporting requirements under the GLO's CDBG-DR Program. This includes providing all information and reports as required under the GLO's contract with Hays County, demographic data and other information acquired from the applicants, and project documentation from awarded applicants.

##### *(1) Section 3*

Hays County will comply with the GLO Section 3 Policy which states, "Section 3 requirements are triggered when HUD-sourced assistance is expended for housing rehabilitation, housing construction or

other public construction projects that are equal to or greater than \$200,000 and sub-contracts of such projects in the amount of \$100,000 or more.”<sup>6</sup>

Compliance with Section 3 is required by 24 CFR Part 135 and the executed contract between subrecipients and the GLO. Subrecipients should refer to the GLO’s Section 3 Policy.

### *(2) Applicant Data*

The GLO will establish procedures for subrecipients to collect and report data relevant to HUD. The reporting requirements will include, but not be limited to, the following for each program activity requiring a direct application by an individual or non-institutional entity:

- Applicant’s household income at the time of assistance;
- Household income as a percentage of area median family income at the time of assistance, as defined by HUD;
- The race, ethnicity, and gender of the head of household;
- The household’s familial status;
- The presence or non-presence of a household member with a disability; and
- The presence or non-presence of a household member that is a veteran.

### *(3) Records Retention*

Hays will follow federal and state record retention guidelines. All official records on programs and individual activities shall be maintained for a 3-year period beyond the closing of a grant between the GLO and HUD. Applicant records may be maintained electronically. Subrecipients should contact the GLO to obtain an approved electronic record management system utilizing the GLO’s Activity File Checklist. All projects, program activity files, and applicant information received must be maintained within the GLO’s system of record.

## **E. Procurement Requirements**

Hays County follows federal and state procurement requirements. As a subrecipient of grant funds, Hays County shall provide adequate documentation to show that procurement selection is carried out in an open, fair, uniform, and thorough manner to ensure that federal (2 CFR 200.318–200.326) and state procurement requirements were met.

It’s important to note that failure to maintain proper documentation may result in disallowed costs. These records must include, but are not limited to, the following information:

- Rational for the method of procurement;
- Evaluation and selection criteria;
- Contractor selection or rejection; and
- The basis for the cost or price.

<sup>6</sup> Texas General Land Office Section 3 Policy, revised July 25, 2012, <http://texasrebuilds.org/Documents/Section%203%20Policy.pdf>



During the procurement process, Hays County must clearly identify any items included in the bid/purchase that are not included in the CDBG-DR contract. Hays County may utilize HUD's CDBG-DR and Procurement Guidance.<sup>7</sup>

Hays County must procure goods and services using the federal procurement and contract requirements outlined in 2 CFR 200.318 – 200.326. These procurement requirements must be followed for reimbursement from grant allocations of CDBG-DR funds provided by HUD. Subrecipients are also required to follow state and local procurement law and policies as prescribed by 2 CFR 200.318(a), as well as the additional requirements stated in 2 CFR Part 200.

Composite pricing will be utilized for new construction and reconstruction. This pricing will be developed utilizing the RFP process and average costing and shall be verified as reasonable and customary by utilizing an industry standard independent pricing product. Pricing for rehabilitation shall be developed via an independent damage assessment and work write-up. This becomes the scope of work and will be priced in conjunction with a line-item price list that will be produced out of the original RFP with appropriate reasonable and customary verification.

Additionally, the GLO may review draft solicitations or responses prior to award for compliance. Please note that for residential housing repair, reconstruction, and case management of these projects, a builder assignment method to repair affected homes may be required. Hays County must clearly identify during the procurement process any items included in the bid/purchase that are not included in the CDBG-DR contract.

Regardless of the type of procurement used, Hays County must execute a contract to document the period of performance, the work to be completed, the agreed price, and contractor or provider's required compliance with all applicable federal, state, and local requirements that subrecipients must follow. If there is a conflict between federal, state, and local laws and regulations regarding procurement, the more stringent law or regulation will apply.

Additionally, Hays County is required to achieve compliance with Section 3 (24 CFR Part 135). It is strongly suggested that HUD's best practices be utilized to help achieve compliance (HUD Model Section 3 Plan), including creating a Section 3 plan. Subrecipients are also required to "take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible." (HUD CFR 200.321).

Furthermore, HUD requires the GLO to maintain a public website that provides information accounting for how all grant funds are used and managed/administered. To meet this requirement, Hays County must make the following applicable items available for the state to post on the GLO's website at [www.texasrebuilds.org](http://www.texasrebuilds.org): procurement policies and procedures; description of services or goods currently being procured by Hays County; and a summary of all procured contracts (as defined in 2 CFR 200.22), including those procured by Hays County (e.g., a summary list of procurements, the phase of the procurement, requirements for proposals, and any liquidation of damages associated with a contractor's failure or inability to implement the contract, etc.). Updated summaries must also be posted monthly on the website.

<sup>7</sup> <https://www.hudexchange.info/resource/5614/buying-right-cdbg-dr-and-procurement-a-guide-to-recovery/>

## F. Site and Development Restrictions

Housing that is reconstructed, rehabilitated, or newly constructed with CDBG-DR funds must meet all applicable local codes, rehabilitation standards, ordinances, Green Building Standards, and zoning ordinances at the time of project completion.

### *(1) General Standards*

All housing units participating in the Program will be required to meet Housing Quality Standards detailed under 24 CFR 982.401, Fair Housing Accessibility Standards, and Section 504 of the Rehabilitation Act of 1973. Housing activities must also meet all local building codes or standards that may apply. All single family homes should also incorporate resiliency solutions which may include: elevating the first floor of the habitable area; breakaway ground floor walls; reinforced roofs; storm shutters; use of ENERGY STAR appliances and fixtures; and mold and mildew resistant products.

### *(2) Lead-Based Paint*

Hays County will ensure all projects comply with the lead-based paint requirements of 24 CFR Part 35, Subparts A, B, J, K, and R. See additional information regarding lead-based paint abatement in Sections 4.E.(1), 4.H.(1)(f), and 6.G.(2) of these guidelines.

### *(3) Housing Quality Standards (HQS)*

Hays County will ensure all rehabilitation projects comply with Housing Quality Standards (HQS) and all applicable local codes and ordinances. CDBG-DR assisted housing that is construction or rehabilitation must meet all applicable state and local housing quality standards and code requirements; and if there are no such standards or code requirements, the housing must meet HUD's Housing Quality Standards in 24 CFR 982.401

### *(4) Standards for:*

#### *(a) Constructed or Substantial Improvements*

International Residential Code 2012 or higher (IRC) (with windstorm provisions) and International Building Code (IBC) must be met where they apply. To avoid duplicative inspections when Federal Housing Administration (FHA) financing is involved in a CDBG- DR assisted property, an inspection must be performed by a qualified person. All rehabilitation, reconstruction, and new construction should be designed to incorporate principles of sustainability, including water and energy efficiency, resilience, and mitigating the impact of future disasters. Whenever feasible, subrecipients should follow best practices, such as Professional Certifications and Standard Work Specifications provided in the U.S. Department of Energy's Guidelines for Home Energy Professionals.

#### *(b) Green Building*

Hays County will implement the ENERGY STAR Green Building Standard for replacement and new construction of residential housing.

A certificate of compliance issued as part of the chosen standard's compliance process will be required to be submitted as proof of compliance. Homes in high wind and hurricane areas must also be built in compliance with FORTIFIED Home© standards or any other equivalent comprehensive resilient or

disaster resistant building program. These standards also apply to rehabilitation projects that fall within the HUD definition of substantial rehabilitation.

Additionally, the implementation of Green Building Standards will apply for construction projects completed, underway, or under contract prior to the date that assistance is approved for the project. Hays County does support applicable standards to the extent feasible, but the Green Building Standard is not required. For specific required equipment or materials for which an ENERGY STAR-labeled, WaterSense-labeled, or FEMP-designated product does not exist, the requirement to use such products does not apply.

#### *(c) Elevation*

Hays County will follow federal guidelines on base flood elevation, as further promulgated by GLO guidance.

The GLO will apply the following elevation standards to new construction, repair of substantial damage, or substantial improvement of structures located in an area delineated as a flood hazard area or equivalent in FEMA's data source identified in 24 CFR 55.2(b)(1). All structures, as defined under 44 CFR 59.1, designed principally for residential use and located in the 100-year (or 1 percent annual chance) floodplain that receive assistance for new construction, repair of substantial damage, or substantial improvement, as defined under 24 CFR 55.2(b)(10), must be elevated with the lowest floor, including the basement, at least 2 feet above the annual floodplain elevation.

Applicable state, local, and tribal codes and standards for floodplain management that exceed these requirements, including elevation, setbacks, and cumulative substantial damage requirements, will be followed.

The GLO has established elevation costs caps at \$60,000 for elevation of single family homes in coastal counties, and \$35,000 for non-coastal counties. The GLO may re-evaluate its elevation costs caps during the implementation of the homeowner assistance program based on average costs associated with elevating single family homes and on a case-by-case basis as needed.

#### *(5) Standards for Rehabilitation of non-substantial damaged residential*

Hays County will follow the HUD CPD Green Building Retrofit Checklist available at <https://www.hudexchange.info/resource/3684/guidance-on-the-cpd-green-building-checklist/>.

Hays County must apply these guidelines to the extent applicable to the rehabilitation work undertaken, including the use of mold resistant products when replacing surfaces such as drywall. When older or obsolete products are replaced as part of the rehabilitation work, rehabilitation is required to use ENERGY STAR-labeled, WaterSense-labeled, or Federal Energy Management Program (FEMP) designated products and appliances.

#### *(6) Resilient Home Construction Standards*

Subrecipients are encouraged to incorporate a Resilient Home Construction Standards for substantially damaged residential buildings or new construction that incorporate a Resilient Home Construction Standard recognized such as those set by the FORTIFIED Home™ Gold Level for new construction or single family, detached homes; and FORTIFIED Home™ Bronze level for repair or reconstruction of the

roof; or any other equivalent comprehensive resilient or disaster resistant building program. Resilient standards when incorporated will increase a home's resilience to natural hazards, including high wind, hail, and tropical storms. Hays County will incorporate this standard where practicable.

#### *(7) Accessibility*

Hays County will follow GLO's visitability standards.

Single Family Housing Units must meet the accessibility requirements at 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and the GLO's Visitability Standards.

### *G. Displacement of Persons and/or Entities*

Hays County will make every effort to minimize displacement of residents. Where applicable, the County will assist homeowners with temporary displacement costs not to exceed \$5,000 while their home is being repaired by the program.

### *H. Conflict of Interest*

Hays County certifies it has no conflict of interest with the GLO that would in any way prohibit the County or its staff from implementing recovery activities for the 2015 Floods.

The conflict of interest regulations contained in the contract between Hays County and the GLO prohibit local elected officials, subrecipient employees, and consultants who exercise functions with respect to CDBG-DR activities or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, from receiving any benefit from the activity either for themselves or for those with whom they have family or business ties, during their tenure or for one year thereafter.

For purposes of this section, "family" is defined to include parents (including mother-in-law and father-in-law), grandparents, siblings (including sister-in-law and brother-in-law), and children of an official covered under the CDBG-DR conflict of interest regulations at 24 CFR Sec. 570.489(h).

The GLO can consider granting an exception to the conflict of interest provision should it be determined by the GLO that Hays County has adequately and publicly addressed all of the concerns generated by the conflict of interest and that an exception would serve to further the purposes of Title I of the Housing and Community Development Act of 1974 and the effective and efficient administration of the program. The subrecipient should not enter into a conflict of interest until justification has been received and approved by the GLO in accordance with applicable procurement laws.

### *I. Complaint/Appeal Process*

#### *(1) General Policy*

Hays County and the State are responsible for responding to complaints and appeals in a timely and professional manner. Hays County will keep a record of each complaint or appeal that it receives to include all communications and their resolutions.

When a complaint or appeal is received, a representative from Hays County will respond to the complainant or appellant within three (3) business days where practicable. For expediency, subrecipients and the state shall utilize telephone communication as the primary method of contact; however, email and postmarked letters will be used as necessary.

## *(2) Responsibilities*

Hays County, supported by vendor Langford Community Management Services, will assist residents with the application process through a team of dedicated team of customer service specialists that will be tasked with handling all homeowner inquiries. The customer Services team can be contacted at any time during working hours at 1-888-710-5255. Phone calls made after hours will be returned within 48 hours.

Customer service specialists are responsible for (1) determining if complaints and appeals relate to the business or authority of the subrecipient, (2) ensuring that a response to all complaints and appeals are within the appropriate time frame (a final response must be provided within 15 working days of the receipt of the final complaint need for additional time), and (3) ushering all complaints and appeals through to a resolution.

Hays County will maintain internal procedure(s) for handling incoming complaints, including a complaint escalation process to ensure that complaints are handled at the earliest stage in the process.

## *(3) Documentation*

Documentation for each complaint or appeal must be maintained. Each file must include the following:

- Contact information for the complainant;
- Initial complaint;
- Address and GLO assigned project number (if applicable);
- Any communications to and from complainant or appellant;
- Results of the investigation, together with any notes, letters, or other investigative documentation;
- The date the complaint or appeal was closed; and
- Any other action taken.

## *J. Audit Requirements*

Hays County maintains compliance with Single Audit requirements. Hays County receiving funds which exceed the thresholds set in 2 CFR 200.501, Audit Requirements, shall have a single or program specific audit conducted in accordance with the applicable federal requirements.

Vendors and contractors employed by Hays County will be required to comply with the executed contract.

## K. Changes, Waivers, and/or Conflicts

Hays County has the right to change, modify, waive, or revoke all or any part of these guidelines, with the prior written approval of the GLO.

Waivers to the requirements in these Guidelines can only be approved by the GLO and must be provided in writing. The GLO will provide the option for a waiver only after the waiver request has been posted on subrecipient's website for a public comment period of at least 7 days. The waiver request must demonstrate why the housing guidelines are not practicable for the subrecipient.

If these Guidelines conflict with local, state, or federal law, the more stringent requirement will prevail, provided that the requirement does not violate local, state, or federal law.

## 4. SINGLE FAMILY HOUSING PROGRAMS

Eligible activities under the Single Family Housing Programs include: rehabilitation, reconstruction, and or new construction; buyout; repair or replacement of MHU; hazard mitigation; elevation; relocation assistance; down payment assistance; activities designed to relocate families outside of floodplain; and other activities associated with the recovery of impacted single family housing stock.

### A. Survivor Case Management

Hays County has a dedicated case management team to provide consistent services to program applicants. Impacted residents can contact this team at any time at the following number: 1-888-710-5255.

Hays County case managers will work to assist survivors from inception to close-out of their recovery needs associated with the Program for which they participate. Where practicable, Hays County will maintain a single point of contact for each survivor to ensure that survivors have the immediate contact information and needs to be successful in their long-term recovery efforts. As survivor applications are being accepted and reviewed for determinations of eligibility to participate in the Program, each survivor will be counseled and made aware of their application status.

### B. Application Intake and Counseling

Anyone who makes an inquiry about the Program will be provided with a GLO application package to complete. The GLO requires a standardized application. All such inquiries will be reported in a format to be provided by the GLO.

All documentation submitted by the applicant must include a signed statement verifying that the information provided is true, complete and accurate. Any false, fictitious, or fraudulent information, or the omission of any material, may subject the applicant to criminal, civil or administrative penalties. Program documents must capture the following statement:

“Warning: Any person who knowingly makes a false claim or statement to HUD may be subject to civil or criminal penalties under 18 U.S.C. 287, 1001 and 31 U.S.C. 3729.”

Case managers and/or counselors or interpreters will be able to communicate with the applicant in their primary language and should be assigned to the clients as appropriate. Additionally, they must ensure effective communications with persons with disabilities pursuant to 24 CFR 8.6 and other fair housing and civil rights requirements (such as the effective communication requirements under section 504 and the Americans with Disabilities Act). Counselors will be trained to be well-versed in all housing recovery activity requirements.

### C. Applicant Eligibility Requirements

The following are threshold requirements, which must be met for an applicant to be eligible for assistance. Eligibility does not guarantee assistance since a prioritization strategy within LMI economic subgroups will be required (consistent with Program Design requirements), and it is expected that there will be more eligible applicants than can be served with available funds.

#### *(1) General Eligibility*

##### *(a) Income Determination*

The income limits to be utilized for the CDBG-DR Single Family Homeowner Program are area-specific (by county) income limits established yearly by HUD for the Section 8 Housing Program. Income eligibility will be determined and verified in accordance with the GLO's Adjusted Gross Income Methodology. Hays County will apply the most current income limits, published annually by HUD, to verify the income eligibility of each household applying for assistance at the time assistance is provided. Hays County must always use the most recent income limits and will be monitored to ensure compliance with the income guidance as provided throughout these Guidelines.

##### *(b) National Objective*

- i. Beneficiaries of the Single Family Programs must meet the LMH National Objective of supporting housing activities for impacted persons of low- and moderate-income that, upon completion of the housing activity, will be occupied by such person.
- ii. Assistance to non-LMI applicants may be provided under urgent need (see d. below).
- iii. Slum and blight may be addressed under the Local Buyout and Acquisition Program.

##### *(c) Unmet Needs*

Only applicants with an unmet need related to the CDBG-DR funded event will be eligible. Documentation evidencing impact from the event will be required as part of the unmet needs determination. The unmet needs analysis is discussed in Section 3.A.(2) of these Guidelines and will be required by all participating subrecipients.

##### *(d) Applicant with AGI of up to 120 percent of AMI (For Down Payment Assistance)*

HUD has waived homeownership assistance for households with up to 120 percent of the area median income. While homeownership assistance may be provided to households with up to 120 percent of the area median income, only those funds used to serve households with up to 80 percent of the area median income may qualify as meeting the low- and moderate-income person benefit National Objective.

## *(2) Proof of Ownership*

The applicant must be an individual who owns the property to be repaired, rebuilt, or replaced due to damage from the event. Ownership can be documented as follows:

- Provide a copy of a valid deed of trust or warranty deed that is recorded in the county records which cites the applicant's name. Liens on Housing Units: Hays County will coordinate with lienholders to ensure the rehabilitation or reconstruction assessment is approved by the lender.
- For MHUs, a Statement of Ownership and Location (SOL) must be provided. Liens on MHU properties: If an applicant owns a mobile home and there is a lien on the property, Hays County will work to ensure that the lien is transferred properly (if one is in place with the mortgage company). The MHU needs to be "perfected" and made a real property showing that is fixed to the lot. The wheels and axle need to be removed, and a statement of location needs to be in place from Texas Department of Housing & Community Affairs, Manufactured Housing Division (TDHCA).<sup>8</sup> Once this is done, the lender can transfer the lien from the mobile home to the new property.

For the purposes of federally funded disaster recovery programs, alternative methods to document ownership may be proven in the following manner:

(a) Applicants may prove ownership by providing documentation and completing a notarized affidavit that certifies one of the following circumstances applies:

- i. No other party has the right to claim ownership;
- ii. Everyone who has the right to claim ownership has agreed to participate in the program; or
- iii. A party who has the right to claim ownership could not be located (after all reasonable attempts have been made).

(b) Subject to approval by the GLO, instead of a copy of the deed, alternative documentation proving ownership may be provided including (in order of preference):

- i. Tax receipts;
- ii. Home insurance;
- iii. Utility bills; or
- iv. Other documentation deemed to be acceptable by the GLO.

The documentation must show that the applicant was the person responsible for paying for these items at the time of the disaster. The required affidavit, form, and instructions may be found on the GLO's website: [www.texasrebuilds.org](http://www.texasrebuilds.org).

(c) The above-referenced alternatives are not optional, must be incorporated into the Program Design, and allowed to prove ownership for all CDBG-DR Programs in the state of Texas.

## *(3) Principal Residency*

<sup>8</sup> <https://www.hudexchange.info/resource/5614/buying-right-cdbg-dr-and-procurement-a-guide-to-recovery/>



The unit to be rehabilitated, reconstructed, or replaced must have been the applicant's principal residence during the time of the event. Principal residency for applicants can be demonstrated through property tax homestead exemptions. If a homestead exemption was not in place at the time of the disaster, an Affidavit of Principal Residency may be utilized as an alternative method of verification of principal residency. The affidavit must be supported by documentation such as asset verification (income tax returns, credit check, etc.) or utility bills specific to the property address and name of the applicant, which were active as of the date of the event. Vacation homes and rental properties are not eligible for assistance under the Single Family Homeowner Program. The Affidavit of Principal Residency Form may be found on the GLO's website: [www.texasrebuilds.org](http://www.texasrebuilds.org).

#### *(4) Property Taxes*

Applicant must furnish evidence that property taxes are either current, have an approved payment plan, or qualify for an exemption under current laws. Applicant must prove that property taxes have been paid or that one of the following alternatives have been met:

- The property owner qualified for and received a tax deferral as allowed under Section 33.06 of the Texas Property Tax Code;
- The applicant entered into a payment plan with the applicable taxing authority. Support documentation verifying the tax deferral or tax exemption must be provided by the applicant. Any applicant that enters into a payment plan must supply a signed copy of the payment plan from the applicable taxing entity along with documentation that they are current on their payment plan.

#### *(5) Duplication of Benefits (DOB) Review*

Each application will be reviewed to determine if previous funding awarded to the applicant was appropriately used on the home and if any funds were received for the same purpose. The applicant must have an unmet need to move forward in the program. Hays County must determine the applicant's unmet needs first and then calculate the applicant's DOB. Applicants must provide insurance, FEMA, SBA, and any other type of funding documentation for funds that were received. Additionally, subrecipients must verify that the submitted data is accurate and current at the time of the award, to the best of their abilities (e.g., validate against FEMA data). Subrecipients will also determine if insurance was required under the terms of the applicant's mortgage as part of the application review. Regardless of unmet needs and prior funds received, applicant awards cannot exceed program limits.

The total DOB (difference between assistance already received minus expenditures) will equal the remaining gap. The GLO's DOB Calculation Form will be used to determine the total DOB amount. If the total previously awarded assistance is greater than or equal to the total expenditures, then a positive dollar amount will indicate a DOB. To reconcile the DOB amount owed, the applicant can pay the DOB amount, or the applicant may be offered a reduction in the scope on the repair or replacement of their home's nonessential components (e.g., laminate for tile floors, etc.). Subrecipients must use the approved DOB forms when determining an applicant's final DOB. The DOB Calculation Form may be found on the GLO's website: [www.texasrebuilds.org](http://www.texasrebuilds.org).

At the time of application, Hays County will require all assisted applicants to sign and execute a Subrogation Agreement authorizing the County to collect future claims or funds paid to the applicant

for 2015 flood recovery. Hays County must develop policies and procedures to prevent any duplication of benefits when determining an applicant's unmet need. The policies and procedures must include recapture instructions (e.g., applicant is currently appealing or suing their insurance company; therefore, recapture of future funds will be completed by the subrecipient) and monitoring procedures to include priorities and frequency to comply with an executed Subrogation Agreement.

#### *(6) Child Support<sup>9</sup>*

All applicants and co-applicants must be current on payments for child support. If the applicant or co-applicant is not current on child support, that individual will be required to enter into a payment plan that will be obtained from the Office of Attorney General (OAG). A copy of the payment plan signed by all applicable parties along with documentation demonstrating that they are current on their payment plan must be supplied.

#### *(7) Damage Assessment*

Each applicant's home must be assessed to verify that it was damaged from the event. A damage assessment report along with pictures will be required for each applicant. Please refer to the GLO's Damage Assessment Guidelines located at [www.texasrebuilds.org](http://www.texasrebuilds.org).

#### *(8) Environmental Review*

An environmental review must be performed on the property prior to federal funds being committed by subrecipients (24 CFR Parts 50, 58, 574, 582, 583, and 970). No commitment or disbursement of funds will occur prior to the completion of this review. The environmental review shall document compliance with 24 CFR Part 58 and all related laws, authorities, and executive orders. The CDBG-DR Program will not reconstruct or rehabilitate homes that have been determined to be in a floodway.

#### *(9) Flood Insurance Verification/Requirements*

Flood Disaster Protection Act of 1973 as amended and Sec. 582(a) of the National Flood Insurance Reform Act of 1994: Compliance with the legal requirements of Section 582(a) mandates that HUD flood disaster assistance that is made available in an Special Flood Hazard Areas (SFHAs) may not be used to make a payment (including any loan assistance payment) to a person for repair, replacement, or restoration for flood damage to any personal, residential or commercial property if: (1) the person had previously received federal flood disaster assistance conditioned on obtaining and maintaining flood insurance; and (2) that person failed to obtain and maintain flood insurance as required under applicable federal law on such property.

### **D. Property Eligibility Requirements**

The following threshold requirements are applicable to the assisted unit and must be met for the applicant to receive assistance. The Demolition and Homebuyer Assistance Programs are not limited to these specific requirements. They are discussed further under Section G below.

<sup>9</sup> Family Code, Title 5, Section 231.006

- Unit Characteristics — Only single family owner-occupied units within the subrecipient's jurisdiction will be eligible for Single Family Homeowner Programs.
- Manufactured Housing Units (MHUs or mobile homes) are eligible for rehabilitation at the discretion of the subrecipient; however, the MHU to be rehabilitated must be no more than 5 years old at the time of assistance, and no more than \$10,000 in hard and soft construction costs can be used to rehabilitate an MHU. The MHU must pass an HQS inspection upon completion. MHU rehabilitation costs that exceed \$10,000 will require reconstruction. Reconstruction of MHUs will consist of replacing the MHU with another MHU or a stick-built home that will meet the current needs of the family or individual.

## E. Eligible Improvements

### *(1) Types of Improvements*

- Improvements needed to meet HUD Section 8 existing Housing Quality Standards and Cost-Effective Energy Measures are eligible improvements.
- Improvements must be physically attached to the house and be permanent in nature (e.g., sheds or garages located separately from the house are ineligible). Eligibility of attached structures such as carports or utility rooms is based upon available funds and agreement by the GLO in cases where safety or the structural integrity of the house is involved.
- Improvements will include, as necessary, lead-based paint abatement, asbestos abatement, accessibility for families with disabilities or special needs, energy efficiency, or ventilation items such as ceiling fans, window screens, screen doors, and window blinds.
- Ranges, refrigerators, and other necessary appliances are eligible items; however, they will only be considered eligible when they are not present or the repair would not be cost effective. They will be dealt with on a case-by-case basis.
- Documentation to support non-traditional housing costs, because they are required by local codes or homeowner associations (e.g., garages, fencing, masonry, etc.), must be submitted to the GLO for approval.
- Required permits, if any, will be obtained by the contractor or builder at his/her expense and will be included as part of the bid costs.
- Assistance will not be used for luxury items, including but not limited to, garage door openers, security systems, swimming pools, fences, and television satellite dishes.
- Garages, fences, and brick or masonry are not generally eligible unless required by jurisdictional code set forth by the city, county, and/or a homeowner's association.

### *(2) Supplemental Improvements*

- All debris, abandoned vehicles, and buildings that pose a safety and/or health threat, as determined by the local jurisdiction or person qualified to make such a determination, must be

removed from the property prior to the start of construction. The applicant will remove derelict personal property.

- All electrical components must be inspected, including service meter, wiring, and fixtures, even if no electrical work is being specified. Unsafe components must be replaced. All exposed wiring, switches, and light bulbs in living areas must be encased.
- All homes must be equipped with a smoke detector installed in conformance with the one- and two-family dwelling code.
- Rehabilitated homes inhabited by a family member with a disability or elderly persons must be analyzed as to the special physical needs of such persons. Improvements, such as widened doorways, ramps, level entry and doorways, and grab bars in bath areas, must be installed, if appropriate.

#### F. Inspection Requirements

Each project will require an inspection(s) during the lifecycle of the project. The required inspections are dependent on the activity type (e.g., reconstruction, rehabilitation, etc.), which are outlined below. Further details regarding the inspections are included under the specific activity types in Section H, Housing Project Activity Types, of these Guidelines. The program will only pay for one inspection per activity per phase outlined below. Any additional inspection costs will be the responsibility of the designated contractor rehabbing, reconstructing, constructing, or demolishing the home.

**Table 5. Inspection Requirements**

Single Family Housing Inspection Requirements					
Application Type	50%	Final Inspection	Demolition Confirmation	TREC	Monitoring Inspections
Reconstruction	Yes	Yes	Yes	Yes**	%*
Rehabilitation	Yes	Yes****		Yes**	%*
Down Payment Assistance				Yes***	
Buyout and Acquisition			Yes		
*Monitoring inspections are performed by GLO or subrecipient representatives. **TREC inspections are performed by GLO or subrecipient representatives. ***Not performed on mobile homes. ****For substantial rehabilitation only					

#### G. Project Closeout/Affordability Monitoring Requirements

Hays County will implement monitoring procedures throughout the life of the program in compliance with single family affordability periods as set by the GLO.

Approved projects will require Affordability Note Monitoring. For homeowner assistance activities, Hays County must consider setting a budget to accommodate the necessary work to perform the monitoring requirements under the Unsecured Forgivable Promissory Note for three (3) years.

Hays County must consider setting a budget to accommodate the necessary work to perform the monitoring requirements for the affordability period. To ensure compliance with the requirements of the executed Note with the homeowner, Hays County will perform at a minimum an annual check to confirm all Note commitments are in place through its term. Insurance notices of default should be documented and evaluated as they are received. Hays County should use the GLO Monitoring Process, but alternates can be proposed for GLO approval.

## H. Housing Activity Types and Additional Requirements

### *(1) Rehabilitation, Reconstruction or New Construction, Elevation*

#### *(a) Overview*

Benefit for LMI applicants is the principal National Objective approved for the Single Family Homeowner Program.

Eligible activities are as follows: rehabilitation, reconstruction, new construction, and associated elevation and demolition charges. The primary focus of HAP is to provide relief for those people impacted, with consideration given to affirmatively further fair housing, as called for within the Fair Housing Act, in accordance with the approved Affirmative Fair Housing Market Plan.

Hays County's Program Implementation begins with determining the survivor's unmet needs for the rehabilitation, reconstruction, or new construction of the survivor's home. The approved Needs Assessment and Outreach Plan described in these Guidelines will advise Hays County on how they are to offer housing activities to meet the types of housing needs experienced by the affected population and their demographics in order to maximize housing recovery efforts.

Rehabilitation or reconstruction assistance is available to applicants that meet all criteria, for costs not yet incurred, subject to funding availability. Rehabilitation will be provided to homes that have up to \$65,000 in estimated damage from the event. All other homes will be reconstructed. Based on the extent of damage, survivors may be eligible for rehabilitation or reconstruction of their homes. Relocation assistance may be offered at the discretion of subrecipients. The cap will be set at \$5,000 for temporary relocation services for up to 3 months.

After the final inspection, and Form 11.03, Final Housing Inspection has been signed by all required parties, the builder will submit Form 11.04, Building Contractor's Request for Payment which will also require signatures by the builder, homeowner, inspector, and the program representative. The County will conduct a final inspection and retain the final report in the applicant's file.

Programs may fund new construction activities under the LMI National Objective and as defined in 42 U.S.C. 5305(a) and 24 CFR 570.207(b)(3), as HUD has waived this requirement if the new activity clearly addresses a disaster-related impact and is in a disaster-affected area. This impact can be demonstrated

by the disaster's overall effect on the quality, quantity, and affordability of the housing stock, and the resulting inability of that stock to meet post-disaster needs and population demands.

#### (b) Building Specifications Requirements for Reconstruction/ New Construction

For new and reconstructed homes, Hays County will utilize GLO's published housing plans as the standard for eligible housing projects. These plans will be posted for bid by local qualified construction contractors and awarded through Hay's County procurement procedures. Each home must be constructed in accordance with local codes and should include ENERGY STAR Green Building resilience and mitigation requirements. Homes located in a flood zone that are newly constructed or reconstructed will be elevated to 2 feet above the 1 percent annual floodplain elevation for that area.

#### (c) Visitability Checklist

Visitability Checklists are required for single family homes for the first floor only, even if multiple floors exist:

- i. At least one 36-inch entrance door (preferably the main entrance) is on an accessible route served by a ramp or no-step entrance.
- ii. Each interior door is at least a standard 32-inch door, unless the door provides access only to a closet of less than 15 square feet.
- iii. Each hallway has a width of at least 36 inches and is level with ramped or beveled changes at each door threshold.
- iv. Each bathroom wall is reinforced for potential installation of grab bars.
- v. Each electrical panel, light switch, or thermostat is not higher than 48 inches above the floor.
- vi. Each electrical plug or other receptacle is at least 15 inches above the floor.
- vii. If the applicable building codes do not prescribe another location for the breaker boxes, each breaker box is located not higher than 48 inches above the floor inside the building.

#### (d) Size of Units

Guidance for the preferred amount of people per bedroom follow HUD HOME program guidelines which are further discussed in the Program Design section of these Guidelines. The GLO-determined total square footage ranges are as follows:

- i. 2 bedroom/1-2 bath home: 1,000–1,330 SF
- ii. 3 bedroom/1-2 bath home: 1,331–1,425 SF
- iii. 4 bedroom/2 bath home: 1,426–1,500 SF

#### (e) Rehabilitation Caps

Rehabilitation of existing homes damaged by the event is capped at \$65,000. Additional expenses, such as elevation, are allowed as limited by the Housing Assistance Caps as described in Section 3.B. of the Program Design section of these Guidelines. Estimated rehabilitation costs exceeding this cap will be recommended for reconstruction. An estimated cost of repair (ECR) using RS Means, Xactimate, or similar will determine if the unit is to be rehabilitated or reconstructed. Refer to the definition of "substantial improvement" when determining damage and final unmet need calculations.

Hays County must identify homes that are subject to historic preservation reviews under Section 106 of the National Historic Preservation Act of 1966 (54 U.S.C. Section 306108). HUD allows the allocation of administration funds to retain a qualified historic preservation professional.

#### (f) Construction

- i. Housing that is constructed or rehabilitated with CDBG-DR funds must meet all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances at the time of project completion. All local permitting and county inspections must be completed. International Residential Code 2012 or higher (IRC) (with windstorm provisions) and International Building Code (IBC) must also be met where they apply. All rehabilitation projects must comply with Housing Quality Standards (HQS) and all applicable local codes and ordinances. Additional codes and standard requirements are detailed in the Program Design section of these Guidelines.
- ii. If the unit to be assisted was built prior to 1978 and the type of assistance offered will be rehabilitation, the assisted unit will be tested for the presence of lead-based paint and asbestos-containing materials. If present, the removal and abatement of lead-based paint and asbestos-containing materials will be considered in the costs of rehabilitation under the Abatement Cap as described in the Program Design section of these Guidelines. Lead-based paint and asbestos-containing material inspections provide two benefits: (1) the costs of abatement are considerable and must be factored into the cost estimates for rehabilitation, and (2) the health risk to residents, particularly children in the case of lead-based paint, may be severe, so any presence of lead-based paint in an assisted unit, even one that is to be reconstructed, must be reported so that the residents may seek appropriate medical attention.
- iii. A pre-construction conference between the assisted homeowner, contractor, and a Hays County representative will be conducted to ensure all parties (assisted homeowner, contractor, and the subrecipient) are in agreement about the work to be completed. The pre-construction conference will consist of two parts:

Part 1: Basic contract and procedural issues to include begin- and end-dates of the contract, terms of the contract, payment schedules and procedures, inspection procedures and requirements, responsibilities of the contractor and the assisted homeowner, change order procedures, payment requests and procedures (escrow account), lead-based paint requirements, role of the subrecipient, complaint and conflict resolution procedures, and other programmatic procedures.

Part 2: A walk-through of the house for rehabilitation assistance. All parties should understand how the work will proceed. Instructions will be given regarding clean up by the homeowner prior to the work and the contractor after the work.

#### (g) Construction Agreement

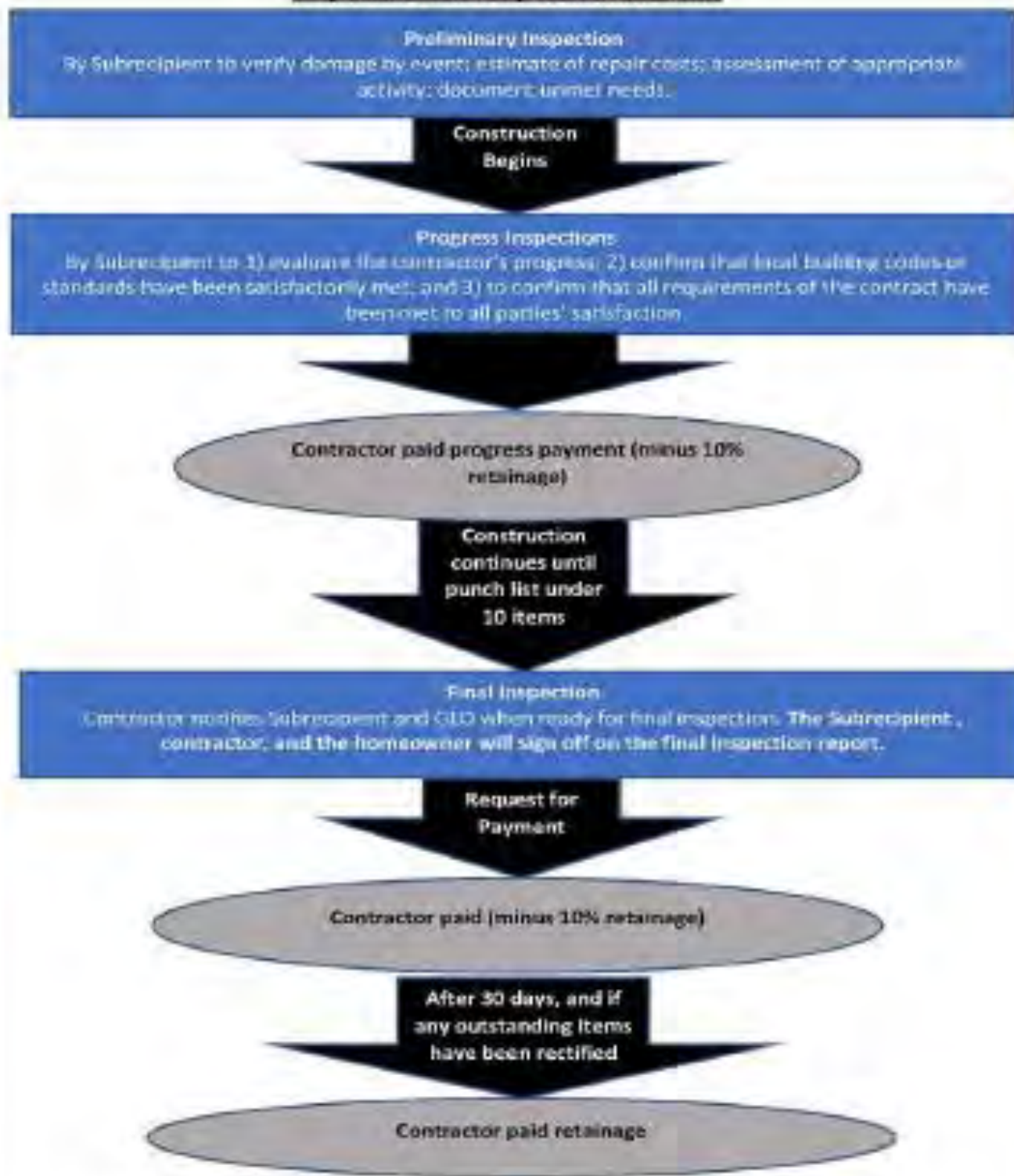
The construction agreement for stick-built homes will be a two party agreement between the rehabilitation/reconstruction contractor and the assisted homeowner.

#### (h) Property Inspection and Final Payment

For additional information, refer to section 4.F. *Inspection Requirements*, of these Guidelines, and refer to the flowchart on the next page.



### Inspection and Payment Flowchart



## **Preliminary Inspections**

A preliminary inspection will be conducted by the subrecipient to determine the condition of the unit for each application and to verify damage by the event if FEMA, the Small Business Administration (SBA), or insurance award letters are not available to demonstrate tieback to the applicable event. The initial inspection will be conducted by a Hays County's inspector (or by another qualified inspector assigned by the County) and will prepare a list of the deficiencies. The inspection will also provide an estimate of repair costs to determine whether rehabilitation or reconstruction will be offered and must be in sufficient detail to be utilized in the creation of work write-ups. This process documents the unmet needs for the applicant with respect to rehabilitation or reconstruction of their damaged home.

## **Progress Inspections**

- i. Progress inspections (50 percent) performed by the subrecipient serve three primary purposes: (1) to evaluate the contractor's progress; (2) to confirm that local building codes or standards have been satisfactorily met; and (3) to confirm that all requirements of the contract have been met to the satisfaction of all parties.
- ii. 50% Inspection (reconstruction and new construction)
  - The building shall be in a "dried in" state, which means that all windows, doors, roof, and siding shall be in place, thus preventing rain penetration into the interior of the house.
  - The rough-in plumbing shall be complete.
  - The electrical rough-in shall be completed, including (but not limited to) the placement of receptacle boxes, switch boxes and the placement of the circuit breaker box.
  - The AC/Heat mechanical shall be in place, including the units themselves, the ductwork and all drain lines.
  - The inspection shall take place prior to insulation being installed.
  - The CDR 50% Checklist must be used to complete the inspection.
- iii. Inspections to approve progress payments will be made at a time requested by the contractor. These inspections will be made promptly upon request so as not to delay the processing of the contractor's payments. Hays County will retain 10 percent of all payments. If possible, the same person will conduct both progress and final inspections.

## **Final Inspections**

- i. As in all construction projects, a punch list will be developed toward the end of the job. A punch list is a listing of items written as specifications, which constitute the work necessary to complete the contract. The contractor and Hays County can develop the punch list as a result of the final inspection, or the contractor and the assisted homeowner can create the list prior to the final inspection. The punch list will represent work documented on the work write-up that was not completed. The list will not add work that had not already been identified. Once the

punch list has been prepared, no other work items are expected of the contractor. If the punch list contains more than ten (10) items, the contractor is not ready for a final inspection.

- ii. When work is nearing completion, including any punch list items, the contractor will notify Hays County of a specific date when the job will be ready for a final inspection. The purpose of the final inspection is to guarantee that all work called for in the contract has been completed according to specification. If the 50 percent inspection was conducted thoroughly, the final inspection should only need to catch those items which have been done since the last inspection. The final inspection will be as thorough and deliberate as the initial inspection. Finished carpentry, painting, backfilling, electrical fixtures, all single family homeowner activities, and clean-up should be closely checked for completion. Hays County and the homeowner will sign off on the final inspection report.
- iii. 100% (Final) Inspection
  - All construction shall be complete.
  - Site shall be free of debris or construction materials.
  - Interior shall be cleaned.
  - The punch list shall be created, although minor punch list repairs may be outstanding.
  - The inspection shall be completed before key hand off to the homeowner.
  - The CDR 100% Checklist must be used to complete the inspection.
- iv. Every attempt will be made to satisfy the homeowner's concerns at final inspection. If the homeowner objects and refuses to sign off on the final inspection, Hays County will notify the GLO, move forward with closing, and place a note in the file for audit purposes.
- v. Hays County will make sure that the assisted homeowner has received all warranties and instruction booklets for installed equipment.
- vi. After documentation has been submitted to Hays County evidencing that the home has passed the final inspection, all punch list items have been satisfactorily completed, and all warranties have been issued, the project can be brought to final resolution. For purposes of accountability, Homeowner Assistance Program administrators must have written documentation that the assisted homeowner and the subrecipient has accepted the work (the final inspection requires signatures from the homeowner, contractor, and Hays County).

## **Warranties and Retainage**

- i. When the results of the final inspection indicate that the work is completed in accordance with the contract, Hays County will submit the contractor's request for payment and, upon receipt of the funds, disburse the funds to the contractor. The subrecipient shall retain 10 percent of the funds for 30 days. During this time any outstanding punch list items must be corrected, and documentation of the corrections must be submitted to the GLO or its representative. Following satisfactory correction of all outstanding items, the retainage will be paid to the contractor upon availability of grant funds following the final 30-day period.
- ii. Should the contractor fail to satisfactorily correct any and all outstanding items, (1) Hays County will not disburse the retainage, (2) the assisted homeowner may take any necessary legal recourse, and (3) the contractor may be removed from performing any more rehabilitation/reconstruction work on the home. The GLO will have all necessary work completed at the GLO's discretion.
- iii. In addition, should the contractor be doing other work under this Single Family Homeowner Program and fail to correct any warranty problems, no other payments will be made to him/her until such problems are corrected. This will affect a builder's assignment method and these actions should be recorded.
- iv. All work performed by the contractor will be guaranteed for a period of 1 year. Such warranty will be stipulated in the construction contract between the contractor and the homeowner. For a period of 1 year, the assisted homeowner may require the contractor to correct defects or problems arising from his/her work under this contract. Should the contractor fail to do so, the assisted homeowner may take any necessary legal recourse as prescribed in the rehabilitation or new construction contract. A reasonable amount of time will be given to correct the problem; however, in no case will such time exceed 2 weeks to respond. Warranty notices must be issued in advance of expiration (e.g., 6 months and 1 month prior to expiration date of the warranty).
- v. In addition to the 1-year warranty referenced above, the contractor shall provide a third-party extended warranty that shall cover, at a minimum, the structural integrity and the foundation for a period of 10 years. Hays County must inform the applicants at closing what the home warranty terms are and when they expire. HUD recommends that Hays County include a warranty notice on a periodic basis, e.g., 6 months from expiration.

## *(2) Local Buyout Program*

HUD has authorized the use of buyout programs to (1) reduce the risk to homeowners from the effects of subsequent disasters, (2) assist in the recovery of low- and moderate-income households, and (3) protect taxpayer resources that might otherwise be needed after a disaster in the same area (80 FR 72102).

Buyout programs support hazard mitigation, floodplain management goals, and resiliency by removing homeowners from the floodplain to minimize the possibility of future flooding to the home. After homes are purchased, the structures are demolished or relocated. The Local Buyout Program serves multiple objectives and provides a resiliency option versus rebuilding within a floodplain. Buyouts help prevent repetitive loss and extreme risk to human health and safety.

Buyout services are limited to actual costs for services used to complete a buyout of a home in a floodplain or floodway; the intent is to relocate the homeowner and their family to a low-risk area outside of the floodplain/floodway. Housing incentives are generally offered in addition to other programs or funding (such as insurance) to encourage households to relocate in a suitable housing development or an area promoted by the community's comprehensive recovery plan and should include higher opportunity areas. Incentive payments are ineligible for households that move to disaster-impacted floodplains.

Hays County may use the Low to Moderate Housing Incentive (LMHI) to resettle beneficiaries who were affected. Housing incentives are usually offered to encourage households to relocate to a suitable housing development or to an area promoted by the community's comprehensive recovery plan and may be in addition to the buyout award. Hays County must ensure that the intent of the housing incentive is satisfied at award.

All buyout activities are a type of acquisition of real property (as permitted by section 105(a)(1) of the HCD Act). However, only acquisitions that meet the definition of a "buyout" are subject to the post-acquisition land use restrictions discussed further below.

To conduct a buyout in a Disaster Risk Reduction Area, the subrecipient must first establish criteria in their policies and procedures to designate the area subject to the buyout. To designate an area, subrecipients must demonstrate that: (1) the hazard must have been caused or exacerbated by the Presidentially declared disaster area; (2) the hazard must be a predictable environmental threat to the safety and well-being of program beneficiaries as evidenced by the best available data and science; and (3) the Disaster Risk Reduction Area must be clearly delineated so that HUD and the public may easily determine which properties are located within the designated area.

Hays County has the discretion to determine the appropriate valuation method, including paying either pre-disaster or post-disaster fair market value (FMV).

HUD is waiving Section 104(d), the one-for-one replacement requirement, for lower-income dwelling units that are damaged by the disaster and not suitable for rehabilitation.

#### (a) Buyouts

Property acquired through a buyout program will be dedicated and maintained in perpetuity for a use that is compatible with open space, recreational, or floodplain and wetlands management practices, as well as other purposes allowed by HUD and accepted by the GLO. No new structure will be erected on property acquired, accepted, or from which a structure was removed under the buyout program other than: (1) a public facility that is open at all sides and functionally related to a designated open space (e.g., a park, campground, or outdoor recreation area); (2) a restroom; or (3) a flood control structure, provided that structure does not reduce valley storage, increase erosive velocities, or increase flood heights on the opposite bank, upstream or downstream, and that the local floodplain manager approves, in writing, before the commencement of the construction of the structure. After receipt of the assistance, with respect to any property acquired, accepted, or from which a structure was removed under the buyout program, no subsequent application for additional disaster assistance for any purpose

or to repair damage or make improvements of any sort will be made by the subrecipient to any federal entity in perpetuity.

Buyouts will be encouraged to be used strategically as a means of acquiring contiguous parcels of land for uses compatible with open space, recreational, natural floodplain functions, other ecosystem restoration, or wetlands management practices.

#### (c) Housing Incentives

##### i. Relocation assistance

Relocation assistance may be offered at the discretion of Hays County; however, the assistance may not exceed \$35,000 for purchase of a lot or newly constructed home, or \$10,000 for an existing home.

Temporary relocation assistance may be offered at the discretion of the Hays County; however, the assistance may not exceed \$5,000 and 3 months of expenses per household. It is anticipated that the assistance will be provided when the closing occurs for the new or existing home purchase; furthermore, temporary relocation assistance may not be necessary unless otherwise allowable by the applicable Federal Register notice and approved by the GLO.

##### ii. Down Payment Assistance

This activity is available only under the Voluntary Buyout. The subrecipient will choose the option that best benefits their community.

The following items must be met to provide additional funding:

- Purchased a lot or using a pre-owned lot located outside of a floodplain, or to a lower-risk area within the subrecipient's jurisdiction, for construction of a new home (a construction date must be provided), or the applicant purchased a newly constructed or existing home located outside of floodplain or a lower-risk area in the subrecipient's jurisdiction.
- Purchased homes must be considered decent, safe, and sanitary.
- The funding must be used within an established sixty (60) days.
- Down Payment Assistance:
  - a) HUD has waived homeownership assistance for households with up to 120 percent of the area median income. While homeownership assistance may be provided to households with up to 120 percent of the area median income, only those funds used to serve households with up to 80 percent of the area median income may qualify as meeting the low- and moderate-income person benefit National Objective.

- b) The replacement home is usually more expensive than the buyout home because new homes are built to recently adopted building codes and zoning requirements as opposed to older homes.
- c) The amount of assistance is based on the determined need of the applicant; however, the amount will not exceed \$35,000.
- d) Eligible properties for down payment assistance may reside within the jurisdiction of the subrecipient:
  - 1) Single family property (detached and attached 1–4 units)
  - 2) Condominium unit
  - 3) Cooperative unit
  - 4) Modular home/Manufactured home
  - 5) Vacant land

*(d) Types of Buyout Programs*

i. Voluntary

Applicants located in a floodway, floodplain, or areas designed as Disaster Risk Reduction Areas (DRRA) by the subrecipient may be assisted if:

- The applicant is offered/accepts an incentive to relocate outside of the floodplain or to a low-risk area, e.g., moving costs, down payment assistance, (incentive costs must be for a specific purpose and must be properly defined for award).
- The applicant was required to maintain flood insurance at the time of the event and still has unmet recovery needs.

Transactions with no threat or use of eminent domain and meet requirements set forth in 49 CFR 24.101(b)(1) as follows:

- No specific site or property needs to be acquired.
- The property to be acquired is not part of an intended, planned, or designated project area where all or substantially all of the property within the area is to be acquired within specific time limits.
- The Hays County will not acquire the property through eminent domain condemnation if negotiations fail to result in an amicable agreement and the owner is so informed in writing.
- Hays County will inform the owner in writing of what it believes to be the market value of the property.

*(e) Program Requirements*

- i. All proposed buyout programs will undergo Affirmatively Furthering Fair Housing (AFFH) review by the GLO before approval. Such review will include assessments of (1) a proposed project's area demography, (2) socioeconomic characteristics, (3) housing configuration and needs, (4) educational, transportation, and health care opportunities, (5) environmental hazards or concerns, and (6) all other factors material to the AFFH determination. Case manager's will assist homeowners in determining eligible homes that are in a higher opportunity area.
- ii. Provide an estimate of Fair Market Value. An appraisal of pre-storm value is used to establish the agency's estimate of fair market value in accordance with the Uniform Relocation Act (49 CFR 24.103 and 24.104).
- iii. A Duplication of Benefits (DOB) and a National Flood Insurance (NFIP) review must be completed and documented for each applicant.
- iv. A statement of the amount offered as compensation, description, and location of the real property, and a list of buildings, structures, or other improvements must be provided to the applicant. The final settlement (buyout offer) must be properly documented and assistance calculations must show how the subrecipient determined the final offer.
- v. The applicant will have the right to determine the value of the property by hiring an appraiser to conduct their own assessment. If accepted, the subrecipient will update the offer and submit it to the owner.
- vi. The owner must remove all personal property from the residence prior to the day of closing.
- vii. Closing documents: The applicant must sign the agreement for sale document and a limited subrogation agreement document. If a buyout incentive is part of the final buyout offer, e.g., the family will agree to relocate outside the floodplain or to a lower-risk area, the incentive award is provided once confirmation is received (closing statement of new home) by the subrecipient.
- viii. Hays County will ensure the property title is deed restricted and remains public open space in perpetuity, as necessary (buyout program) as described above.
- ix. The project must comply with all applicable federal and state requirements.

*(f) Eligibility Requirements*

i. Buyout

To conduct a buyout in a Disaster Risk Reduction Area, the subrecipient must establish written policies and procedures to designate the area subject to the buyout, pursuant to the requirements as noted above.

ii. Property Types



- Single family residences, multifamily residences, and single family rental
- Vacant lots (inclusion of vacant lots may prove essential to meeting the objectives of the Buyout Program by preventing further residential development in the designated area).

*(g) Amount of Assistance*

Hays County may offer up to 100 percent amount of assistance provided, and should only include the amount needed by the applicant to achieve homeownership. The amount of assistance would be based on the FMV, plus any program incentives offered (if applicable).

*(h) Disposal of Storm-Damaged Property*

Once the applicant has purchased a lot or home as result of an acquisition/buyout, the applicant's storm-damaged property will be demolished. The subrecipient should complete the demolition of the home within 45 days of vacancy. The cost of the demolition can be charged to the program.

The land will be dedicated and maintained in perpetuity for a use that is compatible with open space, recreational, floodplain, or wetlands management practices. There are options for disposing of the property including:

- i. Hays County can lease the property to adjacent property owners or other parties in return for a maintenance agreement;
- ii. Hays County can convert the land to green space; or
- iii. Hays County can opt to sell the acquired property at a fair market value; however, the proceeds will be classified as program income and must be returned to the state. Additionally, if the subrecipient acquired the property as part of a buyout, the subrecipient will be required to place a deed restriction or covenant dedicating the property to be maintained for compatible uses in perpetuity as discussed above.

Hays County must send the funds to:

Attention:  
Texas General Land Office  
Agency Cashier  
PO Box 12873  
Austin, TX 78711-2873

In the accompanying check, Hays County will need to include the grant number, contract number, activity number(s), identify it as program income, and the reason for return.

*(i) Additional Allowable Expenditures*

The following expenditures are allowable under the Buyout Program:

- i. The closing costs associated with processing the transaction;
  - ii. Recording fees, transfer taxes, documentary stamps, evidence of title, boundary surveys, legal descriptions of the real property and similar expenses incidental to convey the real property to the subrecipient. Costs associated with perfecting the property are not allowed;
  - iii. Penalty costs and other charges for prepayment of any pre-existing recorded mortgage; and
  - iv. The pro rata portion of any prepaid real property taxes which are allocable to the period after the subrecipient obtains the title to the property or effective possession of it, whichever is earlier.
- Funding provided toward the purchased property must not be used to duplicate benefits already paid by another federal agency such as FEMA and SBA. The DOB Calculation Form will need to include payments for eligible relocation assistance.

*(I) Program Requirements*

Unsecured Forgivable Promissory Note

- 1) Participants in the Single Family Homeowner Assistance and Buyout (with incentives) Programs shall be required to sign an Unsecured Forgivable Promissory Note (GLO Form 13.09).
- 2) Hays County will be required to execute the Unsecured Forgivable Promissory Note (the Note) with assisted homeowners for all homeowner activities under the CDBG-DR Program. The Note may be required to be recorded in the county courthouse records during the affordability monitoring period conducted by the subrecipient or the state. The homeowner must comply with the terms of the Note as follows:
  - a. Assisted homeowners are required to maintain ownership of the assisted property for at least 3 years. Cash-out refinancing, home equity loans, or any loans utilizing the assisted residence as collateral are not allowed for 3 years. A violation of this policy will activate the repayment terms of the Note.
  - b. Assisted homeowners are required to maintain principal residency in the assisted property for 3 years. A violation of this policy will activate the repayment terms of the Note.
  - c. Taxes are to be paid and in good standing for the properties assisted. Homeowners may be on a payment plan, but it needs to be submitted to Hays County.
  - d. Insurance must be maintained at the assisted property. Hazard, flood (if applicable), and windstorm (if applicable) will be monitored for the 3-year period.
  - e. Transfer notice of requirement to obtain and maintain flood insurance for property. Failure to do so shall deem the homeowner liable to reimburse the state for the relief assistance applied to the property. Evidence of this requirement must be maintained in disclosure documents by the homeowner.
- 3) Hays County is required to monitor assisted households for compliance with the terms of the Note. Homeowners who default on the terms of the Note will repay the prorated amount and any funds remaining on the Note. The calculated default amount may be reported to credit bureaus and the Texas Office of the Attorney General.

- 4) If the assisted homeowner continues to occupy the home until the term of the Note expires, the loan is forgiven and conditions are clear on the disposition of the property. If the property is sold, transferred, or vacated by the assisted homeowner for any single period that exceeds thirty (30) days during the 3-year forgivable loan period, the repayment terms of the Note will be enforced, except in those cases addressed below.
  - a. Migrant farm workers who are recipients of a home under this program may, when proven to be performing work for not more than 6 months, leave a home vacant during the time of their employment; however, the recipient may not rent out the home, and they must intend to return to the home. If the assisted homeowner for any reason ceases to reside in the assisted unit during the subrecipient's CDBG-DR contract period, only LMI persons may re-occupy the unit until the contract is administratively closed by the GLO or the CDBG- DR contract period expires, whichever is earlier.
  - b. Accelerated forgiveness in certain cases: In the event of (1) the death of the assisted homeowner, (2) relocation of the assisted homeowner to a managed-care facility, or (3) relocation resulting from documented mental or physical incapacitation of the sole remaining assisted homeowner identified in the original application, the subrecipient may forgive any remaining loan balance. However, the requirement that only LMI persons may occupy the assisted housing unit until the CDBG-DR contract is closed by the GLO or the contract period expires, shall not be waived by the subrecipient. Subrecipients may submit a request to the GLO for assistance with unique accelerated forgiveness cases that may require review as a result of trust or will heirship matters.
- 5) The project must comply with all applicable federal and state requirements.

#### J. Files and Reports

Hays County will maintain accurate Single Family Homeowner Program files and records for general administration activities, for each applicant, and for each assisted homeowner as required by the GLO in the GLO's system of record. Such files will be open for inspection as to qualifications, bids, and awards. Record keeping procedures must be developed for monitoring/audit by the GLO.

## Appendix A

### Hays County 2018 Income Limits<sup>10</sup>

FY2018 Income Limit Area	Median Family Income	FY2018 Income Limit Category	Number of Persons in Household							
			1	2	3	4	5	6	7	8
Austin-Round Rock, TX MSA (Metropolitan Statistical Area)	\$86,000	<b>Extremely Low</b> -Income Limits (0% - 30% AMI)	\$18,100	\$20,650	\$23,250	\$25,800	\$29,420	\$33,740	\$38,060	\$42,380
		<b>Very Low</b> -Income Limits (31% - 50% AMI)	\$30,100	\$34,400	\$38,700	\$43,000	\$46,450	\$49,900	\$53,350	\$56,800
		<b>Low</b> Income Limits (51% - 80% AMI)	\$48,200	\$55,050	\$61,950	\$68,800	\$74,350	\$79,850	\$85,350	\$90,850

NOTE: Hays County is part of the Austin-Round Rock, TX MSA, so all information presented here applies to all of the Austin-Round Rock, TX MSA.

The Austin-Round Rock, TX MSA contains the following areas: Bastrop County, TX; Caldwell County, TX; Hays County, TX; Travis County, TX; and Williamson County, TX.

\* The FY 2014 Consolidated Appropriations Act changed the definition of extremely low-income to be the greater of 30/50ths (60 percent) of the Section 8 very low-income limit or the poverty guideline as established by the Department of Health and Human Services (HHS), provided that this amount is not greater than the Section 8 50% very low-income limit. Consequently, the extremely low-income limits may equal the very low (50%) income limits.

<sup>10</sup> Source information located on HUD website at the following location:  
[https://www.huduser.gov/portal/datasets/il/il2018/select\\_Geography.odn](https://www.huduser.gov/portal/datasets/il/il2018/select_Geography.odn)

# Summary of Public Comment

Hays County posted the 2015 Housing Guidelines in both English and Spanish on its public website for 16 full calendar days beginning on October 4, 2018. At the time the County closed the comment period at 5 pm on October 19, 2018, no public comments were received.

### 11.17 Scope of Work Write-Up

Subrecipient/State Representative Name:	Hays County	Contract Number:	
Homeowner Name:		Project Number:	
Home Address:			
Building Contractor Name and Address:			

GENERAL CONSTRUCTION - HARD COSTS	
1	1.000000
2	2.000000
3	3.000000
4	4.000000
5	5.000000
6	6.000000
7	7.000000
8	8.000000
9	9.000000
10	10.000000
11	11.000000
12	12.000000
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133	133.000000
134	134

Composite Price - INCLUSIVE OF: Plans, permits, engineering costs, labor and materials, contractor insurance, bonding, normal site prep, and normal flat work.

	Description	Specification Detailed Description	Square Feet, Number of Items, or Linear Feet	Cost per Square Foot or per Item (including Labor)	Cost per Item	Total
	Composite Price				\$ -	
	Other				\$ -	
	Composite Price Cost					\$ -

Summary Of Rehabilitation Costs - (Line Items are itemized below)

[illegible]

					\$ -
	Rehabilitation Cost				\$ -

SITE SPECIFIC - In Addition to Normal Scope (Reconstruction Only)						
	Description	Specification Detailed Description	Square Feet, Number of Items, or Linear Feet	Cost per Square Foot or per Item (including Labor)	Cost per Item	Total
	Site Prep				\$ -	
	Flat Work				\$ -	
	Other				\$ -	
	Sub-Total - Site Specific/Site Prep					

SITE SPECIFIC - ELEVATION						
	Description	Specification Detailed Description	Square Feet, Number of Items, or Linear Feet	Cost per Square Foot or per Item (including Labor)	Cost per Item	Total
	Coastal	Site specific - Utilized FEMA's HWM			\$ -	
	Non-Coastal	Site specific			\$ -	
	Other				\$ -	
	Note: Activities in the above area may be subject to Windstorm certification					
	Sub-Total - Site Specific/Elevation					\$ -

SITE SPECIFIC - DEMOLITION						
	Description	Specification Detailed Description	Square Feet, Number of Items, or Linear Feet	Cost per Square Foot or per Item (including Labor)	Cost per Item	Total
	Demolition				\$ -	
	MHU Disposal/Haul				\$ -	
	MHU Decommission				\$ -	
	Other				\$ -	
	Sub-Total - Site Specific/Demolition					\$ -

SITE SPECIFIC - ACCESSIBILITY						
	Description	Specification Detailed Description	Square Feet, Number of Items, or Linear Feet	Cost per Square Foot or per Item (including Labor)	Cost per Item	Total
	Bathroom				\$ -	
	Ramp/Lift				\$ -	
	Other				\$ -	

Sub-Total - Site Specific/Accessibility						\$	-
SITE SPECIFIC - ABATEMENT							
	Description	Specification Detailed Description	Square Feet, Number of Items, or Linear Feet	Cost per Square Foot or per Item (including Labor)	Cost per Item	Total	
	Lead Paint Abatement				\$ -		
	Asbestos				\$ -		
	Other				\$ -		
Sub-Total - Site Specific/Abatement						\$	-
Water Well							
	Description	Specification Detailed Description	Square Feet, Number of Items, or Linear Feet	Cost per Square Foot or per Item (including Labor)	Cost per Item	Total	
	Well Replacement				\$ -		
	Repair of Well/Lines				\$ -		
	Other				\$ -		
Sub-Total - Site Specific/Abatement						\$	-
Septic System							
	Description	Specification Detailed Description	Square Feet, Number of Items, or Linear Feet	Cost per Square Foot or per Item (including Labor)	Cost per Item	Total	
	Septic Replacement				\$ -		
	Septic Repair/Lines				\$ -		
	Other				\$ -		
Sub-Total - Site Specific/Abatement						\$	-
SITE SPECIFIC - CODE REQUIREMENT							
	Description	Specification Detailed Description	Square Feet, Number of Items, or Linear Feet	Cost per Square Foot or per Item (including Labor)	Cost per Item	Total	
	City Code Requirement				\$ -		
	HOA Code Requirement				\$ -		
	Other				\$ -		
Sub-Total - Site Specific/Abatement						\$	-
SITE SPECIFIC - STORM HARDENING							
	Description	Specification Detailed Description	Square Feet, Number of Items, or Linear Feet	Cost per Square Foot or per Item (including Labor)	Cost per Item	Total	
	Storm Hardening				\$ -		
	Other				\$ -		
Sub-Total - Site Specific/Abatement						\$	-
SOFT COSTS - BUILDER							



	Description	Specification Detailed Description	Square Feet, Number of Items, or Linear Feet	Cost per Square Foot or per Item (including Labor)	Cost per Item	Total						
	Homeowner's Insurance				\$ -							
	Insurance Admin Fee				\$ -							
	Other				\$ -							
	SubTotal - Misc. Soft Costs - Builder					\$ -						
SOFT COSTS - Vendor												
	Description	Specification Detailed Description	Square Feet, Number of Items, or Linear Feet	Cost per Square Foot or per Item (including Labor)	Cost per Item	Total						
	Set Up Costs and Initial Inspection				\$ -							
	50/Final/TREC Complete				\$ -							
	Relocation Expenses				\$ -							
	Other				\$ -							
	SubTotal - Soft Costs Vendor					\$ -						
SOFT COSTS - Environmental Vendor												
	Description	Specification Detailed Description	Square Feet, Number of Items, or Linear Feet	Cost per Square Foot or per Item (including Labor)	Cost per Item	Total						
	Environmental Review				\$ -							
	Other				\$ -							
	SubTotal - Misc. Soft Costs - Subrecipient					\$ -						
	Total Budgeted Project Costs					\$ -						
<table border="1" style="width: 100%;"> <tr> <td style="width: 20%;">Homeowner Signature:</td> <td style="width: 40%;"></td> <td style="width: 40%;">Date:</td> </tr> <tr> <td>Builder Signature:</td> <td></td> <td>Date:</td> </tr> </table>							Homeowner Signature:		Date:	Builder Signature:		Date:
Homeowner Signature:		Date:										
Builder Signature:		Date:										
<p>WARNING: If it is determined through monitoring that the on-site support documentation of actual costs does not agree with the itemized invoice(s) submitted, the Subrecipient/State Representative will be subject to repayment of CDBG funds. Subrecipient/State Representative may not request funds in excess of the actual amount expended for rehabilitation or reconstruction of the eligible home.</p>												



## Disadvantaged Business Enterprise (DBE) Program Commitment Agreement Form

Form SMS.4901  
(Rev. 06/08)  
Page 1 of 1

**This commitment is subject to the award and receipt of a signed contract from the Texas Department of Transportation for the subject project.**

<b>Project #:</b>		<b>County:</b>		<b>Contract-CSJ:</b>	
<b>Items of work to be performed (attach a list of work items if more room is required):</b>					
Bid Item #	Item Description	Unit of Measure	Unit Price	Quantity	Total Per Item
<b>Total</b>					
<p>The contractor certifies by signature on this agreement that subcontracts will be executed between the prime contractor and the DBE subcontractors as listed on the agreement form. If a DBE Subcontractor is unable to perform the work as listed on this agreement form, the prime contractor will follow the substitution/replacement approval process as outlined in the Contract DBE Special Provision.</p>					
<b>IMPORTANT: The signatures of the prime contractor and the DBE, and the total commitment amount must always be on the same page.</b>					
<b>Prime Contractor:</b>			Name/Title (please print):		
Address:			Signature:		
Phone:	Fax:				
E-mail:			Date:		
<b>DBE:</b>			Name/Title (please print):		
Vendor No.:			Signature:		
Address:					
Phone:	Fax:		Date:		
E-mail:					
<b>Subcontractor (if the DBE will be a second tier sub):</b>			Name/Title (please print):		
Address:			Signature:		
Phone:	Fax:				
E-mail:			Date:		

The Texas Department of Transportation maintains the information collected through this form. With few exceptions, you are entitled on request to be informed about the information that we collect about you. Under §§552.021 and 552.023 of the Texas Government Code, you also are entitled to receive and review the information. Under §559.004 of the Government Code, you are also entitled to have us correct information about you that is incorrect.

To ensure prompt and efficient handling of your project file we are requesting that all commitments to be presented to the Office of Civil Rights, using this basic format.

## REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION CONTRACTS

- I. General
- II. Nondiscrimination
- III. Nonsegregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Compliance with Governmentwide Suspension and Debarment Requirements
- XI. Certification Regarding Use of Contract Funds for Lobbying

### ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

### I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

### II. NONDISCRIMINATION

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

**1. Equal Employment Opportunity:** Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under

this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

**2. EEO Officer:** The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

**3. Dissemination of Policy:** All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

**4. Recruitment:** When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

**5. Personnel Actions:** Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

**6. Training and Promotion:**

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are

applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

**7. Unions:** If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

**8. Reasonable Accommodation for Applicants / Employees with Disabilities:** The contractor must be familiar

with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

**9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment:** The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

#### **10. Assurance Required by 49 CFR 26.13(b):**

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor or subcontractor 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 contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

**11. Records and Reports:** The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on [Form FHWA-1391](#). The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor

will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

### III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

### IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

#### 1. Minimum wages

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions

of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. (1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or

will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program. Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

## **2. Withholding**

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

## **3. Payrolls and basic records**

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-

Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b. (1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency..

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

#### **4. Apprentices and trainees**

##### **a. Apprentices (programs of the USDOL).**

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly

rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

##### **b. Trainees (programs of the USDOL).**

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.



d. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

**5. Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

**6. Subcontracts.** The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

**7. Contract termination: debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

**8. Compliance with Davis-Bacon and Related Act requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

**9. Disputes concerning labor standards.** Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

**10. Certification of eligibility.**

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

**V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

The following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

**1. Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

**2. Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

**3. Withholding for unpaid wages and liquidated damages.** The FHWA or the contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

**4. Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

## VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

- (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
- (2) the prime contractor remains responsible for the quality of the work of the leased employees;
- (3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
- (4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is

evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

## VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

## VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

## **IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT**

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.

2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

## **X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION**

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200.

### **1. Instructions for Certification – First Tier Participants:**

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this

covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

\* \* \* \* \*

## **2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:**

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) 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;

(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 (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

## **2. Instructions for Certification - Lower Tier Participants:**

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which

this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the

department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

\* \* \* \* \*

**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:**

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

\* \* \* \* \*

**XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING**

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

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 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 Federal 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 Form to Report Lobbying," in accordance with its instructions.

2. 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 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.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

**ATTACHMENT A - EMPLOYMENT AND MATERIALS  
PREFERENCE FOR APPALACHIAN DEVELOPMENT  
HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS  
ROAD CONTRACTS**

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

## 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 2020-B04 Concrete and authorize Purchasing to solicit for bids and advertise.

#### ITEM TYPE

CONSENT

#### MEETING DATE

December 17, 2019

#### AMOUNT REQUIRED

#### LINE ITEM NUMBER

#### AUDITOR USE ONLY

#### AUDITOR COMMENTS:

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

#### REQUESTED BY

Jerry Borcharding

#### SPONSOR

BECERRA

#### CO-SPONSOR

N/A

#### SUMMARY

This bid is for an annual contract for concrete which will be used primarily by the Transportation Department.

Attached: IFB 2020-B04 Concrete



## SOLICITATION, OFFER AND AWARD

Hays County Auditor  
Purchasing Office  
712 S. Stagecoach Trail, Suite 1071  
San Marcos, Texas 78666

**Solicitation No.: IFB 2020-B04**  
**Concrete**

**Date Issued: December 18, 2019**

### SOLICITATION

Respondents must submit bids as listed: two (2) originals and one (1) digital copy on a thumb drive  
Bids will be received at the Hays County Purchasing Office at the address shown above until:

**10:30 a.m. local time January 16, 2020.**

**Bids received after the time and date set for submission will be returned unopened.**

Submit questions via email to:  
[purchasing@co.hays.tx.us](mailto:purchasing@co.hays.tx.us)

Questions concerning this IFB must be  
received in writing no later than 5:00  
on January 8, 2020.

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

Entity Name:  
Mailing Address:

#### Respondent's Authorized Representative

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.**

Attest:

Approved as to Form:

\_\_\_\_\_  
Ruben Becerra, Hays County Judge

\_\_\_\_\_  
Elaine Cardenas, Hays County Clerk

\_\_\_\_\_  
Hays County Office of General Counsel



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## I. Summary

- 1. Type of Solicitation:** Invitation for Bid (IFB)
- 2. Solicitation Number:** IFB 2020-B04  
Concrete
- 3. Issuing Office:** Hays County Auditor  
Purchasing Office  
712 S. Stagecoach Trail, Suite 1071  
San Marcos, TX 78666
- 4. Responses to Solicitation:** Sealed bids marked with Solicitation Number and Respondent Name on the outermost envelope  
Two (2) originals and one (1) digital copy on a thumb drive
- 5. Deadline for Responses:** In issuing office no later than:  
**Thursday January 16, 2020; 10:30 a.m. Central Time (CT)**
- 6. Pre-Bid Meeting:** none
- 7. Bonding Requirements:** none
- 8. Initial Contract Term:** January 2020 - January 31, 2021
- 9. Optional Contract Terms:** Four (4) optional one (1) year terms
- 10. Designated Contact:** Hays County Purchasing  
Email: [purchasing@co.hays.tx.us](mailto: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 January 8, 2020; 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 posted on CivicPlus.
- 12. Addenda** Any interpretations, corrections or changes to this IFB and specifications will be made by addenda. Sole issuing authority of addenda shall be vested in the Hays County Purchasing Office. It is the Respondent's responsibility to acknowledge receipt of all addenda with bid 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 Respondent or its representatives. Failure of a Respondent 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 Bidding Schedule**

December 18, 2019	Issuance of IFB
January 8, 2020	Deadline for Submission of Questions (5:00 p.m. CT)
January 16, 2020	Deadline for Submission of Bids (10:30 a.m. CT)
	<b><u>Late bids will not be accepted.</u></b>
January 28, 2020	Anticipated contract award date

## II. IFB Submittal Checklist

Notice to Vendors: Ensure that the following are included as a part of your Bid Packet:

- \_\_\_ 1. Solicitation, Offer and Award completed and signed
- \_\_\_ 2. Vendor Reference Form
- \_\_\_ 3. Form 1295 (Certificate of Interested Parties) filed online with the Texas Ethics Commission and signed
- \_\_\_ 4. Conflict of Interest Questionnaire completed and signed
- \_\_\_ 5. Code of Ethics signed
- \_\_\_ 6. HUB Practices signed
- \_\_\_ 7. House Bill 89 Verification signed and notarized
- \_\_\_ 8. Vendor/Bidder's Affirmation completed and signed
- \_\_\_ 9. Any addenda applicable to this solicitation
- \_\_\_ 10. Completed bid form
- \_\_\_ 11. Two originals of the items above and a digital copy on a thumb drive are in a sealed envelope with the Solicitation Number and Respondent's Name on the outermost envelope, addressed to:

Hays County Purchasing  
712 S Stagecoach Trail, Suite 1071  
San Marcos, TX 78666

### III. Specifications

#### A. Introduction

Hays County issues this Invitation for Bid (IFB) to solicit bids for annual contracts for furnishing the materials set forth in this bid invitation. These materials are generally used by the Hays County Transportation Department for road maintenance and construction projects.

#### B. Materials Requirements

All materials listed shall meet the applicable specifications for the item, class, and type as identified on the bid form (see Attachment A: IFB 2020-B04 Concrete Bid Form). For items identified with a "TXDOT Item" number, refer to the Texas Department of Transportation Standard Specifications for Construction and Maintenance of Highways, Streets, and Bridges (adopted November 1, 2014).

Hays County reserves the right to refuse or reject any materials that do not meet the requirements of the specifications. Any materials refused or rejected based on non-conformance with the specifications shall be removed at no cost to the County.

#### C. Qualifications

**RESPONSIBILITY:** 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.

#### D. Mandatory Bid Form

Respondent must provide its total bid amount by completing the mandatory bid form included as Attachment A: IFB 2020-B04 Concrete Bid Form. Pricing for materials shall be bid for delivery to variable job site locations within each of four (4) delivery areas (see Attachment B: IFB 2020-B04 Concrete Delivery Areas). Shipping shall be F.O.B. destination; therefore, material prices for delivery by truck to Hays County must include all shipping, handling/delivery fees and fuel surcharges. A bid which includes

surcharges and/or fees other than those identified below may be considered non-responsive at the discretion of the County. Respondent may bid on all or any portion of the items listed for bid.

ITEM B04.6 SHORT LOADS: Bidder shall list its fee for short loads as a flat fee and the volume for which the fee shall be applied. The fee will only be applicable for orders less than the quantity listed on the bid form. Hays County is exempt from federal excise and state sales tax; therefore, tax must not be included in this bid.

ESTIMATED QUANTITIES: Quantities listed on the bid form are approximations of annual needs and will be used for the comparison of bids. Individual orders and payments will be made in accordance with the contract. 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.

#### **E. Submittal Requirements**

Respondent must deliver the following to the Issuing Office by the specified deadline:

- Two (2) original bid packages with required forms manually signed by Respondent with original signatures
- One (1) digital copy of the full bid package with all required forms on a thumb drive

All items must be in a sealed envelope marked with the Solicitation Number and Respondent Name on the outermost envelope.

#### **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.

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.

#### **F. Award of Contract**

BASIS OF AWARD: The County reserves the right to award a contract to a bidder on the basis of unit price low bid and/or the best value for 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.

The bid award shall be based on but not necessarily limited to, the following factors:

- Unit pricing
- Special needs and requirements of Hays County
- Vendors past performance record with Hays County
- Hays County's evaluation of vendor's ability to perform
- Vendor's references

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.

MULTIPLE AWARDS may be made. Determination of source to provide materials will be made by the Hays County Transportation Department. The County reserves the right to purchase materials from another supplier if the lowest bidder cannot fill an order when needed and shall not be in violation of any terms or conditions of this contract.

#### **G. Contract Term & Price Redetermination**

The term of this contract will begin on the date of award by the Hays County Commissioners Court in January 2020 and be effective through January 31, 2021. Hays County reserves the right to extend this contract annually for a maximum of four (4) additional one (1) year periods. Hays County, in its sole discretion, may extend the Contract for six (6) months following the last period of renewal or for such additional time as Hays County deems necessary to secure and transition to a new contract.

If applicable, a price redetermination may be considered by Hays County only at the anniversary date of the contract. A request for price increase must be submitted in writing to the Purchasing Manager at least 90 days prior to the expiration of the contract. Until this time, the prices as previously agreed to by both County and Vendor will be considered firm for the initial term. The proposed price may be considered by Hays County for the subsequent annual renewal option, shall be substantiated in writing, and shall not exceed the increase as published by the United States Department of Labor - Bureau of Labor and Statistics, Producer Price Index (PPI), for the most current data representing a 12-month period at the time of consideration. Hays County Commissioners Court reserves the right to accept or reject any/all of the price redetermination, rebid the contract, or use a market survey as it deems to be in the best interest of the County. Hays County reserves the right during the price evaluation period to apply reduced pricing for applicable term. Approved price increases and decreases shall remain firm for the entire re-determination period.

#### **H. Invoicing**

Invoices shall be sent directly to the Hays County Auditor, 712 S. Stagecoach Trail, Suite 1071, San Marcos, TX 78666 and attention: Accounts Payable. Payments will be processed after notification that all materials have been received satisfactorily and no unauthorized materials have been received. To expedite payment and ensure compliance with this contract, all invoices shall refer to the Contract Item Number (ex. B04.1) associated with the materials as listed on the bid form.

#### **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.



## 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. "Purchasing Manager" means the Hays County Purchasing Manager.
- i. "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:  
Hays County Auditor  
Attention: Accounts Payable  
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 right 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](http://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, ensure 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

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](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.

Failure to return this document may disqualify your response from consideration.

If you do not have access to the link provided above or have any questions, contact Purchasing at 512-393-5532.

## VII. Conflict of Interest Questionnaire

<b>CONFLICT OF INTEREST QUESTIONNAIRE</b> <b>For vendor doing business with local governmental entity</b>		<b>FORM CIQ</b>
<p><b>This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.</b></p> <p>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).</p> <p>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.</p> <p>A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.</p>	<b>OFFICE USE ONLY</b>  Date Received _____	
<b>1 Name of vendor who has a business relationship with local governmental entity.</b>  _____		
<b>2</b> <input type="checkbox"/> <b>Check this box if you are filing an update to a previously filed questionnaire.</b> (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.)		
<b>3 Name of local government officer about whom the information is being disclosed.</b>  <div style="text-align: center;">_____</div> <div style="text-align: center;">Name of Officer</div>		
<b>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.</b>          <div style="margin-left: 40px;"> <p>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?</p> <div style="display: flex; justify-content: space-around; margin-top: 10px;"> <span><input type="checkbox"/> Yes</span> <span><input type="checkbox"/> No</span> </div> <p>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?</p> <div style="display: flex; justify-content: space-around; margin-top: 10px;"> <span><input type="checkbox"/> Yes</span> <span><input type="checkbox"/> No</span> </div> </div>		
<b>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.</b>          		
<b>6</b> <input type="checkbox"/> <b>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).</b>		
<b>7</b> _____ <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <span>Signature of vendor doing business with the governmental entity</span> <span>Date</span> </div>		

## **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. 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 of 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.

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. 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

### XIII. 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 2<sup>nd</sup> degree of consanguinity or affinity to either of the above<sup>(1)</sup> (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

Employee or Former Employee Name	Title

Name of Related Person	Title	Relationship

#### Section D: No Known Relationships

If no relationships in accordance with the above exist or are known to exist, 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

<sup>(1)</sup>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*
<b>Person</b>	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
<b>Person</b>	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.

### Attachment A: IFB 2020-B04 Concrete Bid Form

In compliance with the Invitation for Bid, the undersigned Bidder having examined the Specifications, and being familiar with the conditions to be met, hereby submits the following Bid for furnishing the material, equipment, labor and everything necessary for providing the items listed below and agrees to deliver said items as requested for the prices set forth on this form. **Bid prices are considered all-inclusive for the delivery of the materials identified below. No fees or surcharges other than the items listed on this official bid form will be considered.** A bid will be subject to being considered irregular and may be rejected if it shows omissions, alterations of form, conditional alternate bids, additions or alternates in lieu of the items specified, if the unit prices are obviously unbalanced (either in excess of or below reasonably expected values), or irregularities of any kind. **Quantities listed are approximations of annual needs and will be used for the comparison of bids.** Individual orders and payments will be made in accordance with the contract.

#### MATERIALS BY DELIVERY AREA

Contract Item Number	Item Number	Description	Estimated Quantity (+/-)	Unit of Measure	Bid Price Per Unit			
					Delivery Area 1	Delivery Area 2	Delivery Area 3	Delivery Area 4
B04.1	TXDOT Item 421 Hydraulic Cement Concrete	PSI 3000 Class A	500	cubic yards	\$	\$	\$	\$
B04.2	TXDOT Item 421 Hydraulic Cement Concrete	PSI 3600 Class C	500	cubic yards	\$	\$	\$	\$
B04.3	Hydraulic Cement Concrete	PSI 4500	500	cubic yards	\$	\$	\$	\$
B04.4	TXDOT Item 401 Flowable Backfill	80-150 PSI	500	cubic yards	\$	\$	\$	\$

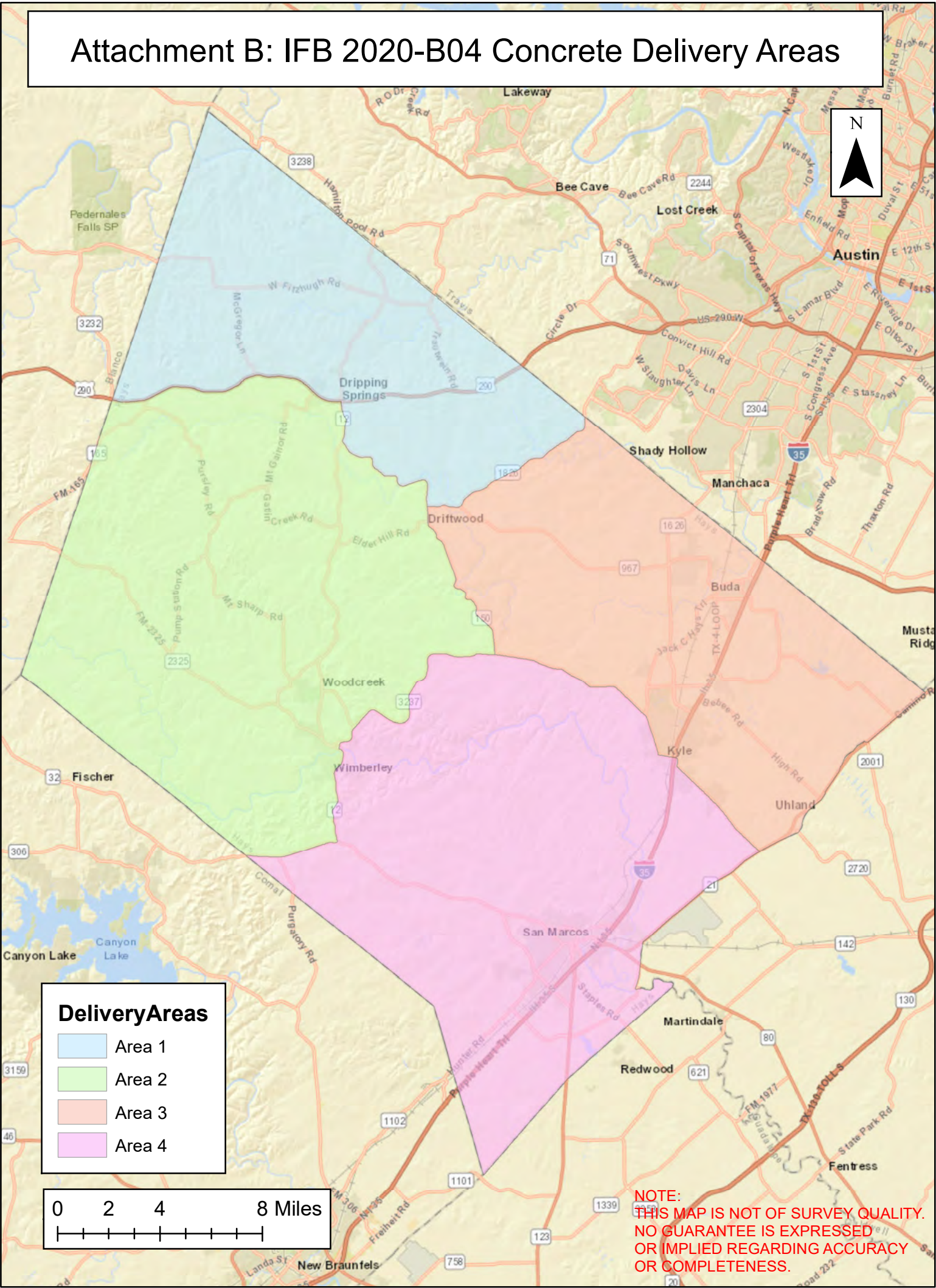
#### ADDITIONAL CHARGES

B04.5	Straight Cement (when fly ash is not available)	\$	per sack	
B04.6	Flat Fee for Short Load	\$		
	Fee applies to orders less than:		cubic yards	

#### BIDDER INFORMATION AND CERTIFICATION

Delivery days after receipt of order:	Minimum load for delivery:
Plant Location:	Contact name and phone at plant:
<p>The undersigned affirms that they are duly authorized to execute a contract, that this Bid has not been prepared in collusion with any other Respondent, nor any employee of Hays County, and that the contents of this Bid have not been communicated to any other Respondent or to any employee of Hays County prior to the official opening.</p>	
Signature of Authorized Representative:	
Printed Name:	Date:
Company Name:	

# Attachment B: IFB 2020-B04 Concrete Delivery Areas



## 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 Work Authorization #3 to the Professional Service Agreement (PSA) between Hays County and Bowman Consulting Group, Ltd., and declare an exception to competitive procurement under Section 262.024(a)(4) of the Texas Local Government Code.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
CONSENT	December 17, 2019	\$639,401

#### LINE ITEM NUMBER

020-710-00.5448\_008

#### AUDITOR USE ONLY

##### AUDITOR COMMENTS:

Discretionary exemption required.

**PURCHASING GUIDELINES FOLLOWED:** N/A

**AUDITOR REVIEW:** MARISOL VILLARREAL-ALONZO

REQUESTED BY	SPONSOR	CO-SPONSOR
BORCHERDING	JONES	N/A

#### SUMMARY

The Project includes reconstruction of Cotton Gin Road, also known as County Road 129 in Hays County, Texas. Beginning at Goforth Road and extending to State Highway 21 to the southeast, the project includes approximately 21,500 liner feet, or 4 miles of roadway reconstruction

This amendment includes the final engineering and design.





## Hays County Transportation Department Work Authorization Form

Date: 12/17/19 Contract Performance Date: Current

Project Name: Cotton Gin Road Improvements – Various Final

Contract number: N/A

Contractor/Consultant: Bowman Consulting Group, Ltd.

Change Order Number: 3

Change in Scope Necessitating Change-Order:

See attached Scope of Work in Exhibit A, which is incorporated herein for all purposes.

Attach Supporting Documentation for Change Order to this Form

Original Contract Amount: \$ 301,500.00

Net Amount of Previously Authorized Change Order: \$ 131,449.00

Net Amount for this requested change order: \$ 639,401.00

Total Contract Amount with all change orders: \$ 1,072,350.00

Original Contract Performance Length: 365 Days

Net previous schedule change orders: 730 Days

Net Schedule adjustment requested this change order: 365 Days

Total performance days with change orders: 1,095 Days

Contractor: \_\_\_\_\_ Sign: \_\_\_\_\_ Date: \_\_\_\_\_

Hays County: \_\_\_\_\_ Sign: \_\_\_\_\_ Date: \_\_\_\_\_

(Hays County Employee-attach to agenda request form, CO approval contingent on Commissioners Court)

September 7, 2019

Mr. Jerry Borcharding, P.E.  
Transportation Director  
Hays County Transportation Department  
2171 Yarrington Road  
San Marcos, TX 78666  
Phone: (512) 393-7393

Delivered via email to:  
Jerry Borcharding: [jerry@co.hays.tx.us](mailto:jerry@co.hays.tx.us)

Re: **Cotton Gin Road** (the "Project")  
County Road 129 – Hays County, Texas  
Survey & Civil Engineering Scope of Work  
Work Authorization #3

Dear Mr. Borcharding:

We are pleased to submit this proposal to provide Survey & Civil Engineering services. The following is a detailed project understanding and Scope of Work to be performed for the Cotton Gin Road Project:

### **PROJECT UNDERSTANDING**

The Project includes reconstruction of Cotton Gin Road, also known as County Road 129 in Hays County, Texas. Beginning at Goforth Road and extending to State Highway 21 to the southeast, the project includes approximately 21,500 liner feet, or 4 miles of roadway reconstruction.

BCG completed Schematic Design of the roadway to include reconstructing the existing roadway along the current alignment, both horizontally and vertically, with one 11' wide travel lane in each direction and 4' wide paved shoulders on both sides of the roadway. All driveways along the roadway will be re-paved within the right of way, with drainage improvements as required to reconstruct the roadway. Right of way along both sides of the road will need to be acquired to create a final right of way width of 60 feet along the length of the project.

BCG is proposing to provide the following Scope of Services for the Project with this proposal:

- Right of Way Dedication Descriptions & Exhibits
- Project Management
- Final Engineering & Design
- Construction Cost Estimate
- Bid Phase Services
- Construction Administration

**SCOPE OF WORK AND FEES**

The scope of services (the “Scope”) and associated fees shall be as follows:

**Task 01: Right-Of-Way Dedication Descriptions and Exhibits**

Based on our previous survey, BCG will prepare written metes and bounds descriptions and sketches/exhibits showing the Right-Of-Way Dedications on approximately sixty-five (65) properties along the north and south sides of Cotton Gin Road. These survey services will include:

- All services will be directed by a Texas Registered Professional Land Surveyor (RPLS)
- Recover existing horizontal control for this project previously established by BCG with prior survey. Establish additional horizontal control as needed.
- Locate additional subject property corner markers, fences, and/or other items that will allow us to construct the lot boundary and identify any apparent conflicts and discrepancies that might exist with the current adjoining deeds and plats
- Review and analyze all current subject recorded deeds or plats, adjoining deeds or plats and right-of-way information.
- Prepare a written metes & bounds description of the proposed Right-Of-Way Dedication for each property. Prepare a sketch/exhibit showing graphically the proposed Right-Of-Way Dedication for each property. Approximately sixty-five (65) properties.
- Each description will be signed and sealed by the responsible RPLS.
- Set a property corner marker at each new corner of the new proposed right-of-way as shown and noted on the descriptions and the sketches.
- Deliverables: Original hard copy signed and sealed by the responsible RPLS and PDF of same. AutoCad files of the exhibits and Word document of descriptions, if requested.
- Schedule: The survey work will begin within one (1) week from authorization. All of the survey work will be completed within twelve (12) weeks from authorization.
- *This proposal does not include any right of way acquisition services including, but not limited to negotiation, appraisals, and/or condemnation services. Right of way acquisition services are specifically excluded from this scope of services.*

Task Fee: Hourly Rates NTE \$129,912 plus applicable sales tax, unless tax exempt

**Task 02: Project Management**

- Attend Project Coordination Meetings — Engineer will have relevant staff attend meetings to coordinate the project with County staff and project representatives to obtain concurrence with project status.
- Project Administration and Coordination — Provide ongoing coordination and team meetings to discuss the status of the project with design team and approval entities.
- Coordination with Agencies — Coordinate with City of Umland, Hays County, and TXDOT on proposed improvements as directed by Hays County.



- Progress Reports - Prepare progress reports and submit them along with monthly invoices. Invoices will be submitted by the tenth (10th) day of each month.
- County Commissioner Meetings - Attend County Commissioners Court Meetings. After discussion of project-related agenda items, the Engineer will not be required to be present during the remainder of the Court session. Minimal presentation material, exhibits, and/or handouts will be required.
- Coordination with Third-Party Consultants – Coordinate with other consultants and design professionals working concurrently on the project for Hays County.

Task Fee: Hourly Rates NTE \$125,880

### **Task 03: Final Engineering & Design**

BCG will prepare final design, construction plans, and project manual. The design will be based on the schematic design, existing roadway alignment and typical section determined during the schematic design phase for this project. Additional right-of-way is required for this project in addition to permanent and temporary easements that may be required for drainage, utility relocations and construction.

BCG shall prepare roadway plans, profiles and sections for the proposed improvements including the following:

- Geometric Layout, Plan & Profile: Detail ultimate horizontal and vertical alignment after final alignment has been approved.
- Provide detailed plans for interim and ultimate intersection design at cross streets including profiles for major side roads if warranted.
- Develop a typical phasing plan that considers the impacts to local businesses and school access as well as neighborhoods.
- Design Cross-Sections: Create sections illustrating cut / fill and cross-sections at features of special concern (i.e. intersections, walls, utilities).

BCG will prepare a project manual and construction specifications in accordance with the final engineering design.

Task Fee: Hourly Rates NTE \$262,320

### **Task 04: Construction Cost Estimate**

BCG will prepare and Engineer's Opinion of Probable Cost for the construction of the project based on the final design documents. The cost estimate will be prepared at intervals of 60%, 90%, and 100% design. The County will assist the Engineer in determining the value of any ROW or easements required for the project.

Task Fee: Hourly Rates NTE \$30,720

**Task 05: Bid Phase Services**

It is understood that Hays County Purchasing Department will handle the preparation of soliciting bids from contractors, including advertising and review and tabulations of all bids. BCG will attend a pre-bid conference and assist the County to answer bidder requests for additional information or clarification of the construction documents. After receipt of contractor bids from Hays County, BCG will review and check contractor references on behalf of Hays County. BCG will assist in making a recommendation to Hays County for award of the contract

Task Fee: Hourly Rates NTE \$5,740

**Task 06: Construction Administration**

BCG will assist the County during construction by providing the following limited construction administration services:

- BCG will attend one (1) pre-construction meeting with the Owner and Contractor prior to construction.
- BCG will provide a review of submittals from the contractor prior to construction.
- BCG will provide monthly site visits to observe construction progress.
- BCG will review monthly applications for payment from the contractor to confirm the accuracy of the progress of the project represented in the contractor's requests for payment.
- BCG will attend a project walk through at substantial completion and assist the inspector in preparing a punch list.
- BCG will attend a project walk through at final completion and assist the inspector in preparing a final punch list.
- After completion of punch list items by the contractor, BCG will make a site visit to observe completion of the project.
- BCG will prepare a letter of concurrence for final close out of the project.

Construction Administration services are limited to those specifically listed above. These services do not include inspections, construction manager, and/or resident project representative services. The duration for construction administration services is limited to 9 months. Fees for additional services may be required if construction of the entire project is not completed within a continuous 9-month period.

Task Fee: Hourly Rates NTE \$81,940

**TASK & FEE MATRIX**

TASK	DESCRIPTION	FEE TYPE	BUDGET
01	Right of Way Parcels – Survey Descriptions (SUR)	Hourly NTE	\$129,912
02	Project Management (ENG)	Hourly NTE	\$125,880
03	Final Engineering & Design (ENG)	Hourly NTE	\$262,320
04	Construction Cost Estimate (ENG)	Hourly NTE	\$30,720
05	Bid Phase Services (ENG)	Hourly NTE	\$5,740
06	Construction Administration (ENG)	Hourly NTE	\$81,940
99	Reimbursable Project Direct Costs	As Accrued	\$2,889
<b>Total Estimated Fee =</b>			<b>\$639,401</b>

Reference Exhibit B attached for Manhour Breakdown for Survey and Engineering Fees.

**LIMITATIONS & EXCLUSIONS**

The services to be performed are limited to those specifically itemized in the above scope of work. Fees for additional services beyond those specifically included in this proposal may be negotiated at the time those services are requested and approved prior to the additional work commencing.

In addition to the general limitations described above, the following services are specifically excluded from this proposal:

- |  |  |
|--|--|
| • Boundary / Title Survey                    | • Structural Engineering                         |
| • Subdivision Final Plat                     | • Retaining Wall Design                          |
| • Easement Preparation                       | • TDLR Accessibility Registration & Reviews      |
| • Traffic Impact Analysis (TIA)              | • Landscape Architect                            |
| • Geotechnical Engineering Services          | • Irrigation Plan/Design                         |
| • Subsurface Utility Engineering             | • License Agreement Services                     |
| • Environmental Services                     | • Legal Assistance / Attorney Fees               |
| • Electrical Engineering                     | • Condemnation Services                          |
| • Dry Utility Design/Coordination/Permitting | • Design of Public Water and/or Wastewater Lines |
| • ROW Acquisition Services                   | • Utility Coordination                           |

The Client understands that BCG makes no warranties or guaranties, expressed or implied, regarding the actions of any governmental agency, including local, state, or federal agencies, in connection with the obtaining of permit approvals and/or any other governmental action.

**REIMBURSABLE EXPENSES**

Reimbursable expenses shall include actual expenditures made by BCG in the interest of the Project and will be invoiced at the actual cost to BCG plus fifteen percent (15%) for handling and indirect costs. Reimbursable expenses shall include but are not be limited to costs of the following:

- Mailing, shipping, and out-source delivery (i.e. DHL, FedEx) costs
- Agency application and review fees
- Recording and Document Fees
- Plotting & Reprographic Services

In-house reprographic and plotting, in-house courier, and archive retrieval services will be invoiced in accordance with Schedule A attached hereto. Outside plotting and reprographic services will be invoiced at the actual cost to BCG plus fifteen percent (15%) for handling and indirect costs.

**OTHER TERMS**

This proposal is based on the scope of work indicated herein and the information available at the time of the proposal preparation. If any additional services are required due to unforeseen circumstances and/or conditions, client or regulatory requested revisions, additional meetings, regulatory changes, etc, Bowman will notify the client that additional scope of work and fees are required and will obtain the client's written approval prior to proceeding with any additional work.

Sincerely,

BOWMAN CONSULTING GROUP, LTD.



Nicholas G. Kehl, P.E.  
Principal | Branch Manager



## Exhibit B - Fee Schedule

### Cotton Gin Road - Final Design: Work Authorization #3

#### Manhour Breakdown

#### Engineering and Surveying

Task Number	Description	(Labor Rates)	A \$230	B \$175	C \$150	D \$150	E \$135	F \$100	G \$200	H \$128	I \$153	J \$80	Total Labor Hours	Budget	% Total
01	Right of Way Parcels - Field Notes & Staking (SUR)								185	592	112		889	\$ 129,912.00	20.41%
02	Project Management (ENG)		48	480	180							48	756	\$ 125,880.00	19.78%
03	Final Engineering & Design (ENG)		24		480	480	480	480					1944	\$ 262,320.00	41.21%
04	Construction Cost Estimate (ENG)		4	40	80		80						204	\$ 30,720.00	4.83%
05	Bid Phase Services (ENG)		2	16			16					4	38	\$ 5,740.00	0.90%
06	Construction Administration (ENG)		24	180	144		72	72				80	572	\$ 81,940.00	12.87%
<b>Total Direct Labor Cost:</b>			102	716	884	480	648	552	185	592	112	132	4403	<b>\$ 636,512.00</b>	
% of Total Hours by Labor Classification:			2.32%	16.26%	20.08%	10.90%	14.72%	12.54%	4.20%	13.45%	2.54%	3.00%			

Total Project Direct Costs	
Printing and Reproduction	\$ 2,500.00
Travel	\$ 314.00
Delivery and Services	\$ 75.00
<b>Total Direct Costs</b>	<b>\$ 2,889.00</b>

<b>Total Project Costs</b>	<b>\$ 639,401.00</b>
----------------------------	----------------------

Labor Categories	
A =	Principal
B =	Project Manager
C =	Engineer II
D =	Designer II
E =	Engineer I
F =	CADD Drafter I
G =	Survey Project Manager
H =	Survey Tech 3
I =	Survey Field Crew - 2 Man
J =	Administrative Professional



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
08/26/2019

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).

<b>PRODUCER</b> Klein Agency, LLC P.O. Box 219  Timonium MD 21094		<b>CONTACT NAME:</b> Certificates <b>PHONE (A/C, No, Ext):</b> (410) 832-7600 <b>FAX (A/C, No):</b> (410) 832-1849 <b>E-MAIL ADDRESS:</b> certs@kleinagencyllc.com																						
<b>INSURED</b>  Bowman Consulting Group, Ltd. 12355 Sunrise Valley Drive Suite 520 Reston VA 20191		<table border="1"><thead><tr><th colspan="2">INSURER(S) AFFORDING COVERAGE</th><th>NAIC #</th></tr></thead><tbody><tr><td>INSURER A:</td><td>Charter Oak Fire Insurance Co</td><td>25615</td></tr><tr><td>INSURER B:</td><td>Travelers Property Casualty Co. of America</td><td>25674</td></tr><tr><td>INSURER C:</td><td>Travelers Indemnity Co. of Am</td><td>25666</td></tr><tr><td>INSURER D:</td><td>RLI Insurance Company</td><td>13056</td></tr><tr><td>INSURER E:</td><td></td><td></td></tr><tr><td>INSURER F:</td><td></td><td></td></tr></tbody></table>		INSURER(S) AFFORDING COVERAGE		NAIC #	INSURER A:	Charter Oak Fire Insurance Co	25615	INSURER B:	Travelers Property Casualty Co. of America	25674	INSURER C:	Travelers Indemnity Co. of Am	25666	INSURER D:	RLI Insurance Company	13056	INSURER E:			INSURER F:		
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INSURER D:	RLI Insurance Company	13056																						
INSURER E:																								
INSURER F:																								

**COVERAGES****CERTIFICATE NUMBER:** 19-20 All**REVISION NUMBER:**

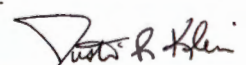
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE 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	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Contractual Liability  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			6306J047645	08/31/2019	08/31/2020	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
B	<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY			8103N454030	08/31/2019	08/31/2020	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	<input checked="" type="checkbox"/> <b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 0			CUP6J395074	08/31/2019	08/31/2020	EACH OCCURRENCE \$ 18,000,000 AGGREGATE \$ 18,000,000 \$
C	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	N/A	UB6J317115	08/31/2019	08/31/2020	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
D	Professional & Pollution Liability			RDP0037319	08/31/2019	08/31/2020	Each Claim \$5,000,000 Aggregate \$10,000,000

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)**

If required by an insured written contract, executed prior to any loss, the certificate holder is an Additional Insured on a primary and non-contributory basis under the General and Auto Liability Policies. If required by an insured written contract, executed prior to any loss, Waiver of Subrogation is provided for General, Auto, and Workers Compensation Policies. Umbrella Policy follows form over General, Auto, and Employer's Liability Policies. 30 day notice of cancellation, 10 day for non-payment.

**CERTIFICATE HOLDER****CANCELLATION**

* For Proposal Purposes 1234 Main Street  Anytown 12345	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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## 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 and submission of a Resolution and grant application to the Capital Area Council of Governments (CAPCOG), Regional Solid Waste Grant Program for up to \$60,000.

#### ITEM TYPE

CONSENT

#### MEETING DATE

December 17, 2019

#### AMOUNT REQUIRED

#### LINE ITEM NUMBER

#### AUDITOR USE ONLY

#### AUDITOR COMMENTS:

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

#### REQUESTED BY

T.CRUMLEY

#### SPONSOR

BECERRA

#### CO-SPONSOR

N/A

#### SUMMARY

The purpose of this funding is to implement projects that will support the goals of CAPCOG's Regional Solid Waste Management Plan (RSWMP). Hays County is requesting funding to purchase a backhoe for the Wimberley Recycling Center. There are no match requirements.

The application is due Thursday, January 2, 2020 by 5pm via email to CAPCOG.



## Resolution

**Resolution of Hays County authorizing the filing of a grant application with the Capital Area Council of Governments for a regional solid waste grants program grant; authorizing the County Judge to act on behalf of Hays County in all matters related to the application; and pledging that if a grant is received Hays County will comply with the grant requirements of the Capital Area Council of Government the Texas Commission On Environmental Quality and the State of Texas.**

**Whereas**, the Capital Area Council of Governments (CAPCOG) is directed by the Texas Commission on Environmental Quality to administer solid waste grant funds for implementation of the COG's adopted regional solid waste management plan; and

**Whereas**, Hays County in the State of Texas is qualified to apply for grant funds under the Request for Applications.

**Now, therefore, be it resolved by** the Hays County Commissioners Court in San Marcos Texas;

1. That Ruben Becerra, County Judge is authorized to request grant funding under the Capital Area of Government Request for Applications of the Regional Solid Waste Grants Program and act on behalf of Hays County in all matters related to the grant application and any subsequent grant contract and grant project that may result.
2. That if the project is funded, Hays County will comply with the grant requirements of the Capital Area Council of Governments, Texas Commission on Environmental Quality and the State of Texas.
3. The grant funds and any grant-funded equipment or facilities will be used only for the purposes for which they are intended under the grant.
4. Activities will comply with and support the adopted regional and local solid waste management plans adopted for the geographical area in which the activities are performed.

**Passed and approved** by the Hays County Commissioners Court in San Marcos, TX, on this the 17 day of December, 2019.

Ruben Becerra

\_\_\_\_\_  
Hay County Judge

\_\_\_\_\_  
Signature

Elaine Cardenas, MBA, PhD

\_\_\_\_\_  
Hays County Clerk

\_\_\_\_\_  
Signature

## 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 re-appointments of Leighton Stallones and Lee Ann Kenworthy to Emergency Service District (ESD) #3, two year terms ending December 31, 2021.

#### ITEM TYPE

CONSENT

#### MEETING DATE

December 17, 2019

#### AMOUNT REQUIRED

#### LINE ITEM NUMBER

#### AUDITOR USE ONLY

#### AUDITOR COMMENTS:

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

#### REQUESTED BY

Shell

#### SPONSOR

SHELL

#### CO-SPONSOR

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 the cancellation of Hays County Commissioners Court on February 11, March 17, May 5, June 16, October 6, December 1, and December 29, 2020.

#### ITEM TYPE

CONSENT

#### MEETING DATE

December 17, 2019

#### AMOUNT REQUIRED

N/A

#### LINE ITEM NUMBER

N/A

#### AUDITOR USE ONLY

#### AUDITOR COMMENTS:

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

#### REQUESTED BY

Commissioner Ingalsbe

#### SPONSOR

INGALSBE

#### CO-SPONSOR

N/A

#### SUMMARY

Court dates have been presented for cancelation due to County Association Conferences and Holidays.

## 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 On-Site Sewage Facility Permit for My Real Life Church, 13701 FM 1826 Austin, Texas 78737.

#### ITEM TYPE

CONSENT

#### MEETING DATE

December 17, 2019

#### AMOUNT REQUIRED

#### LINE ITEM NUMBER

#### AUDITOR USE ONLY

#### AUDITOR COMMENTS:

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

#### REQUESTED BY

Caitlyn Strickland, Director of Development Services

#### SPONSOR

SMITH

#### CO-SPONSOR

N/A

#### SUMMARY

My Real Life Church is proposing an On-Site Sewage System to serve their Church and Education building at this location. . This 27.7-acre tract of land will be served by a privately owned municipal well. The system designer, Dan Balboa, R.S., has designed a standard treatment system. After treatment, the effluent goes through a proprietary drip irrigation control unit and will be dispersed via subsurface drip irrigation for a maximum daily rate of 1000 gallons. Peak Sunday flow will be 3900 gallons per day but the flow is equalized over the week so that it will have a maximum discharge rate of 1000 gallons per day.

## 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 re-appointment of Chris Baker to Emergency Service District (ESD) #9, a two year term ending December 31, 2021.

#### ITEM TYPE

CONSENT

#### MEETING DATE

December 17, 2019

#### AMOUNT REQUIRED

#### 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

Chris Baker has agreed to serve for another two year period.

## 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 re-appointments of Daniel O'Brien, Walter Krudop and Geoffrey Tahuahua to Emergency Service District (ESD) #1, two year terms ending December 31, 2021.

#### ITEM TYPE

CONSENT

#### MEETING DATE

December 17, 2019

#### AMOUNT REQUIRED

#### 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

Daniel, Walter and Geoffrey have both agreed to serve for another two year period.

## 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 re-appointment of Beth Smith to Emergency Service District (ESD) #5, a two term ending December 31, 2021.

#### ITEM TYPE

CONSENT

#### MEETING DATE

December 17, 2019

#### AMOUNT REQUIRED

#### 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

Beth Smith has both agreed to serve for another two year period.



## 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 re-appointments of Steve Janda and Marilyn Miller to Emergency Service District (ESD) #6, two year terms ending December 31, 2021.

#### ITEM TYPE

CONSENT

#### MEETING DATE

December 17, 2019

#### AMOUNT REQUIRED

#### 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

Steve Janda and Marilyn Miller have both agreed to serve for another two year period.

## 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 re-appointments of Karen Brown and Erica Gallardo to the Hays County Child Protective Board, a 3 year term ending 12/31/22.

#### ITEM TYPE

CONSENT

#### MEETING DATE

December 17, 2019

#### AMOUNT REQUIRED

#### LINE ITEM NUMBER

#### AUDITOR USE ONLY

#### AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A

AUDITOR REVIEW: N/A

#### REQUESTED BY

VILLALOBOS

#### SPONSOR

BECERRA

#### CO-SPONSOR

N/A

#### SUMMARY

Karen & Erica have agreed to serve 3 more years.

## 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 waiver to the purchasing policy for the Sheriff's Office to utilize Biddle Consulting Group, Inc. related to Criticall, a 911 pre-employment software subscription license.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
CONSENT	December 17, 2019	\$1,995

#### LINE ITEM NUMBER

001-618-00.5429

#### AUDITOR USE ONLY

##### AUDITOR COMMENTS:

Waiver for purchasing policy (three quote requirement) needed

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

REQUESTED BY	SPONSOR	CO-SPONSOR
Sheriff Gary Cutler	BECERRA	N/A

#### SUMMARY

The Sheriff's Office is requesting a waiver to the purchasing policy to utilize Biddle Consulting Group, Inc. for Criticall, a 911 pre-employment software subscription license. Criticall is the regional standard for dispatcher pre-employment testing through CAPCOG. The annual license will allow the S.O. to test 911 candidates in decision making, data entry, call summarization, prioritization, memory recall, etc. No additional funds are needed, funding is available in the Sheriff's Office operating budget.

Attachment: Criticall Sole Source Letter



Biddle Consulting Group, Inc.  
193 Blue Ravine, Suite 270  
Folsom, CA 95630  
Phone: (800) 999-0438 Ext. 121  
Fax: (916) 294-4255

July 23, 2019

To Whom It May Concern:

Thank you for your interest in our CritiCall® Personnel Selection Software and OPAC Testing Software (including toll free phone support, new improved tests and upgraded features).

The purpose of this letter is to certify that we are the publisher and sole distributor (*sole source*) for these applications in this market place.

If you have further questions or comments, please do not hesitate to contact me at (800) 999-0438 ext. 121 or by email at [mcallen@biddle.com](mailto:mcallen@biddle.com).

Best regards,

A handwritten signature in blue ink, appearing to read "Michael Callen", is displayed on a light blue rectangular background.

Michael Callen  
VP of Products  
Biddle Consulting Group, 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

Authorize the County Judge to execute an Agreement Related to the Installation of Low-Water Crossing Warning Systems within Hays County, between Hays County and Water and Earth Technologies (WET) for the installation of new flood warning gauges, precipitation gauges, flood cameras and soil moisture gauges to the Flood Warning System per discretionary exemption LGC 262.024(a)(2) .

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
CONSENT	December 17, 2019	\$550,894.57

#### LINE ITEM NUMBER

001-656-00.5719\_700

#### AUDITOR USE ONLY

##### AUDITOR COMMENTS:

Discretionary exemption required.

**PURCHASING GUIDELINES FOLLOWED:** N/A

**AUDITOR REVIEW:** MARISOL VILLARREAL-ALONZO

REQUESTED BY	SPONSOR	CO-SPONSOR
McInnis	SHELL	N/A

#### SUMMARY

The Office of Emergency Services is requesting the County Judge to execute an agreement with Water and Earth Technologies to advance our countywide flood warning system to include: flood cameras, precipitation gages, advanced warning systems, flood warning gages and soil moisture. Data collected from the sensors will continue to bolster the County's abilities to respond to extreme flooding events and pre-plan operations. Data collected will also be ingested by regional, state and federal partners to aid in operations within the county. Funds were budgeted in FY2020 for this project and no extra funds are being requested.

**PROFESSIONAL SERVICES AGREEMENT RELATED TO INSTALLATION OF  
LOW-WATER CROSSING WARNING SYSTEMS WITHIN HAYS COUNTY, TEXAS**

**THIS PROFESSIONAL SERVICES AGREEMENT RELATED TO INSTALLATION OF LOW-WATER CROSSING WARNING SYSTEMS WITHIN HAYS COUNTY, TEXAS (hereinafter “Agreement”),** is made this the 17<sup>th</sup> day of December, 2019 by and between Hays County, a political subdivision of the State of Texas (hereinafter OWNER, COUNTY, or CONTRACTING LOCAL ORGANIZATION) and Water and Earth Technologies, Inc., whose primary place of business is 1225 Red Cedar Circle, Suite A, Fort Collins, Colorado 80524 (hereinafter called CONTRACTOR).

**WITNESSETH THAT:**

**WHEREAS,** Contractor, in 2016, in response to the Request for Proposal No. 2016-P11 – Countywide Low Water Crossing Warning System and Detention Basin Monitoring Work, in the manner and at the time specified, submitted a Proposal in accordance with Instructions to Proposers; and

**WHEREAS,** Owner originally selected Contractor on or about January 3, 2017 in compliance with Chapter 262 of the Texas Local Government Code, for the first phase of work related to low-water crossing warning systems; and

**WHEREAS,** Owner wishes to continue installing warning systems to be part of its existing network and to have work completed, by way of Task Orders, over FY20 and

**WHEREAS,** Owner, by way of its duly-elected Hays County Commissioners Court, hereby orders an exemption pursuant to Texas Local Government Code 262.024(a)(7), due to the fact that the work being performed under this agreement will install component parts in an existing network of low-water crossing warning systems;

**NOW, THEREFORE,** in consideration of the compensation to be paid to Contractor and of the mutual agreements herein contained, the parties to hereby agree as follows:

**ARTICLE I.  
CONTRACTOR’S OBLIGATIONS**

Contractor shall perform all work, including the assumption of all obligations, duties and responsibilities necessary to the successful completion of the Agreement and the furnishing of all materials and equipment required to be incorporated into and form a permanent part of the work; tools, equipment, supplies, transportation, facilities, labor, superintendence and services required to perform the work; insurance and submittals; all as indicated or specified in the Agreement documents to be performed or furnished by Contractor for the work included in and covered by Owner’s official award of this Agreement to Contractor, such award being based on the acceptance by Owner of Contractor’s Proposal, as adjusted during the contract negotiation, as well as the Scope of Work, attached hereto and incorporated herein, as Exhibit A.

## **ARTICLE II. OWNER'S OBLIGATIONS**

Owner shall pay to Contractor for performance of the work described in this contract, and Contractor shall accept as full compensation therefor, a sum (subject to adjustment as provided in the contract documents) not to exceed Five Hundred and Fifty Thousand Eight Hundred and Ninety-Four Dollars and Fifty-Seven Cents. (\$550,894.57) for all work covered by and included in Contractor's Proposal, as adjusted during contract negotiation, and designated in the foregoing Article I; payment thereof to be made in current funds in the manner provided in the contract documents.

The entirety of work embraced in this Contract shall be completed and delivered on a task order basis. The amount of any single task order shall not exceed a sum of One Hundred-Fifty-Thousand Dollars (\$150,000). Task orders shall be developed and approved by the Contracting Officer and shall include specific deliverables for acceptance prior to the initiation of subsequent task orders.

## **ARTICLE III. DURATION OF WORK AND PAYMENT**

The Contractor shall complete all work by September 30<sup>th</sup>, 2020, unless otherwise agreed by the Parties in writing. The County shall secure and pay for necessary permits, approvals, and easements required for performance of the work by the Contractor. The County shall furnish any information relevant to the Contractor's performance of the work with reasonable promptness after receiving a request from the Contractor.

## **ARTICLE IV. NOTICE**

Any notice required or desired to be given by the parties hereto shall be in writing and may be personally delivered; mailed, certified mail, return receipt requested; sent by telephone facsimile with a hard copy sent by regular mail; sent by a nationally recognized receipted overnight delivery service for earliest delivery the next business day; or sent by electronic mail with a hard copy sent by regular mail. Any such notice shall be deemed given when personally delivered; if mailed, three (3) delivery days after deposit in the United States mail, postage prepaid; if sent by telephone facsimile or electronic mail, on the day sent if sent on a business day during regular business hours (9 a.m. to 5 p.m.) of the recipient, otherwise on the next business day; or if sent by overnight delivery service, one (1) business day after deposit in the custody of the delivery service. The addresses, telephone numbers, and electronic mail addresses for the mailing, transmitting, or delivering of notices shall be as follows:

(a) If to County, to:

Hays County  
Attn: Mark Kennedy  
General Counsel  
111 E. San Antonio, Suite 202  
San Marcos, Texas 78666  
Phone: (512) 393-2219  
Email: [mark.kennedy@co.hays.tx.us](mailto:mark.kennedy@co.hays.tx.us)

(b) If to Water and Earth Technologies, Inc. to:

Water and Earth Technologies, Inc.  
Attn: Markus Ritsch, P.E.  
Vice President  
1225 Red Cedar Circle, Suite A  
Fort Collins, Colorado 80524  
Phone: (970) 225-6080 ext. 2  
E-mail: [mlritsch@water-and-earth.com](mailto:mlritsch@water-and-earth.com)

Notice of a change of address of either party shall be given in the same manner as all other notices as hereinabove provided.

## **ARTICLE V. AGREEMENT DOCUMENTS**

The Agreement documents, which are incorporated into the Agreement between Owner and Contractor and which are attached hereto and made a part hereof, consist of the following:

- (1) Exhibit A – Scope of Services
- (2) Exhibit B – Contractor’s Quote Information for Installation of Flood Warning Stations for Budget Year of 2020 with Selected Sites.
- (3) Any modifications (change orders/task orders) duly delivered or supplemental agreements duly entered into after execution of this Agreement.
- (4) Notices of Final Completion.

(SIGNATURES FOLLOW ON THE NEXT PAGE)



IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

OWNER Hays County Texas

CONTRACTOR Water and Earth Technologies, Inc.

By \_\_\_\_\_  
Judge Ruben Beccera  
Hays County Judge

By \_\_\_\_\_  
Name:  
Title:

Attest \_\_\_\_\_  
Elaine Cardenas  
Hays County Clerk

THE STATE OF \_\_\_\_\_ §  
§  
COUNTY OF \_\_\_\_\_ §

This instrument was acknowledged before me on this the day of \_\_\_\_\_ by \_\_\_\_\_, as \_\_\_\_\_ of Water and Earth Technologies, Inc., on behalf of said company and with the authority to sing granted from said company.

\_\_\_\_\_  
NOTARY PUBLIC, State of \_\_\_\_\_

## **EXHIBIT A**

### **SCOPE OF SERVICES—INSTALLATION OF NEW EQUIPMENT**

WET shall install new water level monitoring stations at the Soil Conservation Service dam sites, camera monitoring at critical locations, and rain gages at all existing low water crossing stations. The new water level and rain gage stations will transmit their data to the Hays County NovaStar5 base stations. The monitoring stations will be added into the existing Hays County ALERT2 TDMA plan and the County will have access to the station data in real time through a user friendly WETMap webpage interface.

The cameras will transmit images in real time through cellular towers on the County's cellular plan. WET will supply all the necessary equipment for the water level, rainfall and camera stations. WET will complete all the necessary tasks for the installation of all stations. These tasks include, but are not limited to utility locates, FCC radio licensing, construction drawings, database management, fabrication, programming, installation, testing, and project management. WET will complete necessary permitting at NRCS and TXDOT sites through the County project manager.

The new monitoring system will be installed by WET to be a turnkey system that will be fully operational after the installation and testing of the stations. The system will be fully compatible with the County's existing ALERT2, two-way, low-water crossing and flood detection system.

The new installation scope and cost are provided below.

## EXHIBIT B

### QUOTE INFORMATION:

This quote is for the installation of new flood warning stations during the Hays County 2020 budget year. All stations will transmit on the ALERT2 communication protocol and will be easily integrated into the existing flood warning system. Water & Earth Technologies, Inc. (WET) will supply all the necessary equipment for the monitoring stations. WET will cover all the necessary tasks for the installation of all stations. These tasks include, but are not limited to utility locating, FCC radio licensing, construction drawings, database management, fabrication, programming, installation labor, testing, and project management. This will be a turn key system that will be fully operational after the installation and testing of the stations. This quote includes 5x road closed flasher poles that will alert motorists much earlier that the road is closed ahead, and give motorists ample warning to find alternate routes. Also included are two water level stations on Onion Creek that will monitor the water level using a pressure transducer water level sensor. There are also 3x full flasher stations at three low water crossings within the county. 5 rain gages will be added to existing or new stations. A soil moisture sensor will be added to the Blue Hole rain gage. Cameras at Little Arkansas and FM150 will also be added and integrated into the existing camera server. In addition, WET will startup a Google Cloud Linux server to host a backup Novastar Database and WETMap web interface. 1 year of Google server fees are included.

LOCATION	STATION TYPE	ELECTRONICS & HARDWARE	LABOR	TOTAL
50021 Umland Road	Advance Notice Flasher	\$ 24,269.28	\$ 8,710.00	\$ 32,979.28
50025 Wayside Drive	Advance Notice Flasher	\$ 24,269.28	\$ 8,710.00	\$ 32,979.28
50034 Trautwein Rd	Advance Notice Flasher	\$ 24,269.28	\$ 8,710.00	\$ 32,979.28
50035 Bell Springs Rd	Advance Notice Flasher	\$ 24,269.28	\$ 8,710.00	\$ 32,979.28
50036 Old Bastrop Hwy	Advance Notice Flasher	\$ 24,269.28	\$ 8,710.00	\$ 32,979.28
Onion Creek at Hwy 150	Water Level	\$ 8,108.68	\$ 11,290.00	\$ 19,398.68
Onion Creek at Ruby Ranch	Water Level	\$ 9,767.57	\$ 9,410.00	\$ 19,177.57
Valley View Road at Blanco River	Master Pole	\$ 27,392.53	\$ 13,620.00	\$ 41,012.53
	West Crossing Flasher	\$ 11,649.39	\$ 7,010.00	\$ 18,659.39
	East Crossing Flasher	\$ 11,649.39	\$ 7,010.00	\$ 18,659.39
	Advance Notice Flasher	\$ 24,269.28	\$ 8,710.00	\$ 32,979.28
Hidden Valley at Blanco River	Master Pole	\$ 26,404.68	\$ 13,210.00	\$ 39,614.68
	North Crossing Flasher	\$ 11,649.39	\$ 7,010.00	\$ 18,659.39
	South Crossing Flasher	\$ 11,649.39	\$ 7,010.00	\$ 18,659.39
Bear Creek Pass at Bear Creek	Master Pole	\$ 25,400.73	\$ 12,800.00	\$ 38,200.73
	North Crossing Flasher	\$ 11,649.39	\$ 7,010.00	\$ 18,659.39
	South Crossing Flasher	\$ 11,649.39	\$ 7,010.00	\$ 18,659.39
Rain Gage Addition at Mt Gainor Flasher	Rain Gage	\$ 2,939.40	\$ 950.00	\$ 3,889.40
Rain Gage Addition at Elder Hill Flasher	Rain Gage	\$ 2,939.40	\$ 950.00	\$ 3,889.40
Rain Gage Addition at Rolling Oaks Flasher	Rain Gage	\$ 2,939.40	\$ 950.00	\$ 3,889.40
Rain Gage Addition at Windy Hill Flasher	Rain Gage	\$ 2,939.40	\$ 950.00	\$ 3,889.40
Rain Gage Addition at Ruby Ranch Stage	Rain Gage	\$ 2,939.40	\$ 950.00	\$ 3,889.40
Soil Moisture Sensor at Blue Hole	Soil Moisture	\$ 3,008.40	\$ 760.00	\$ 3,768.40
Live Feed IP Camera Station at FM150	Camera	\$ 8,371.50	\$ 13,150.00	\$ 21,521.50
Live Feed IP Camera Station at Little Arkansas	Camera	\$ 8,371.50	\$ 13,150.00	\$ 21,521.50
Novastar/WETMap Google Cloud Backup	Virtual Server	\$ 2,400.00	\$ 15,000.00	\$ 17,400.00
COMPONENT SUBTOTAL:		\$ 347,034.57	\$ 186,460.00	\$ 550,894.57

<b>TOTAL PROJECT COST:</b>	<b>\$ 550,894.57</b>
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THANK YOU FOR YOUR BUSINESS!

## 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 Professional Services Agreement (PSA) with Halff and Associates for advancements to the Hays County Flood Warning System, and grant an exception from competitive procurement pursuant to Section 262.024(a)(4) of the Texas Local Government Code.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
CONSENT	December 17, 2019	\$225,000

#### LINE ITEM NUMBER

001-656-00.5718\_700

#### AUDITOR USE ONLY

##### AUDITOR COMMENTS:

Discretionary exemption required.

**PURCHASING GUIDELINES FOLLOWED:** N/A

**AUDITOR REVIEW:** MARISOL VILLARREAL-ALONZO

REQUESTED BY	SPONSOR	CO-SPONSOR
McInnis	SHELL	N/A

#### SUMMARY

The Office of Emergency Services is requesting the County Judge to execute a PSA with Halff and Associates to advance our countywide flood warning system to include: finalizing inundation maps for the remainder of the priority streams, integrating flood warning sensors into database for analysis, and create a flood response prioritization map to better aid in asset allocation and pre-planning for flood response during extreme events. Funds were budgeted in FY2020 for this project and no extra funds are being requested. Since Halff and Associates has already performed work on the first portion of this project, staff has requested that selection be made under the exceptions of TLGC 262.024.

**PROFESSIONAL SERVICES AGREEMENT**  
**HAYS COUNTY, TEXAS**

**HAYS COUNTY**, a political subdivision of the State of Texas (hereinafter the “County”) with administrative offices at 111 E. San Antonio, Suite 300, San Marcos, Texas 78666, and **Halff Associates, Inc.** hereinafter “Contractor”), whose primary place of business is located at 9500 Amberglen Blvd., Building F, Suite 125, Austin, Texas 78729, hereby enter into this Professional Services Agreement (hereinafter “Agreement”) effective the \_\_\_\_ day of \_\_\_\_\_, 2019 (hereinafter “Effective Date”). The County and Contractor (collectively “the parties to this Agreement” or “the parties”) agree as follows:

**1. OVERVIEW**

Contractor has been requested by the County to perform professional services related the Hays County Flood Mapping and Response Viewer. The project scope of work is provided in Exhibit “A”. The associated fee schedule and hourly rates are provided in Exhibit “B”.

**2. SERVICES**

Contractor agrees to perform services for the County in accordance with the County’s instructions and, in particular, the instructions of the County Director, his/her designee and/or legal counsel for the Hays County Commissioners Court; and in conformance with the descriptions, definitions, terms, and conditions of this Agreement. The Scope of Services shall be limited to those services and terms attached hereto as Exhibit “A”, and any subsections of Exhibit “A”, if as and when they are attached hereto and signed by the parties (collectively “the Work”). If the parties to this Agreement amend the Work required under this Agreement (by adding or removing specific services and/or terms enumerated in Exhibits “A” and/or “C”), the Compensation cited in Section 5 of this Agreement may also be amended to conform with the change in Scope of Services, as agreed by the parties.

**3. ADDITIONAL TERMS**

Additional Terms and Obligations of the parties to this Agreement, if any, are stated in Exhibit “C”, attached hereto.

**4. DURATION**

The parties agree that the Work shall be completed one hundred and eighty (180) working days after commencement date. (hereinafter the “Completion Date”). In the event that Contractor is unable to complete the Work by the Completion Date, Contractor shall request an extension of the Completion Date in writing no later than fifteen (15) business days prior to the Completion Date. The County may grant extensions of the Completion Date for all reasonable extension requests and shall do so in writing.

**5. COMPENSATION**

Contractor will be compensated for the Work on an hourly-charge basis, the terms of which are cited in Contractors rate schedule, which is attached hereto as Exhibit “B.” Despite any reference to Contractors rate schedule, which shall be used to calculate monthly invoice amounts under this Agreement or a change in the Scope of Services (i.e. Amendment), the parties agree that the County shall pay Contractor a total fee not to exceed two hundred and twenty-five thousand dollars

(\$225,000 USD) for the Work under this Agreement.

## **6. PAYMENT**

Contractor shall invoice the County for the Work performed under this Agreement on a monthly basis, beginning at the end of the first full month following the Effective Date. The County agrees to promptly pay all invoices in accordance with Texas Government Code Chapter 2251 and by sending payment to Contractor's address stated in Section 8, below.

## **7. NOTICE OF COMPLETION**

Upon completion of the Work, Contractor shall send a Notice of Completion to the County in writing, and the County shall have the option to inspect the Work (or the product thereof) before it is considered complete under this Agreement. If the County is satisfied that the Work under this Agreement is complete, the County shall send Contractor an Acceptance of Completion in writing. If, after inspection, the County does not agree that the Work is complete or believes that the Work is of deficient quality, the County shall send Contractor a Deficiency Letter, stating the specific aspects of the Work that are incomplete and/or deficient. If, after ten (10) business days from the County's receipt of Contractor's Notice of Completion, the County does not send Contractor either an Acceptance of Completion or a Deficiency Letter, the Work under this Agreement shall be considered complete.

## **8. NOTICE (GENERAL)**

All notices issued by Contractor under or regarding this Agreement shall be provided in writing to the County at: Hays County, Attn: County Judge, 111 E. San Antonio, Suite 300 San Marcos, Texas 78666.

All notices issued by the County under or regarding this Agreement shall be provided in writing to Contractor at its primary place of business.

Notices from one party to another under this Section may be made by U.S. Mail, parcel post, Facsimile, or Electronic Mail, sent to the designated contact at any of the designated addresses cited above.

## **9. INSURANCE**

Contractor agrees that, during the performance of all terms and conditions of this Agreement, from the Effective Date until the County's acceptance of Contractor's Notice of Completion or until this Agreement is otherwise considered completed as a matter of law, Contractor shall, at its sole expense, provide and maintain Commercial General Liability insurance that meets or exceeds the industry standard for professional services providers in Contractor's field of employment and for the type of services that are being performed by Contractor under this Agreement. Such insurance coverage shall specifically name the COUNTY as co-insured. This insurance coverage shall cover all perils arising from the activities of Contractor, its officers, directors, employees, agents or sub-contractors, relative to this Agreement. Contractor shall be responsible for any deductibles stated in the policy. A copy of the current Certificate of Liability Insurance is attached hereto as Exhibit "D". A true copy of each new Certificate of Liability Insurance shall be provided to the COUNTY within seven (7) of the new policy date at the following address: Office of General County, Hays County Courthouse, 110 East San Antonio, Suite 202, San Marcos, Texas 78666.

So long as this Agreement is in effect, Contractor shall not cause such insurance to be canceled nor permit such insurance to lapse. All insurance certificates shall include a clause to the effect that the policy shall not be canceled, reduced, restricted or otherwise limited until thirty (30) days after the COUNTY has received written notice as evidenced by a return receipt of registered or certified mail.

#### **10. MUTUAL INDEMNITY**

Contractor agrees, to the fullest extent permitted by law, to indemnify and hold harmless the County, its officers, directors and employees against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, to the extent caused by Contractor's negligent performance of the Work under this Agreement and that of its subcontractors or anyone for whom the Consultant is responsible or legally liable.

The County agrees, to the fullest extent permitted by law, to indemnify and hold harmless Contractor, its officers, directors, employees and subcontractors against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, to the extent caused by the County's negligent acts in connection with this Agreement.

Neither the County nor Contractor shall be obligated to indemnify the other party in any manner whatsoever for the other party's negligence.

#### **11. COMPLIANCE WITH LAWS**

Each party agrees to comply with all laws, regulations, rules, and ordinances applicable to this Agreement and/or applicable to the parties performing the terms and conditions of this Agreement.

#### **12. SURVIVAL**

Notwithstanding any termination of this Agreement, the following Sections, and the terms and conditions contained therein, shall remain in effect: 3, 5, 8, 10, 12, 14, 15, 16, 17, 18, 20, 21 and 22.

#### **13. FORCE MAJEURE**

Either of the parties to this Agreement shall be excused from any delays and/or failures in the performance of the terms and conditions of this agreement, to the extent that such delays and/or failures result from causes beyond the delaying/failing party's reasonable control, including but not limited to Acts of God, Forces of Nature, Civil Riot or Unrest, and Governmental Action that was unforeseeable by all parties at the time of the execution of this Agreement. Any delaying/failing party shall, with all reasonable diligence, attempt to remedy the cause of delay and/or failure and shall recommence all remaining duties under this Agreement within a reasonable time of such remedy.

#### **14. SEVERABILITY**

If any Section or provision of this Agreement is held to be invalid or void, the other Sections and provisions of this Agreement shall remain in full force and effect to the greatest extent as is possible, and all remaining Sections or provisions of this Agreement shall be construed so that they are as consistent with the parties' intents as possible.

#### **15. MULTIPLE COUNTERPARTS**

This Agreement may be executed in several counterparts, all of which taken together shall

constitute one single Agreement between the parties.

#### **16. SECTION HEADINGS, EXHIBITS**

The Section and Subsection headings of this Agreement, as well as Section 1, Entitled “Overview,” shall not enter in the interpretation of the terms and conditions contained herein, as those portions of the Agreement are included merely for organization and ease of review. The Exhibit(s) that may be referred to herein and may be attached hereto, are incorporated herein to the same extent as if fully set forth herein.

#### **17. WAIVER BY PARTY**

Unless otherwise provided in writing by the waiving party, a waiver by either of the parties to this Agreement of any covenant, term, condition, agreement, right, or duty that arises under this Agreement shall be considered a one-time waiver and shall not be construed to be a waiver of any succeeding breach thereof or any other covenant, term, condition, agreement, right, or duty that arises under this Agreement.

#### **18. GOVERNING LAW AND VENUE**

THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS. Any lawsuit, claim, or action, whether in law or in equity, arising from this Agreement will be brought in Hays County, Texas.

#### **19. ASSIGNMENT**

Neither party to this Agreement may assign its duties, interests, rights, benefits and/or obligations under this Agreement, in whole or in part, without the other party’s prior written consent thereto.

#### **20. BINDING EFFECT**

Subject to any provisions hereof restricting assignment, this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors, permitted assigns, heirs, executors, and/or administrators.

#### **21. ENTIRE AGREEMENT; AMENDMENT**

This Agreement (including any and all Exhibits attached hereto) constitutes the entire agreement between the parties hereto with respect to the subject matter hereof. Any amendments to this Agreement must be made in writing and signed by the parties to this Agreement prior to the performance of any terms or conditions contained in said amendments.

#### **22. WORK PRODUCT**

Any and all product, whether in the form of calculations, letters, findings, opinions, or the like, shall be the property of Hays County during and after performance of the Work. Contractor shall have a right to retain a copy of all Work product for record-keeping purposes.

#### **23. TERMINATION BY COUNTY**

This Agreement may be terminated by Hays County, for any reason whatsoever, by providing thirty (30) days written notice to Contractor. Any approved services provided under this Agreement up to the date of termination may be invoiced by Contractor after the termination date, and payment of said invoice shall not be unreasonably withheld by the County.



*Signatures by the parties to this Professional Services Agreement follow on the next page.*

IN WITNESS WHEREOF, the undersigned have duly executed and delivered this Professional Services Agreement, and hereby declare that THEY HAVE READ AND DO UNDERSTAND AND AGREE TO EACH AND EVERY TERM, CONDITION, AND COVENANT CONTAINED IN THIS AGREEMENT AND IN ANY DOCUMENT INCORPORATED BY REFERENCE.

\_\_\_\_\_  
Hays County, Texas

By: \_\_\_\_\_  
Hays County

\_\_\_\_\_  
Contractor - Halff Associates, Inc.

By: Cindy Engelhardt, PE, CFM  
Project Manager

## **EXHIBIT “A”**

### **Scope of Work**

#### **Introduction:**

Following discussions with Hays County in response to the successful implementation of the online Hays County Flood Monitoring System web map (hayscofms.halff.com), the County requested a proposal to enhance the county’s ability to identify and respond to flood events in their jurisdiction. The project is divided into six tasks to meet the county needs. It should be noted that the flood monitoring and response tools are not intended to replace emergency personnel judgement. These tools are intended to enhance situational awareness, but the ultimate response responsibility lies with emergency personnel.

#### **Scope of Work:**

##### **Task 1: Project Management**

Halff project management activities shall include task leadership and direction, monthly project update meetings, monthly project status reports, telephone and written communication as needed, project schedule development and update as needed, personnel and data management among other general project management activities.

- Kick-off meeting with the County and Halff to confirm the objectives and deliverables.
- General project management activities.
- Prepare brief memorandum documenting project activities.
- Quality Control / Quality Assurance
- Meet with the County to review final deliverables.

##### **Task 2: Survey**

WET was selected by Hays County to install and implement the flood early warning gage network. At the direction of the County, Halff will coordinate with the County and WET for survey of 31 current and new gages (total Hays County gages plus 5 new gages excluding USGS gages, previously surveyed gages, and the gage outside the County boundary).

- Request WET gage drawings and rod height information for the 31 gages that require survey.
- Obtain field survey of each site to correlate the gage datum to the County’s available HEC-RAS models.
- Obtain field survey for a hydraulic cross-section for incorporation into the hydraulic model to establish water surface elevation triggers per frequency event.

##### **Task 3: Flood Response Data Collection**

Halff will collect data for the development of enhanced flood response tools. Data shall be collected with the goal of creating a live flood response prioritization layer in the County’s Flood Monitoring System web map. Additional awareness features will include a live stream gage frequency symbology layer and a live precipitation gage frequency symbology.

- Stream Gage Data:
  - Using the best hydraulic models and gage survey data, identify elevation triggers at 26 (total Hays County gages plus 5 new gages excluding previously evaluated gages, and the gage outside the County boundary) gages for each flood frequency event (2, 5, 10, 25, 50, 100, 250, 500-year event).
- Risk Area Data:
  - Using the best available 911 address points as provided by the County in combination with the best available hydraulic water surface elevations, identify structures in each

- frequency event (2, 5, 10, 25, 50, 100, 250, 500-year event).
- Identify risk areas by evaluation of 911 address point groupings.
- For each risk area, assign average depth of flooding and average velocity per frequency event.
- Identify orphaned risk areas due to road closures. Orphaned risk areas are those that do not have alternative routes when low water crossings limit evacuation routes.
- With the assistance of the County, identify staging locations during emergency activities. Locations may include fire stations, locations for flood orphaned areas, and prior event staging locations (large parking lots).
- Per risk area, identify two (2) travel routes and times to staging locations when water levels limit access. The County is populating an ESRI Network Analyst to estimate drive times for Hay County roadways. Halff will coordinate with the County to utilize this data.
- Per risk area, identify vulnerable structures and populations such as mobility impaired, critical facilities, and mobile homes areas. Halff will coordinate with the County to identify these areas including current County files for cell tower locations, and other known vulnerable structures and populations.

#### Task 4: Flood Inundation Maps

Halff will develop flood inundation mapping to enhance the County Flood Monitoring System web map. The inundation mapping will build upon existing flood maps to provide estimates of the flood inundation extents based on the flood stage reported through the gaging network.

- Generate 2017 LiDAR terrain for Onion Creek mapping.
- Develop flood inundation mapping based on frequency return intervals along Onion Creek, totaling 50 miles (limits of Onion Creek within Hays County boundary) associated with 5 gages.
  - Halff will use the existing hydraulic models to generate inundation mapping for the 2, 5, 10, 25, 50, 100, 250, and 500-year events.
  - Inundation mapping will be generated for the limits of Onion Creek within Hays County boundary.
- Coordinate with WET to access the reported stage from the stream gages.

#### Task 5: Flood Inundation Maps

Halff will enhance the existing secured Hays County Flood Monitoring System web map (hayscofms.halff.com) with updated and additional live flood response features.

- Update of current data web map to include 5 newly installed gages and current county information.
  - Coordination with County for best available data.
  - Update of the following layers.
    - Live Stream Gages
    - Parcels
    - Cities
    - ETJs
    - FEMA Preliminary Flood Insurance Rate Map
- Addition of Risk Area reference data generated in Task 2.
  - Addition of the following risk area reference layers to the web map.
    - 911 address points at risk per frequency event.
    - Risk Area reference layer including all populated prioritization fields.
    - Staging Locations
- Addition of Live Risk Area layer and response prioritization utilizing Task 2 data.

- With consultation from the County, Halff will establish a Risk Area prioritization using the categories below. Each risk area will be associated with a single stream gage. Prioritization will automatically update as the stream gage frequency adjusts. Criteria for the prioritization of risk areas will include:
    - Flood acceleration (depth times velocity)
    - Number of at-risk structures
    - Orphaned risk areas
    - Risk area vulnerability
    - Stream gage increasing or decreasing
  - Add the Live Risk Area layer to the web map.
- Addition of Live Stream Gage Frequency layer. Web map symbology will align with the current live stream floodplain colors per frequency event.
  - Add the Live Stream Gage Frequency layer to the web map.
- Update the Live Stream Floodplains to include Onion Creek floodplains. Consistent with the current live stream floodplains, the Onion Creek flood inundation maps will be displayed based on reported gage readings.
  - Halff will add additional flood inundation maps developed in Task 4 to the web map.
  - Halff will also update the reference floodplains to include Task 4 floodplains.
- Add user roles to profiles for enhance security on Dam Feature classes currently displayed in the web map.
  - User roles will limit access to defined users as specified by the County for dam breach floodplains on the web map.

#### Task 6: Flood Inundation Maps

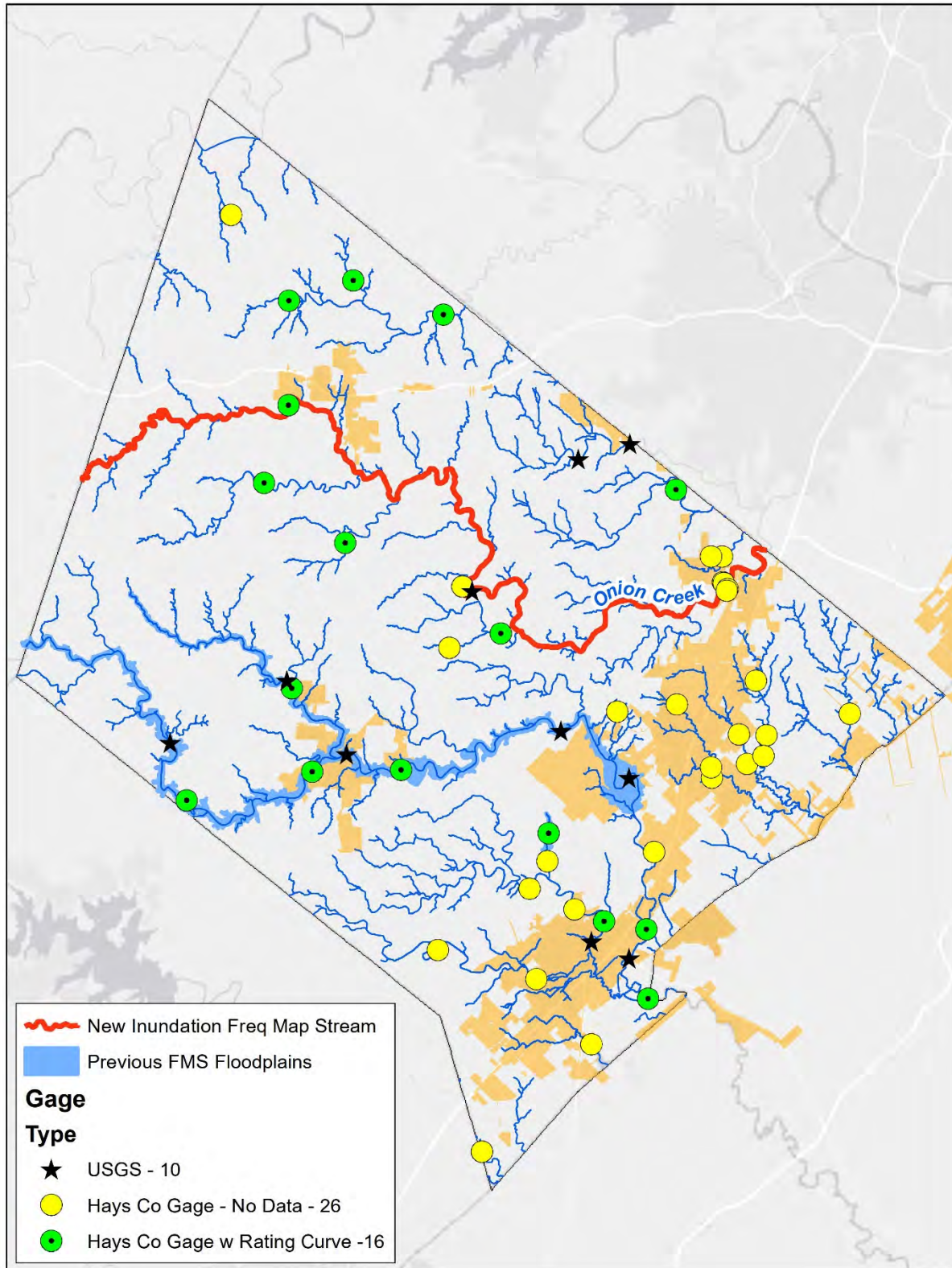
As a subconsultant to Halff, WET will coordinate with Halff to support the survey, development of flood risk data, and update of the Hays County Flood Monitoring System web map (hayscofms.halff.com) layers. This work will include:

- General project coordination.
- Sharing of data and database access.

#### **Deliverables:**

- Brief memorandum explaining the gage data, data development, display data, and web map services.
- Floodplain shapefiles associated with the monitoring tools.

#### **Project Area:**



Note: Services under this contract include survey and frequency evaluation for the yellow gage locations, development of risk area response tools, and additional monitoring tools for the red stream centerline.

**EXHIBIT B**

**Fee/Rate Schedule**

**FEE SCHEDULE SHALL BE INSERTED AT THE  
TIME OF AGREEMENT/CONTRACT EXECUTION**

## **EXHIBIT “C”**

### **Additional Terms to the Services provided by Contractor, if any, are as follows:**

- A. Replace Section 4. Duration in its entirety with the following:** The parties agree that the Work shall be performed in a manner consistent with the applicable standard of care and that Consultant shall use reasonable efforts to complete the services consistent with the detailed project schedule included in Exhibit “E”(hereinafter the “Completion Date”). In the event that Contractor is unable to complete the Work by the Completion Date, Contractor shall request an extension of the Completion Date in writing no later than fifteen (15) business days prior to the Completion Date. The County may grant extensions of the Completion Date for all reasonable extension requests and shall do so in writing.
- B. Replace Section 9. Insurance in its entirety with the following:** Contractor agrees that, during the performance of all terms and conditions of this Agreement, from the Effective Date until the County’s acceptance of Contractor’s Notice of Completion or until this Agreement is otherwise considered completed as a matter of law, Contractor shall, at its sole expense, provide and maintain Commercial General Liability insurance that meets or exceeds the industry standard for professional services providers in Contractor’s field of employment and for the type of services that are being performed by Contractor under this Agreement. Such insurance coverage shall specifically name the COUNTY as an additional insured (also referred to herein as “co-insured”). This insurance coverage shall cover all perils arising from the activities of Contractor, its officers, directors, employees, agents or sub-contractors, relative to this Agreement. Contractor shall be responsible for any deductibles stated in the policy. A copy of the current Certificate of Liability Insurance is attached hereto as Exhibit “D”. A true copy of each new Certificate of Liability Insurance shall be provided to the COUNTY within seven (7) of the new policy date at the following address: Office of General County, Hays County Courthouse, 110 East San Antonio, Suite 202, San Marcos, Texas 78666.
- C. Replace 1<sup>st</sup> paragraph of Section 10. Mutual Indemnity in its entirety with the following:**  
CONTRACTOR AGREES, TO THE FULLEST EXTENT PERMITTED BY LAW, TO INDEMNIFY AND HOLD HARMLESS THE COUNTY, ITS OFFICERS, DIRECTORS AND EMPLOYEES AGAINST ALL DAMAGES, LIABILITIES OR COSTS, INCLUDING REIMBURSEMENT OF COUNTY’S REASONABLE ATTORNEY’S FEES IN PROPORTION TO THE CONTRACTOR’S LIABILITY, TO THE EXTENT CAUSED BY CONTRACTOR’S NEGLIGENT PERFORMANCE OF THE WORK UNDER THIS AGREEMENT AND THAT OF ITS SUBCONTRACTORS OR ANYONE FOR WHOM THE CONSULTANT IS RESPONSIBLE OR LEGALLY LIABLE.
- D. Replace Section 22. Work Product in its entirety with the following:** Upon Consultant’s completion of the professional services that are the subject of this Agreement and Consultant’s receipt of payment in full for said services, Consultant agrees that the final instruments representing Consultant’s professional services, whether in the form of calculations, letters, findings, opinions, or the like, shall be provided to County and County will have, in the form of a non-exclusive license, and that such license shall permit County to perform each and every right necessary for County to perform its duties to the public, including the rights of possession and unlimited use for the purposes of reviewing, bidding, constructing, operating and



maintaining the improvements, if any, envisioned by such instruments. Contractor shall have a right to retain a copy of all Work product for record-keeping purposes.

**E.** \_\_\_\_\_  
\_\_\_\_\_

**F.** \_\_\_\_\_  
\_\_\_\_\_

**G.** \_\_\_\_\_  
\_\_\_\_\_

**H.** \_\_\_\_\_  
\_\_\_\_\_

**EXHIBIT “D”**

**Certificate of Insurance**

**EXHIBIT “E”**

**Project Schedule for the Performance of Consultant’s Professional Services**

<b>Task</b>	<b>Duration (working days)</b>	<b>Start</b>	<b>Finish</b>
<b>Notice to Proceed</b>	1	<b>17-Dec-19</b>	
1 Project Management	180	17-Dec-19	25-Aug-20
2 Survey	60	17-Dec-19	10-Mar-20
3 Flood Response Data Collection	80	17-Dec-19	7-Apr-20
4 Flood Inundation Maps	70	17-Dec-19	24-Mar-20
5 Web Map Update	90	7-Apr-20	11-Aug-20
6 Water & Earth Technologies, Inc.	180	17-Dec-19	25-Aug-20

## 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 award contract for IFB 2020-B03 Chaparral Park Road at Little Bear Creek to Smith Contracting Company, Inc.

#### ITEM TYPE

ACTION-ROADS

#### MEETING DATE

December 17, 2019

#### AMOUNT REQUIRED

#### LINE ITEM NUMBER

#### AUDITOR USE ONLY

#### AUDITOR COMMENTS:

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

#### REQUESTED BY

Jerry Borcharding

#### SPONSOR

JONES

#### CO-SPONSOR

N/A

#### SUMMARY

Purchasing received five bids pursuant to IFB 2020-B03 Chaparral Park Road at Little Bear Creek. It is the staff recommendation to award the contract to Smith Contracting Company, Inc.

Company Name	Bid Total
Smith Contracting Co., Inc.	\$1,148,460.45
Aaron Concrete Contractors, LP	\$1,176,011.14
Cox Commercial Construction	\$1,285,221.40
Myers Concrete Construction, LP	\$1,336,973.20
Montoya Anderson Construction, Inc. (MAC)	\$1,395,126.00

Attached: IFB 2020-B03 Tabulation

## 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

SUB-1205; La Cima Phase 1, Section 2 (108 Lots). Discussion and possible action to accept Amendment to Letter of Credit No. 5308 for street and drainage improvements for La Cima Phase 1, Section 2.

#### ITEM TYPE

ACTION-ROADS

#### MEETING DATE

December 17, 2019

#### AMOUNT REQUIRED

#### LINE ITEM NUMBER

#### AUDITOR USE ONLY

#### AUDITOR COMMENTS:

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

#### REQUESTED BY

BORCHERDING

#### SPONSOR

SHELL

#### CO-SPONSOR

N/A

#### SUMMARY

La Cima Phase 1, Section 2 is a proposed 108 lot subdivision located along RR 12 in Precinct 3. Water and wastewater service will be accomplished by the City of San Marcos.

The construction of street and drainage improvements in La Cima Phase 1 Section 2 is partially complete. The amendment will release \$691,467.97 back to the developer. The remaining amount is sufficient to complete the improvements which have not yet been constructed.



November 8, 2019

Hays County Development Services  
2171 Yarrington Road  
San Marcos, TX 78666

Re: Fiscal Surety Posting – Roadway and Drainage Improvements  
La Cima – Phase 1 Section 2  
COSM Permit No. 2016-20829

To Whom It May Concern:

As of Payment Application No. 8, there remains \$629,048.44 of work required to complete construction of the roadway and drainage improvements for the project. As required by the **Hays County Development Regulations, section 4.03 Performance Assurance**, the required fiscal posting is 100% of the work required to complete construction.

Based on this information, the amount of fiscal to be posted to Hays County is \$629,048.44.

Thank you for your consideration of this matter and call with any questions.

Sincerely,

**318 Group, LLC**

James R. McCann, P.E.

Digitally signed by James R. McCann, P.E.  
Location: 105 S Canyonwood Drive, Suite E  
Date: 2019.11.08 09:00:46-06'00'

Principal



201 West 5<sup>th</sup> Street, Suite 1000, Austin, TX 78701  
Office 512.457.7553 | Fax 877.379.1069  
Email will.mack@plainscapital.com

**Irrevocable Letter of Credit No. 5308-500**

**BENEFICIARY:** Hays County Judge  
111 E. San Antonio Street, Suite 300  
San Marcos, TX 78666

**ISSUER:** PlainsCapital Bank  
201 W. 5<sup>th</sup> Street, Suite 1000  
Austin, TX 78701

**CUSTOMER:** LCSM Ph. 1-2, LLC  
C/O Bryan W. Lee  
303 Colorado Street, Suite 2300  
Austin, TX 78701-0021

**STATED AMOUNT:** \$1,320,516.41

**SUBDIVISION:** La Cima, Phase 1, Section 2

**DATE OF POSTING:** November 1, 2019

**EXPIRATION DATE:** November 1, 2020

The ISSUER hereby establishes this Letter of Credit and shall duly honor all drafts drawn and presented in accordance with this Letter of Credit. Hay County Judge may draw on ISSUER for the account of the CUSTOMER up to the aggregate STATED AMOUNT.

This Letter of 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 (the "Improvements") to current Hays County Standards for Construction of Street and Drainage in Subdivisions (the "Standards") as reflected in the plans and specifications approved by Hays County, 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 Hays County and at the end of the public Improvement construction performance period, which commences upon acceptance.

The only requirement necessary to draw on any part or all, of the total STATED AMOUNT, of this Letter of Credit is a letter from Hays County Judge indicating that Hays County considers a drawing on this Letter of Credit necessary in order to complete all or part of the Improvements to the County Standards. No further substantiation of the necessity of the draw is required by this Letter of Credit.

Draws must be drawn and presented by the close of business on the EXPIRATION DATE and must specify the date and number of this Letter of Credit. Drafts will be honored within five calendar days of presentment. We hereby engage all drawers that drafts drawn and presented in accordance with this Letter of Credit shall be duly honored. Partial draws are permitted and this Letter of Credit shall be reduced by the amount of such partial draws as well as by any reduction letters authorized by Hays County Judge. The sum of such partial draws shall on no account exceed the STATED AMOUNT of this Letter of Credit, and upon any draw or reduction letter which exhausts this Letter of Credit, the original of this Letter of Credit will be surrendered to us.

This Letter of Credit is irrevocable prior to its expiration date unless both parties consent to revocation in writing.

This Letter of Credit is not transferable. Any successor or assignee of Beneficiary will not constitute a transferee of this Letter of Credit.

The Uniform Customs and Practice for Documentary Credits (hereinafter called the "UCP") as most recently published by the International Chamber of Commerce (ICC) shall in all respects be deemed a part hereof as fully as if incorporated herein and shall apply to the Letter of Credit. This Agreement shall be governed by and construed in accordance with the laws of the state of Texas, United States of America, except to the extent such laws are inconsistent with the UCP.

PlainsCapital Bank

By: 

Name: Will Mack

Title: Bank Officer



## 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

SUB-1359; Discussion and possible action to Approve, Approve with Conditions, or Disapprove the final plat for La Puesta del Sol subdivision.

#### ITEM TYPE

ACTION-SUBDIVISIONS

#### MEETING DATE

December 17, 2019

#### AMOUNT REQUIRED

#### LINE ITEM NUMBER

#### AUDITOR USE ONLY

#### AUDITOR COMMENTS:

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

#### REQUESTED BY

MACHACEK

#### SPONSOR

SHELL

#### CO-SPONSOR

N/A

#### SUMMARY

La Puesta del Sol is a proposed 1 lot subdivision located off of Caliche Road in Precinct 3. Water service will be provided by rainwater collection. Wastewater treatment will be accomplished by individual on-site sewage facilities.

County Staff recommends Approval of the plat in line with House Bill 3167 procedures.

GEND  
 RFD FOUND  
 RFD SET ATTS ENGINEERS  
 DINT  
 NATION\*  
 AND OUT WARE  
 ELECTRO LIFE- EXISTING  
 RECORD WARE COUNTY TEXAS  
 RECORDS WARE COUNTY TEXAS  
 WARE COUNTY TEXAS  
 WARE COUNTY TEXAS



GRAPHIC SCALE

SCALE 1"=100'

### FLOOD PLAIN NOTE

SURVEYOR'S CERTIFICATION

PAUL UTTERBACK  
R.P.L.S. NO. 5738  
ATS ENGINEERS, INSPECTORS & SURVEYORS  
TBPLS FIRM REG. #10126000  
4910 WEST HWY. 290  
AUSTIN, TX 78735  
(512) 328-6995

DATE 11/11/11

IN APPROVING THIS PLAT TO 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 OR OTHER PUBLIC THOROUGHFARES OR CONNECTION THEREWITH SHALL BE THE RESPONSIBILITY OF THE OWNER AND/OR DEVELOPER OF THE TRACT OF LAND COVERED BY THIS PLAT IN ACCORDANCE WITH PLANS AND SPECIFICATIONS DESCRIBED BY THE COMMISSIONERS COURT OF HAYS COUNTY, TEXAS, AND THE COMMISSIONERS COURT OF HAYS COUNTY, TEXAS ASSUMES NO OBLIGATION TO BUILD OR MAINTAIN ANY STREET, ROAD OR OTHER PUBLIC THOROUGHFARES SHOWN ON THIS PLAT OR OF CONSTRUCTION OF ANY BRIDGES OR CULVERTS IN CONNECTION THEREWITH.

2. CULVERTS, WHEN REQUIRED, SHALL COMPLY WITH THE CURRENT HAYS COUNTY STANDARD.
3. IN ADDITION TO ANY EASEMENTS SHOWN, A 10 FOOT WIDE EASEMENT FOR ELECTRIC FACILITIES SHALL BE CENTERED ON ALL EXISTING ELECTRIC FACILITIES.
4. DRIVEWAYS SHALL COMPLY WITH CHAPTER 721 OF HAYS COUNTY DEVELOPMENT REGULATIONS, AND BE PERMITTED THROUGH THE TRANSPORTATION DEPARTMENT OF HAYS COUNTY UNDER CHAPTER 751. DRIVEWAYS SHALL MEET THE MINIMUM SPACING REQUIREMENT FOR DRIVEWAYS SET FORTH IN CHAPTER 721.
5. MAILBOXES PLACED WITHIN THE R.O.W. SHALL BE OF AN APPROVED TxDOT OR FHWA DESIGN. (HAYS COUNTY DEVELOPMENT REGULATIONS, CHAPTER 721.2.01.)
6. BUILDING SETBACKS SHALL BE IN COMPLIANCE WITH CHAPTER 721 HAYS COUNTY DEVELOPMENT REGULATIONS.
7. ROADWAY ("CALICHE ROAD") IS A PRIVATE ROADWAY.

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.

DATE \_\_\_\_\_

DAVE

STATE OF TEXAS:

ELAINE H. CARDENAS, COUNTY CLERK  
COUNTY CLERK,  
HAYS COUNTY, TEXAS

STATE OF TEXAS:

ELAINE H. CARDENAS, COUNTY CLERK  
HAYS COUNTY, TEXAS

DEPUTY

PLAT PREPARATION DATE	PLAT SUBMITTAL DATE
7/12/19	
REVISED: 9/10/19	
REVISED: 10/23/19	
REVISED: 11/12/19	
REVISED: 11/19/19	

 **ATS** Engineers  
Inspectors  
& Surveyors  
[www.ats-engineers.com](http://www.ats-engineers.com)

(512) 328-6905  
FAX: (512) 328-6900

(SUB-1359-NP)

PAGE 1 of 1

## 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-1388-NP; Discussion and possible action to approve the final plat for Milagro Springs, Sec 1, Lot 1 subdivision.

#### ITEM TYPE

ACTION-SUBDIVISIONS

#### MEETING DATE

December 17, 2019

#### AMOUNT REQUIRED

#### LINE ITEM NUMBER

#### AUDITOR USE ONLY

#### AUDITOR COMMENTS:

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

#### REQUESTED BY

MACHACEK

#### SPONSOR

SHELL

#### CO-SPONSOR

N/A

#### SUMMARY

Milagro Springs, Sec 1, Lot 1 is a proposed 1 lot subdivision located off of Ranch Road 2325 in Precinct 3. Water service will be provided by Rainwater Collection Systems. Wastewater treatment will be accomplished by Individual On-Site Sewage Facilities.



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## 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

SUB-1103; Discussion and possible action to approve final plat for the Juve Posada Subdivision.

#### ITEM TYPE

ACTION-SUBDIVISIONS

#### MEETING DATE

December 17, 2019

#### AMOUNT REQUIRED

#### LINE ITEM NUMBER

#### AUDITOR USE ONLY

#### AUDITOR COMMENTS:

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

#### REQUESTED BY

PACHECO

#### SPONSOR

JONES

#### CO-SPONSOR

N/A

#### SUMMARY

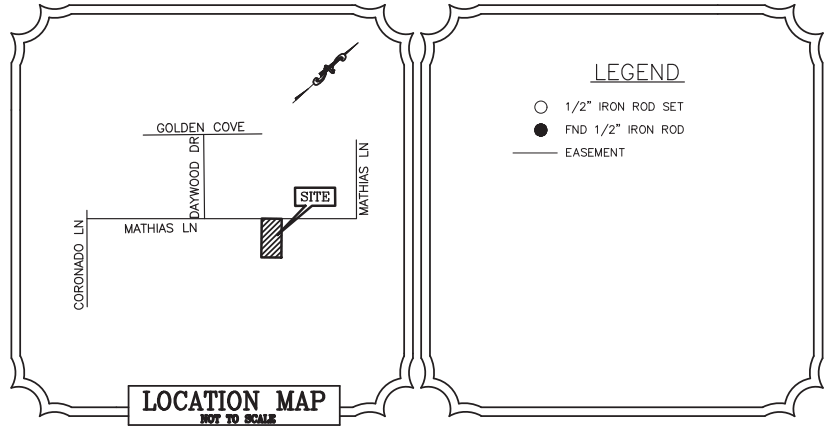
Juve Posada Subdivision is a proposed 2 lot subdivision located along Mathias Lane in Precinct 2.

Water service will be provided by GoForth Special Utility District. Wastewater service will be accomplished by Individual On-Site Sewage Facilities.

# JUVE POSADA SUBDIVISION

## MEASURED

LINE	BEARING	DISTANCE
L1	N 43°30'47" E	94.45
L2	N 43°30'47" E	94.45'
L3	S 43°35'20" W	94.27'
L4	S 43°35'20" W	94.27'



**LOC**onsultants  
 FIEM No. 4756  
 1715 East 7th Street  
 Austin, Texas 78702-4208  
 Ph. (512) 524-0677

# JUVE POSADA SUBDIVISION

STATE OF TEXAS:  
COUNTY OF HAYS:

KNOW ALL PERSONS BY THESE PRESENTS

THAT I, JUVENTINO POSADA & EMMANUEL POSADA ESTRADA, OWNERS OF PROPERTY R88738, BEING 10.859 ACRES OF LAND OUT OF THE JAMES W HALL SURVEY IN HAYS COUNTY, TEXAS, BY WARRANTY DEED IN DOCUMENT NO. 14006123 RECORDED VOLUME 4758, PAGE 799, OFFICIAL PUBLIC RECORDS, HAYS COUNTY.

DO HEREBY SUBDIVIDE IN ACCORDANCE WITH THE ATTACHED PLAT TO BE KNOW AS:

## JUVE POSADA SUBDIVISION

SAID SUBDIVISION OF THE LOCAL GOVERNMENT CODE, AND DO HEREBY DEDICATE TO THE PUBLIC USE OF THE STREETS AND EASEMENTS AS SHOWN HEREON, SUBJECT TO ANY EASEMENTS OR RESTRICTIONS HERETOFORE GRANTED AND NOT RELEASED

WITNESS MY HAND, THIS THE \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_ A.D.

MR. JUVENTINO POSADA  
2311 MATHIAS LN  
KYLE, TEXAS 78640

DATE

SAID SUBDIVISION OF THE LOCAL GOVERNMENT CODE, AND DO HEREBY DEDICATE TO THE PUBLIC USE OF THE STREETS AND EASEMENTS AS SHOWN HEREON, SUBJECT TO ANY EASEMENTS OR RESTRICTIONS HERETOFORE GRANTED AND NOT RELEASED

WITNESS MY HAND, THIS THE \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_ A.D.

MR. EMMANUEL POSADA ESTRADA  
2311 MATHIAS LN  
KYLE, TEXAS 78640

DATE

COUNTY OF HAYS:

STATE OF TEXAS:

BEFORE ME, THE UNDERSIGNED AUTHORITY, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, ON THIS DAY PERSONALLY APPEARED JUVENTINO POSADA & EMMANUEL POSADA, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATION THEREIN EXPRESSED.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_ A.D.

NOTARY PUBLIC IN AND FOR HAYS COUNTY, TEXAS

DATE

COUNTY OF HAYS:

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 DISMINISHING WATER QUALITY, PROSPECTIVE PROPERTY OWNERS ARE CAUTIONED BY HAYS COUNTY TO QUESTION THE SELLER CONCERNING GROUND WATER AVAILABILITY. RAINWATER 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.

TOM POPE, C.F.M., R.S.  
HAYS COUNTY FLOODPLAIN ADMINISTRATOR

DATE

CAITLYN STRICKLAND  
DIRECTOR, HAYS COUNTY DEVELOPMENT SERVICES

DATE

COUNTY OF HAYS:

STATE OF TEXAS:

I, ELAINE H. CARDENAS, COUNTY CLERK OF HAYS COUNTY, TEXAS, DO HEREBY CERTIFY THAT ON THE \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_ A.D. THE COMMISSIONERS COURT OF HAYS COUNTY, TEXAS PASSED AND ORDER AUTHORIZING THE FILING FOR RECORD OF THIS PLAT AND SAID ORDER HAS BEEN DULY ENTERED IN THE MINUTES OF SAID COURT IN DOCUMENT #\_\_\_\_\_.

WITNESS MY HAND AND SEAL OF OFFICE OF THE COUNTY, CLERK, THE \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_, A.D.

ELAINE H. CARDENAS,  
COUNTY CLERK HAYS COUNTY, TEXAS

RUBEN BECERRA,  
COUNTY JUDGE, HAYS COUNTY, TEXAS

COUNTY OF HAYS:

STATE OF TEXAS:

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 RECORDS OF HAYS COUNTY TEXAS, IN DOCUMENT #\_\_\_\_\_.

WITNESS MY HAND AND SEAL OF OFFICE OF THE COUNTY, CLERK, THE \_\_\_\_ DAY OF \_\_\_\_\_, 201\_\_, A.D.

ELAINE H. CARDENAS,  
COUNTY CLERK HAYS COUNTY, TEXAS

## PROPERTY DESCRIPTION

LOT 1:  
BEING 5.424 ACRES OF LAND, MORE OR LESS OUT OF THE J.W. HALL SURVEY NO. 227, ABSTRACT NO. 227, HAYS COUNTY, TEXAS, AND BEING OUT OF THAT 10.859 ACRES CONVEYED IN A WARRANTY DEED WITH VENDOR'S LIEN RECORDED IN VOLUME 4758, PAGE 799, OFFICIAL PUBLIC RECORDS, HAYS COUNTY, TEXAS.

LOT 2:  
BEING 5.424 ACRES OF LAND, MORE OR LESS OUT OF THE J.W. HALL SURVEY NO. 227, ABSTRACT NO. 227, HAYS COUNTY, TEXAS, AND BEING OUT OF THAT 10.859 ACRES CONVEYED IN A WARRANTY DEED WITH VENDOR'S LIEN RECORDED IN VOLUME 4758, PAGE 799, OFFICIAL PUBLIC RECORDS, HAYS COUNTY, TEXAS.

## GENERAL NOTES:

THIS SUBDIVISION IS LOCATED WITHIN CALDWELL HAYS ESD 1

E.T.J. NOTE:  
NO PORTION OF THIS SUBDIVISION LIES WITHIN THE BOUNDARIES OF ANY MUNICIPALITIES CORPORATE CITY LIMITS OR EXTRA TERRITORIAL JURISDICTION.

EDWARDS AQUIFER NOTE:  
NO PORTION OF THIS SUBDIVISION LIES WITHIN THE EDWARDS AQUIFER RECHARGE ZONE. THIS TRACT IS ALSO NOT IN THE EDWARDS AQUIFER CONTRIBUTING ZONE.

PLAT INFORMATION:  
TOTAL AREA: 10.851 ACRES  
TOTAL NUMBER OF LOTS: 2  
NUMBER OF LOTS BETWEEN 5 AND 10 ACRES: 2  
NUMBER OF LOTS BETWEEN 2 AND 5 ACRES: 0  
NUMBER OF LOTS BETWEEN 1 AND 2 ACRES: 0  
NUMBER OF LOTS LESS THAN 1 ACRE: 0

## UTILITY INFORMATION

WATER: GOPORTH WATER SUPPLY CORPORATION  
SEWER: INDIVIDUAL ON-SITE SEWAGE FACILITIES  
ELECTRICITY: FEDERNALES ELECTRIC COOPERATIVE INC.  
TELEPHONE: AT&T

SCHOOL DISTRICT:  
THIS SUBDIVISION LIES WITHIN THE BOUNDARY OF THE HAYS CONSOLIDATED INDEPENDENT SCHOOL DISTRICT (CAMINO REAL ISD).

FLOOD PLAIN NOTE:  
ACCORDING TO F.E.M.A. FLOOD INSURANCE RATE MAP NO. 46209C0293F AND MAP NO. 46209C0295F DATED 9/2/2005, THIS TRACT LIES WITHIN ZONE X, (AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN).

DRIVEWAY PERMIT NOTE  
IN ORDER TO PROMOTE SAFE USE OF ROADWAYS AND PRESERVE THE CONDITIONS OF PUBLIC ROADWAYS, NO DRIVEWAYS CONSTRUCTED ON ANY LOT WITHIN THIS SUBDIVISION SHALL BE PERMITTED TO ACCESS ONTO A PUBLIC ROADWAY UNLESS  
(A) A PERMIT FOR 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.  
ALL CULVERTS, WHEN REQUIRED SHALL COMPLY WITH THE CURRENT HAYS COUNTY STANDARD.

## EASEMENTS:

10 FOOT EASMENT ON ALL PROPERTY LINES (FRONT, SIDE AND REAR) AND CENTERED ON EXISTING ELECTRIC LINE.

MAIL BOXES LOCATED WITHIN THE ROW, SHALL BE OF AN APPROVED TxDOT OR FHWA DESIGN, PER HAYS COUNTY DEVELOPMENT REGULATIONS, CHAPTER 721, SUBCHAPTER 2.01

## ENGINEER'S CERTIFICATION:

THIS IS TO CERTIFY THAT I AM AUTHORIZED TO PRACTICE THE PROFESSION OF ENGINEERING IN THE STATE OF TEXAS; THAT I REVIEWED THE PLAT SUBMITTED HEREWITH; THAT ALL INFORMATION SHOWN HEREON IS ACCURATE AND CORRECT TO THE BEST OF MY KNOWLEDGE AS RELATED TO THE ENGINEERING PORTIONS THEREOF; AND THAT SAID PLAT COMPLIES WITH HAYS COUNTY DEVELOPMENT REGULATIONS.



SERGIO LOZANO SANCHEZ, P.E.  
REGISTERED PROFESSIONAL ENGINEER  
STATE OF TEXAS  
LOC CONSULTANTS CIVIL DIVISION, INC.  
1715 E. 7TH STREET  
AUSTIN, TX 78702

DATE

## SURVEYOR'S CERTIFICATION:

I, HEREBY CERTIFY THAT THE ABOVE PLAT CONFORMS TO THE MINIMUM STANDARDS SET FORTH BY THE TEXAS BOARD OF PROFESSIONAL LAND SURVEYORS ACCORDING TO AN ACTUAL SURVEY MADE ON THE GROUND UNDER MY SUPERVISION.



GEORGE E. LUCAS, R.P.L.S.

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 District Attorney to use Asset Forfeiture Funds to hire the Administrative Assistant II position budgeted effective April 1, 2020 to begin January 2nd and amend the budget accordingly.

#### ITEM TYPE

ACTION-MISCELLANEOUS

#### MEETING DATE

December 17, 2019

#### AMOUNT REQUIRED

\$11,658

#### LINE ITEM NUMBER

081-607-00

#### AUDITOR USE ONLY

#### AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A

AUDITOR REVIEW: MARISOL VILLARREAL-ALONZO

#### REQUESTED BY

Wes Mau

#### SPONSOR

INGALSBE

#### CO-SPONSOR

N/A

#### SUMMARY

The Criminal District Attorney is requesting the Courts authorization to hire a full time Admin II position approved in the FY 20 Budget (effective April 1, 2020) to begin January 1, 2020. Funds are available within the DA Drug Forfeiture fund to process this request. The position will be moved to the General Fund effective 4/1/20 as approved during the budget process.

#### Budget Amendment:

Increase Revenue for Forfeiture Proceeds - (\$11,658)

Increase Staff Salaries - \$7,185

Increase FICA - \$446

Increase Medicare - \$105

Increase Retirement - \$971

Increase Insurance - \$2,951



## 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 award RFP 2020-P03 Inmate Commissary Services to Keefe Commissary Network and authorize staff and General Counsel to negotiate a contract.

#### ITEM TYPE

ACTION-MISCELLANEOUS

#### MEETING DATE

December 17, 2019

#### AMOUNT REQUIRED

#### LINE ITEM NUMBER

#### AUDITOR USE ONLY

#### AUDITOR COMMENTS:

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

#### REQUESTED BY

Gary Cutler

#### SPONSOR

BECERRA

#### CO-SPONSOR

N/A

#### SUMMARY

On October 30, 2019 the Commissioners Court approved specifications and authorized Purchasing to solicit for Inmate Commissary Services. Purchasing received responses from the following company:

Keefe Commissary Network

After evaluation of the proposal, the evaluation committee's recommendation is to award the contract to Keefe Commissary Network.

## 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 a resolution to adopt a Countywide Fire Code and the rules necessary to administer and enforce the 2018 International Fire Code for Hays County.

#### ITEM TYPE

ACTION-MISCELLANEOUS

#### MEETING DATE

December 17, 2019

#### AMOUNT REQUIRED

N/A

#### LINE ITEM NUMBER

#### AUDITOR USE ONLY

#### AUDITOR COMMENTS:

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

#### REQUESTED BY

McInnis/Raven

#### SPONSOR

BECERRA

#### CO-SPONSOR

N/A

#### SUMMARY

The fire code is an important aspect of our county as part of our duty to protect life and property. The code will provide the basis for fire protection for new construction occupancies and authorize the Fire Marshal to make fire and life safety decisions within existing occupancies for the protection of our citizens and visitors to Hays County.

# **HAYS COUNTY FIRE CODE**

AS ADOPTED: December 17, 2019

EFFECTIVE: January 1, 2020

## **Hays County Commissioners Court**

RUBEN BECERRA, County Judge

Commissioner, Precinct #1: DEBBIE INGALSBE

Commissioner, Precinct #2: MARK JONES

Commissioner, Precinct #3: LON A. SHELL

Commissioner, Precinct #4: WALT SMITH

## **Hays County Fire Marshal's Office**

Scott Raven, Hays County Fire Marshal



**STATE OF TEXAS §**

**IN THE COMMISSIONERS COURT COUNTY OF HAYS §**

**ORDER ADOPTING HAYS COUNTY FIRE CODE**

**WHEREAS**, §233.061 of the Texas Local Government Code (LGC) authorizes the county to adopt a fire code and rules necessary to administer and enforce the fire code; and

**WHEREAS**, Commissioners Court of Hays County finds that fires have occurred in the past within its jurisdiction and are likely to occur in the future, and that damage to property and loss of life occurs for many reasons, including fires that could have been prevented or minimized by providing additional safeguards to provide adequate egress time and protections for people exposed to fire; and

**WHEREAS**, the purpose of this Fire Code is to provide minimum requirements, with due regard to function, for the design and construction or substantial improvement of public building, commercial establishments, and multifamily residential dwellings consisting of four or more units to reduce the risk to life and property from fire; and

**WHEREAS**, the Commissioners Court of Hays County finds that adopting a fire code and requiring permits for construction of commercial establishments, public buildings, and multi-family dwellings with four or more units in the unincorporated areas of Hays County, Texas, allows the County to impose standards to protect the health, safety, welfare and property of the general public; and

**WHEREAS**, the Hays County Fire Marshal has reviewed several model fire codes and has recommended the Commissioners Court adopt the International Fire Code (2018 edition), published by the International Code Council, because it provides the appropriate protective measures and is within best practices and continuity with other local governments in and around Hays County, Texas; and

**WHEREAS**, upon this Court's adoption of a County Fire Code, the Hays County Fire Marshal's Office shall inspect a building subject to §233.064(a) of the Texas Local Government Code to determine whether the building complies with the County Fire Code; and

**WHEREAS**, the Hays County Fire Marshal's Office shall issue permits for such inspections (§233.063) and collect fees according to the fee schedule adopted in the Fire Code (§233.065).

**NOW THEREFORE, BE IT ORDERED AND RESOLVED BY THE COMMISSIONERS COURT FOR HAYS COUNTY THAT** the Hays County Fire Code, based on the International Fire Code (2018 edition), published by the International Code Council, is hereby adopted.

**BE IT FURTHER ORDERED AND RESOLVED THAT** the Hays County Fire Code shall be effective January 1, 2020, and the Hays County Fire Code adopted by this Order shall apply to all buildings upon which construction or substantial improvements begins after that date, provided that the fee schedule adopted under this order shall apply to all fees coming due after that date regardless of the date upon which construction or substantial improvements begins for the building subject to the fee.

**ADOPTED THIS the 17th day of December 2019.**

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RUBEN BECERRA, County Judge

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DEBBIE INGALSBE  
Commissioner Pct #1

---

MARK JONES  
Commissioner Pct #2

---

LON A. SHELL  
Commissioner Pct #3

---

WALT SMITH  
Commissioner Pct #4

ATTEST:

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Elaine H. Cárdenas, MBA, PhD  
Hays County Clerk

## **HAYS COUNTY FIRE CODE TABLE OF CONTENTS**

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### **EXHIBITS**

EXHIBIT A - ADDITIONS, INSERTIONS, DELETIONS AND CHANGES TO  
INTERNATIONAL FIRE CODE, 2018 EDITION

EXHIBIT B - PERMIT FEE SCHEDULE EFFECTIVE

EXHIBIT C – REFERENCED STATE STATUTES

# **HAYS COUNTY FIRE CODE**

## **PART 1 - ADMINISTRATION AND PRELIMINARY PROVISIONS**

### **SECTION 1.1 - AUTHORITY**

This Code is adopted as a fire code by the Commissioners Court of Hays County, Texas, acting in its capacity as the governing body of Hays County, Texas. The authority of Hays County to adopt this Code and the contents hereof is derived from Chapter 233, Subchapter C, Texas Local Government Code, §233.061 et seq., as amended. The Code shall apply to public buildings, commercial establishments, and multifamily residential dwellings with four or more units for which construction or substantial improvement, as defined in this Code, begins on or after the effective date of this Fire Code. This Code may be amended at any time by a majority of the Commissioners Court.

### **SECTION 1.2 - SCOPE OF REGULATIONS**

This Code applies in unincorporated areas of Hays County, Texas, on or after the effective date of this Code.

### **SECTION 1.3 - PURPOSE**

The purpose of this Code is to provide minimum requirements, with due regard to function, for the design and construction or substantial improvement of public buildings, commercial establishments, and multifamily residential dwellings to reduce the risk to life and property from fire. Fire safety in regard to operation and use of buildings and structures after construction, whether their construction was subject to this Code, shall be enforced independent of this Code by the County Fire Marshal in accordance with applicable law, including but not limited to his independent authority to inspect for the presence of fire and life safety hazards and order their correction under Chapter 352 of the Texas Local Government Code. This Code is not intended in any way to limit the statutory authority of the County Fire Marshal, and it is intended that such authority be retained to the fullest extent authorized by law.

### **SECTION 1.4 - CONSTRUCTION OF REGULATIONS**

This Code is to be construed liberally to accomplish its purpose. Nothing herein shall derogate from the authority of the Fire Code Official to determine compliance with codes or standards for those activities or installations within the Fire Code Official's jurisdiction or responsibility. Requirements that are essential for the public safety of a building or structure referenced in this Code shall be those that are listed in Chapter 47 of the International Fire Code 2018 Edition, and such codes and standards shall be considered part of the requirements of this Code to the prescribed extent of such reference. Where differences occur between the provision of this Code and the referenced standards, the provisions of this Code shall apply. Where there is a conflict between a general requirement and specific requirement within this Code, the specific requirement shall be applicable.

### **SECTION 1.5 - ABROGATION**

This Code is not intended to repeal, abrogate, or impair any existing laws, regulations, easements, covenants, or deed restrictions.

#### **SECTION 1.6 - WARNING AND DISCLAIMER OF LIABILITY**

The degree of fire protection required by this Code is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. This Code does not imply that any building or the uses permitted within any building will be free from fire hazard. This Code shall not create liability on the part of Hays County or any officer, employee, or agent thereof for any damages that result from reliance on this Code or any administrative decision lawfully made there under. The granting of a permit or issuance of a certificate of compliance does not imply that the building can be insured for fire coverage.

#### **SECTION 1.7 - BASIS FOR REGULATION**

The Hays County Fire Code shall consist of this Code plus the International Fire Code 2018 Edition, and all of its references, which code and appendices are incorporated herein as if fully set out herein, with the additions, insertions, deletions and changes, prescribed in Exhibit A hereto.

#### **SECTION 1.8 - INCORPORATION OF DEFINED WORDS AND PHRASES**

If a word or phrase is defined in the International Fire Code, 2018 Edition, the definitions in that code apply to that word or phrase when it is used in this Code unless otherwise defined in Part 2 of this Code.



## **PART 2 - USE OF TERMS**

### **SECTION 2.1 - CERTIFICATE OF COMPLIANCE**

A "Certificate of Compliance" means a certificate issued by the Fire Code Official indicating construction or substantial improvement is in compliance with the Hays County Fire Code as of a specific date and for a specific occupancy. The certificate may be filed in the Real Property Records as outlined in Section 7.1 of this Code. A Certificate of Compliance under this Fire Code shall not be construed as authorizing the owner or operator of any building to afterward operate or maintain such building in such a way as to create, cause, or allow the existence of a fire or life safety condition, which condition shall be subject to the independent enforcement authority of the County Fire Marshal.

### **SECTION 2.2 - CERTIFICATE OF NON-COMPLIANCE**

A "Certificate of Non-Compliance" means a certificate issued by the Fire Code Official indicating construction or substantial improvement is not in compliance with the Hays County Fire Code as of a specific date. This certificate may be filed with the Real Property Records as outlined in Section 7.1 of this Code.

### **SECTION 2.3 - CONSTRUCTION**

"Construction" means the initial permanent construction of a public building, a commercial establishment, or a multifamily residential dwelling, and all related improvement on a site as specified in Texas Local Government Code § 233.0615(c). A permit is required prior to the start of any such construction. For purposes of this Code, construction begins on the date that ground is broken for a building, or if no ground is broke, on the date that:

- (a) the first materials are added to the original property;
- (b) foundation pilings are installed on the original property; or
- (c) a manufactured building or relocated structure is placed on a foundation on the original property.

### **SECTION 2.4 - COUNTY FIRE MARSHAL**

"County Fire Marshal" means the holder of the statutory office of County Fire Marshal for Hays County or the employee(s) designated by the County Fire Marshal to perform a task required by this code. The terms "County Fire Marshal," "Fire Marshal," and "Hays County Fire Marshal" shall be interchangeable.

### **SECTION 2.5 - FIRE CODE**

"Fire Code" means the Hays County Fire Code and the codes and standards in the attached document, known as the International Fire Code, 2018 Edition, including Appendix Chapters B, C, D, F, G, I and J as published by the International Code Council, except for the portions deleted, modified or amended by Exhibit A.

## **SECTION 2.6 - FIRE CODE OFFICIAL**

"Fire Code Official" means the Fire Marshal of Hays County, or a designee of such individual.

## **SECTION 2.7 - MULTIFAMILY RESIDENTIAL DWELLING**

"Multifamily Residential Dwelling" means a multifamily residential dwelling consisting of four or more units as specified in Texas Local Government Code § 233.062(a).

## **SECTION 2.8 - PERSON**

"Person" includes any individual or group of individuals, corporation, partnership, association, or any other organized group of persons. Not included is a State Agency that is authorized to prevent and extinguish forest and grass fires.

## **SECTION 2.9 - PUBLIC BUILDINGS AND COMMERCIAL ESTABLISHMENTS**

"Public Buildings and Commercial Establishments" includes, but is not limited to auditoriums, classrooms, churches, libraries, restaurants, theaters, schools, daycare facilities, nursing homes, hospitals, correctional facilities, hotels, motels, dormitories, department stores, shopping centers, doctor offices, general offices, laundries, warehouses, temporary tents and membrane structures. Not included in this definition is an industrial facility having a fire brigade that conforms to requirements of the Occupational Safety and Health Administration.

## **SECTION 2.10 - SUBSTANTIAL IMPROVEMENT**

A "Substantial Improvement" is:

- (a) the repair, restoration, reconstruction, improvement, or remodeling of a public building, a commercial establishment, or a multifamily residential dwelling for which the cost exceed 50 percent of the building's value according to the certified tax appraisal roll for the county for the year preceding the year in which the work was begun; or
- (b) a change in occupancy classification involving a change in the purpose or level of activity in a building.

For purposes of determining if an improvement is a Substantial Improvement, the applicant for a permit must submit data reflecting cost of the improvement, restoration, reconstruction, improvement, or remodeling. Costs shall include the value of all labor and materials. A permit is required prior to the start of any Substantial Improvement.

For purposes of this Code, Substantial Improvement begins on the date that the repair, restoration, reconstructions, improvement, remodeling, or the change in occupancy classification begins or on the date materials are first delivered for that purpose. This definition is in accordance with Texas Local Government Code § 233.0615(a), (b).

The Fire Code Official may require the submittal of an independent certified damage assessment in cases where the structure has suffered damage other than minor damage.

## **SECTION 2.11 - UNINCORPORATED AREA**

"Unincorporated Area" means the area in Hays County, Texas, which is not within an incorporated area of a city, town, or village.

## **PART 3 - GENERAL PROVISIONS**

### **SECTION 3.1- ADMINISTRATION BY THE FIRE CODE OFFICIAL**

The Fire Code Official or the Fire Code Official's designee is responsible for the administration of this Code, issuance of permits required by this Code, enforcement of this Code and maintenance of proper records.

### **SECTION 3.2 - RESPONSIBILITY OF THE FIRE CODE OFFICIAL**

Under this Code, the Fire Code Official is responsible for all administrative decisions, determinations, and duties. The Fire Code Official or the Fire Code Official's designee may conduct inspections provided for in this Code.

### **SECTION 3.3 - RESPONSIBILITY OF OTHER OFFICIALS**

The Fire Code Official may seek and secure the assistance of other officials of Hays County in making decisions and determinations and in performing the administrative duties but is not required to conform to the recommendations of others, provided however, any decision by the Fire Code Official may be appealed by the process in Section 6.1 of this Code.

## **PART 4 - PERMITS**

### **SECTION 4.1 - PERMITS REQUIRED**

No person shall perform or authorize construction or substantial improvement within the unincorporated areas of Hays County without first securing a permit under this Code.

### **SECTION 4.2 - APPLICATION FOR PERMIT**

The application for a permit will be on a form prescribed by the Fire Code Official and must be supported by the following:

- (a) One complete set of construction and site plans electronically submitted, drawn to scale for the proposed building or system containing all specifications, including the following:
  - (1) The types of construction materials and class of interior finish;
  - (2) The location of all exits with distances between exits called out -exit width, type and any special requirement shall be stated; and
  - (3) The location of any fire alarm equipment, automatic sprinklers, emergency lighting, and any other necessary safety measures required to meet this Code; and,
- (b) A permit fee in accordance with Section 8.3 and Exhibit B. If unable to determine from the information submitted whether a permit should be issued, the Fire Code Official may require the submission of additional information, drawings, specifications, and/or documents.

### **SECTION 4.3 - DETERMINATION OF PERMIT ELIGIBILITY**

After the application is filed, the Fire Code Official shall determine if the proposed public building, commercial establishment, or multifamily residential dwelling meets the minimum requirements of this Code based on the information provided.

- (a) If it is determined the proposed construction or substantial improvement meets the requirements, then a permit will be issued after the collection of the appropriate fees outlined in Section 8.3 and Exhibit B.
- (b) If it is determined that the proposed construction or substantial improvement does not comply with the requirements of this Code, then the application package shall be returned to the applicant with an explanation of why it was not approved.

### **SECTION 4.4 - ISSUANCE OF PERMITS**

Within 30 days after the date the Fire Code Official receives an application and fee in accordance with this Code, the Fire Code Official shall:

- (a) issue the permit if the application complies with this Code; or
- (b) deny the application if the application does not comply with this Code. If the Fire Code Official receives an application in accordance with Section 4.2 and fee in accordance with Section 8.3 and the Fire Code Official does not issue the permit or deny the application within 30 days after receiving the application and fee, the

construction or substantial improvement of the building that is the subject of the application shall be approved for purposes of this Code.

#### **SECTION 4.5 - TERMS OF PERMITS**

Construction or substantial improvement must be started within 180 days of the date the permit is issued, or the permit shall be null and void. Upon written request, two six-month extensions may be obtained from the Fire Code Official.

## **PART 5 - PERMITTEE**

### **SECTION 5.1 - RESPONSIBILITY OF PERMITTEE**

All permit holders must:

- (a) post the permit on the jobsite in a place visible from the nearest road or street;
- (b) post and maintain the street number on the jobsite in a place visible from the road or street and in a manner meeting the requirements of the standard for permanent numbers set forth in the International Fire Code 2018 Edition, Section 505.1; and
- (c) allow the Fire Code Official to inspect the work pursuant to a permit. The Fire Code Official may make as many scheduled or unscheduled inspections as deemed necessary to enforce this Code. All holders of a permit issued pursuant to this Code that wish to make a change to the proposed construction or substantial improvement of the public building, commercial establishment, or multifamily residential dwelling or to perform any construction or substantial improvement other than as authorized by the permit must submit supplemental drawings and/or specifications to the Fire Code Official for review. If the change complies with this Code and is approved, a copy of the supplemental drawings and/or specifications shall be added to the permittee's file and the Fire Code Official shall amend the permit.

### **SECTION 5.2 - INSPECTIONS**

- (a) The permittee shall ensure their Engineer, Architect, or International Code Council Certified Building Official (ICC-CBO) has made sufficient inspections so that they can complete a "Request for Final Inspection" form as outlined below.
- (b) When the construction or substantial improvement is complete and ready for occupancy, a "Request for Final Inspection" form supplied by the Fire Code Official must be completed, signed and sealed by a licensed engineer authorized to practice in the State of Texas, a registered architect authorized to practice in the State of Texas, or an ICC-CBO, indicating that, to the best of his or her knowledge, all the minimum requirements of this Code have been met. Receipt by the Fire Code Official of a completed, signed and sealed request form will serve as a request for final inspection.
- (c) Once the Fire Code Official receives a request for final inspection and determines, after a final occupancy inspection is conducted, that the construction or substantial improvement complies with this Code, the Fire Code Official will issue a Certificate of Compliance. Should the Fire Code Official determine that the applicable permits have not been provided and/or the provisions of Section 5.1 of this code were not followed, then enforcement procedures as outlined in Part 7 shall commence. No person shall occupy a public building, a commercial establishment, or a multifamily residential dwelling that the Fire Code Official determines, after inspection, not to be in compliance with this code unless and until a Certificate of Compliance is subsequently issued for such building, establishment or dwelling.
- (d) Should the Fire Code Official have to make additional inspections due to non-compliance with this Code, additional fees may be assessed as outlined in Section 8.3 and Exhibit B.

## **PART 6 -APPEALS AND HEARING PROCEDURES**

### **SECTION 6.1 - BOARD OF APPEALS**

- (a) The Board of Appeals is hereby established in order to hear and decide appeals of orders, decisions or determinations made by the Fire Code Official relative to the application and interpretation of this Code.
- (b) The Commissioners Court appoints the members of the Board of Appeals. The Fire Code Official shall be an ex officio member of said board but shall have no vote on any matter before the board.
- (c) An application for appeal shall be based on a claim that the intent of this code or the rules legally adopted hereunder have been incorrectly interpreted, the provisions of this Code do not fully apply, or an equivalent method of protection or safety is proposed. The board shall meet as needed to review recommendations of the Fire Marshal about variances and denials of building permits. The board shall have no authority to waive requirements of this Code.
- (d) The Board of Appeals shall consist of members who are qualified by experience and training to pass on matters pertaining to hazards of fire, explosions, hazardous conditions or fire protection systems and are not employees of County. Members shall serve without remuneration or compensation, and shall be removed from office prior to the end of their appointed terms only for cause. The members of the board shall consist of five members having the following qualifications:
  - (1) One member shall be a practicing design professional registered in the practice of engineering or architecture in Texas.
  - (2) One member shall be a qualified engineer, technologist, technician or safety professional trained in fire protection engineering, fire science or fire technology. This representative may be fire protection contractors and certified technicians engaged in fire protections system design.
  - (3) One member shall be a registered industrial or chemical engineer, certified hygienist, certified safety professional, certified hazardous materials manager or comparably qualified specialist experienced in chemical process safety or industrial safety.
  - (4) One member shall be a contractor regularly engaged in the construction, alteration, maintenance, repair or remodeling of buildings or building services and systems regulated by this chapter.
  - (5) One member shall be a representative of business or industry not represented by a member from the other categories of board members described in this section.

- (e) Members shall be appointed for terms of four years. No member shall be reappointed to serve more than two consecutive full terms. Of the members first appointed, two shall be appointed for a term of 1 year, two for a term of 2 years, and one for a term of 3 years.
- (f) Vacancies shall be filled for an unexpired term in a manner in which original appointments are required to be made. Members appointed to fill a vacancy in an unexpired term shall be eligible for reappointment to two full terms.
- (g) Continued absence of any member from regular meetings of the board shall, at the discretion of the Commissioners Court, render any such member liable to immediate removal from the board.
- (h) Three members of the board constitute a quorum. In recommending a variance in the application of any provisions of this chapter or the Fire Code or in modifying a recommendation of the Fire Marshal, affirmative votes of at least three members are required.
- (i) The Fire Marshal acts as secretary of the board and shall keep a detailed record of all its proceedings, which shall set forth the reasons for its decisions, the vote of each member, and the absence of a member and any failure of a member to vote.
- (j) The Commissioners Court shall furnish legal counsel to the board to provide members with general legal advice concerning matters before them for consideration. Members shall be represented by legal counsel at county expense in all matters arising from service with the scope of their duties.
- (k) Members with a material or financial interest in a matter before the board shall declare such interest and refrain from participating in discussions, deliberations and voting on such matters.
- (l) Every decision of the Board of Appeals shall be promptly filed in writing in the office of the Fire Marshal and shall be open to public inspection. A certified copy shall be sent by mail or otherwise to the appellant, and a copy shall be kept publicly posted in the office of the Fire Marshal for a 2 weeks after filing.

## **SECTION 6.2 - REVIEW BY COMMISSIONERS COURT**

If the Fire Code Official or the appellant wishes to appeal the Board of Appeals' decision, a written objection must be filed with the Clerk of the Commissioners Court within ten days of the date the Board of Appeals' decision is filed. The Clerk will notify the Board of Appeals who will place the matter on the Agenda of the Commissioners Court for review at the next meeting of Commissioners Court. If the Fire Code Official files the objection, notice that the matter is on the Agenda will be sent to the appellant by mail at the appellant's address shown on the permit or application. Commissioners Court will review the matter. The Commissioners Court may either affirm or reverse the decision of the Board of Appeals. The Fire Code Official's decision will remain in effect pending the review of Commissioners Court.

## **SECTION 6.3 - VARIANCES**



If any person wishes an exception to any provision of this Code, that person shall request a variance in the manner prescribed for the filing of an appeal. The Board of Appeals shall hold a hearing, and deny or grant the variance. Variances will be granted only if the following are met:

- (a) the applicant has shown good and sufficient cause for a variance;
- (b) failure to grant the variance would result in exceptional hardship to the applicant;
- (c) granting the variance will not result in an increased risk of fire, additional threats to public safety, extraordinary public expense, or create nuisances, cause fraud or victimization of the public; and
- (d) variances shall only be issued upon a determination that a variance is the minimum necessary, considering the fire hazard, to afford relief. Economic hardship shall not constitute the sole basis for granting a variance. A hearing before Commissioners Court regarding variances shall be requested in the manner provided in Section 6.2 of this Code. If a variance is granted a permit shall be issued and the permittee shall conform to all applicable provision of this Code except the Sections for which a variance is granted.

## **PART 7 - ENFORCEMENT**

### **SECTION 7.1 - ENFORCEMENT**

- (a) If any person violates any provisions of this Code, the Fire Code Official may notify the Criminal District Attorney and request that the Criminal District Attorney take whatever action is necessary to remedy the violation, including but not limited to filing suit to enjoin the violation and/or seek a civil penalty under Texas Local Government Code § 233.067 of up to \$200 for each day a violation exists.
- (b) If a violation continues, Hays County may file a Certificate of Non-Compliance in the Real Property Records of Hays County, Texas. Once the violation has been resolved any individual may request a Certificate of Compliance be filed in the Real Property Records of Hays County. A fee for this action will be charged in accordance with Section 8.3 and Exhibit B herein. The violator shall bear this and all other costs of effecting compliance.
- (c) Should the building be occupied without final occupancy inspection as required under this Code, the County Fire Marshal may file a complaint with the Criminal District Attorney's Office under Texas Local Government Code §§ 352.016 and 352.022. The Criminal District Attorney may take any and all action necessary to remedy the violation.

### **SECTION 7.2 - VIOLATION OF CONDITIONS OF REGULATIONS**

Any person having knowledge of a violation of this Code may file a complaint in writing with the Fire Code Official.

## **PART 8 - FORMS, RECORDS, AND FEES**

### **SECTION 8.1 - FORMS**

Forms to be used in the administration of this Code shall be promulgated by the Fire Code Official.

### **SECTION 8.2 - MAINTENANCE OF RECORDS**

The Fire Code Official must maintain all applications for and file copies of permits for a retention period of three years. Drawings and specifications on file with the Fire Code Official may be destroyed after 180 days from the date of completion.

### **SECTION 8.3 - FEES**

Fees for permits and inspections are to be set by the Commissioners Court. Fees shall be paid by exact cash, cashiers check, money order or personal check. Should the check be returned for insufficient funds, the permit(s) issued becomes null and void. Fees shall be paid at the time plans are submitted for review unless other arrangements have been made and approved by the County Auditor. The County shall deposit all fees received under this section in a special fund in the county treasury, pursuant to Texas Local Government Code § 233.065(c), and money in that fund shall be used only for the administration and enforcement of the Hays County Fire Code. The fee schedule is shown in Exhibit B.

## **PART 9 -SEVERABILITY AND CONSTRUCTION**

### **SECTION 9.1 - SEVERABILITY AND CONSTRUCTION**

The provisions of this Code are severable. If any word, phrase, clause, sentence, section, provision, or part of this Code should be invalid or unconstitutional, it shall not affect the validity of the remaining portions and it is hereby declared to be the intent of the Hays County Commissioners Court that this Code would have been adopted as to the remaining portions, regardless of the invalidity of any part. In the event that any provision of this Code might be interpreted in such a way as exceeding the County's authority, such provision should be construed to apply only to the extent authorized by law.

### **SECTION 9.2 - HEADINGS**

The headings of sections of this Code are for convenience of reference only and shall not affect in any manner any of the terms or conditions herein.

### **SECTION 9.3 - GENDER**

Whenever the context hereof shall so require the singular shall include the plural, the male gender shall include the female gender and the neuter, and vice versa.

# EXHIBIT A

**EXHIBIT A**  
**ADDITIONS, INSERTIONS, DELETIONS AND CHANGES TO THE**  
***INTERNATIONAL FIRE CODE*, 2018 EDITION**

The International Fire Code is amended in the following respects:

(1) Subsection 101.1 is revised as follows:

**101.1 Title.**

These regulations shall be known as the *Fire Code of Hays County*, hereinafter referred to as "this code."

(2) Subsection 103.2 is revised as follows:

**103.2 Appointment.**

The *Fire Code Official* shall be appointed in accordance with the prescribed procedures of this jurisdiction; and the *fire code official* shall not be removed from office except for cause and after full opportunity to be heard on specific and relevant charges by and before the appointing authority.

(3) Subsection 105.3.3 is revised as follows:

**105.3.3 Occupancy prohibited before approval.**

The building or structure shall not be occupied prior to the Fire Code Official conducting associated inspections indicating the applicable provision of this code have been met for any new structure or a change in an existing occupancy and issuing a certificate of compliance.

(4) Subsection 107.4 is revised as follows:

**107.4 Rendering Equipment Inoperable.**

- A. Portable or fixed fire-extinguishing systems or devices and fire-warning systems shall not be rendered inoperative or inaccessible except as necessary during emergencies, maintenance, repairs, alterations, drills or prescribed testing.
- B. No fire protection system may be taken out of service or allowed to remain out of service beyond normal working hours without the prior approval of the Fire Code Official. The Fire Code Official shall be notified prior to any fire sprinkler or standpipe system being temporarily or permanently removed from service. No operation protected by a fire suppression system may be used or operated while the fire suppression system is out of service

(5) Subsection 108 is deleted in its entirety.

(6) Subsection 109.4 is revised as follows:

**109.4 Violation penalties.**

Persons who violate a provision of this code or fail to comply with the requirements of it or who erect, install, alter, repair or do work in violation of the approved construction documents or directive of the Fire Code Official or of a building permit or certificate used under the provisions of this code shall be subject to injunctive relief and civil penalties not to exceed \$200 for each day on which the violation exists. Each violation is considered a different offence of this code.

(7) Subsection 111.4 is revised as follows:

**111.4 Failure to comply.**

Any person who continues any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to injunctive relief and civil penalties not to exceed \$200 for each day on which the violation exists.

(8) The following definition in Section 202 is amended to read as follows:

**[M] Commercial Cooking Appliances.**

Appliances used in a food service establishment for heating or cooking food and which produces grease vapors, steam, fumes, smoke, or odors that are required to be removed through a local exhaust ventilation system. Such appliances include but are not limited to: deep fat fryers, upright broilers, griddles, broilers, steam-jacketed kettles, hot-top ranges, under-fired broilers (char-broilers), ovens, barbeques, rotisseries, and similar appliances. For the purpose of this definition, a food service establishment shall include any building or portion thereof used for the preparation of food intended to be delivered or served to others.

(9) Within the definitions of “Fire Chief” and “Fire Code Official” in Section 202 are revised as follows:

The Fire Marshal of Hays County, or a designee of such individual. In place of “Chief Officer of the fire department” and “Fire Chief.”

(10) Subsection 307.1.1 is revised as follows:

**307.1.1 Prohibited open burning.**

Open burning that is offensive or objectionable because of smoke emissions or when atmospheric conditions or local circumstances make such fires hazardous, as determined by the Fire Code Official, shall be prohibited.

(11) Subsection 307.2 is revised as follows:

### **307.2 Permit Required**

For any burning, other than residential maintenance and burning of household waste, a permit shall be obtained from the Fire Code Official prior to kindling a fire for recognized silvicultural or range or wildlife management practices, prevention or control of disease or pest, or a bonfire. Application for such approval shall only be presented by and permits issued to the owner of the land, or their designee, upon which the fire is to be kindled.

Issued permits shall be kept on the premises designated therein at all times and shall be posted in a conspicuous place on the premises, or shall be kept on the premises location designated by the Fire Code Official. The Fire Code Official may revoke any permit that is found not to be in compliance with this section, causing said permit to be null and void and any fees related to the permit shall not be refunded. This action may lead to additional fees.

(12) Subsection 307.2.1 is revised as follows:

#### **307.2.1 Authorization.**

All outdoor burning shall be done in accordance with this code and the Texas Outdoor Burning Rule Title 30 Texas Administrative Code (30 TAC) Sections 111.201 through 111.221 (Exhibit C - 1). If a conflict should arise between this code and the Texas Outdoor Burning Rule Title 30 Texas Administrative Code (30 TAC) Sections 111.201 through 111.221, then the more stringent rule shall apply.

(13) Subsection 307.2.2 is added as follows:

#### **307.2.2 Restricting outdoor burning.**

It shall be unlawful for a person, firm, or corporation to ignite or burn materials when the Hays County Commissioner's Court has a "Burn Ban" in effect.

(14) Subsection 307.4 is revised as follows:

### **307.4 Location.**

- A. The location for open burning shall not be less than 300 feet from any structure located on *adjacent properties*, unless prior written approval is received from the occupant of the adjacent property. Provisions shall be made to prevent the fire from spreading to within 300 feet of any structure.
- B. At no time shall open burning be less than 50 feet from any structure, and provisions shall be made to prevent the fire from spreading to within 50 feet of any structure.

#### **Exceptions to B above:**

- 1. Fires in approved containers that are not less than 25 feet from a structure.



(15) Subsection 307.4.1 is revised as follows:

**307.4.1 Bonfires.**

Unless otherwise approved by the Fire Code Official, a bonfire shall not be conducted within 300 feet of a structure or combustible material unless the fire is contained in a barbecue pit. Conditions which could cause a fire to spread within 300 feet of a structure shall be eliminated prior to ignition.

(16) Subsection 307.5 is revised as follows:

**307.5 Attendance**

Open burning, bonfires, recreational fires or use of portable outdoor fireplaces shall be constantly attended until the fire is extinguished with no remaining embers. A minimum of one portable fire extinguisher complying with Section 906 with a minimum 4-A rating or other approved on-site fire-extinguishing equipment, such as dirt, sand, water barrel, garden hose or water truck, shall be available for immediate utilization. The fire-extinguishing equipment that is available on site shall be comparable to the size of the fire.

(17) Subsection 308.1.4 is revised as follows:

**308.1.4 Open-flame cooking devices.**

Charcoal burners and other open-flame cooking devices shall not be operated on combustible balconies or within 10 ft. of combustible construction.

Exception: (1) One-, two- and three-family dwellings.

(2) Where buildings, balconies and decks are protected by an automatic sprinkler system.

(3) LP-gas cooking devices having an LP-gas container with a water capacity not greater than 2½ pounds [nominal 1 pound (0.454kg) LP-gas capacity].

(18) Subsection 401.8 is revised as follows:

**401.8 Interference with fire department or county fire marshal operations.**

It shall be unlawful to interfere with, attempt to interfere with, conspire to interfere with, obstruct or restrict the mobility of or block the path of travel of a fire department, county fire marshal or other emergency vehicle in any way, or to interfere with, attempt to interfere with, conspire to interfere with, obstruct or hamper any fire department or county fire marshal operation.

(19) Subsection 403 is amended by adding following:

**403.1.1 Enforceability.**

The fire safety plan, as described in 403 and approved by the Fire Code Official, shall be complied with and is enforceable under provisions of this code.

(20) Subsection 503.6 is revised as follows:

**503.6 Security Gates.**

The installation of security gates across a fire apparatus road shall be in accordance with this code and the latest version of Chapter 352 Subchapter E of the Local Government Code (Exhibit C - 2). If a conflict should arise between this code and Chapter 352 Subchapter E of the Local Government Code, then the more stringent rule shall apply. Where security gates are installed, they shall have an approved means of emergency operation. The security gates and the emergency operation shall be maintained in an operable condition so they can be opened by the fire department or other emergency services at all times. Electric gate operators, where provided, shall be listed in accordance with UL325. Gates intended for automatic operation shall be designed, constructed and installed to comply with the requirements of ASTM F 2200

(21) Subsection 503 is amended by adding following:

**503.7 Maintenance.**

Failure to maintain these gates in an operable condition may result in the imposition of a fine and/or the required removal of the gate.

(22) Subsection 505.1 is revised as follows:

**505.1 Address Numbers**

New and existing buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of 6 inches high with a minimum stroke width of 0.5 inches. Where access is by means of a private road and the building cannot be viewed from the public way or if a building is located more than 150 feet from the street, a monument, pole or other sign or means shall be posted at the street entrance to identify the structure.

(23) Subsection 507 is amended by adding following:

**507.5.7 Marking.**

The location of all fire hydrants shall be identified with a blue reflective road dot placed near the center of the roadway in front of the hydrant.

(24) The exception to Section 603.4 is amended to read as follows:

**Exception:**

1. Listed and approved unvented fuel-fired heaters, including portable outdoor gas-fired heating appliances, in one-, two-, and three-family residential dwellings.
2. Portable outdoor gas-fired heating appliances shall be allowed in accordance with Section 603.4.2.

(25) In Appendix D the following exception is added to Section D103.1 as follows:

**Exception:** Widths less than 26 feet as approved by the Fire Code Official.

(26) In Appendix D the exception to Section 103.2 is revised as follows:

**Exception:** Grades steeper than 10 percent as approved by the Fire Code Official.

# **EXHIBIT B**



# **EXHIBIT C**

## **(REFERENCED STATE STATUTES)**

## **EXHIBIT C-1**

### **OUTDOOR BURNING**

**TEXAS ADMINISTRATIVE CODE**  
**TITLE 30 - ENVIRONMENTAL QUALITY**  
**PART 1 - TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**  
**CHAPTER 111 - CONTROL OF AIR POLLUTION FROM VISIBLE EMISSIONS AND**  
**PARTICULATE MATTER**  
**SUBCHAPTER B: OUTDOOR BURNING**

**§111.201. General Prohibition.**

No person may cause, suffer, allow, or permit any outdoor burning within the State of Texas, except as provided by this subchapter or by orders or permits of the commission. Outdoor disposal or deposition of any material capable of igniting spontaneously, with the exception of the storage of solid fossil fuels, shall not be allowed without written permission of the executive director. The term "executive director," as defined in Chapter 3 of this title (relating to Definitions), includes authorized staff representatives.

**§111.203. Definitions.**

Unless specifically defined in the Texas Clean Air Act (TCAA) or in the rules of the Texas Commission on Environmental Quality (commission), the terms used by the commission have the meanings commonly ascribed to them in the field of air pollution control. In addition to the terms that are defined by the TCAA, the following terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise.

- (1) **Extinguished**--The absence of any visible flames, glowing coals, or smoke.
- (2) **Land clearing operation**--The uprooting, cutting, or clearing of vegetation in connection with conversion for the construction of buildings, rights-of-way, residential, commercial, or industrial development, or the clearing of vegetation to enhance property value, access, or production. It does not include the maintenance burning of on-site property wastes such as fallen limbs, branches, or leaves, or other wastes from routine property clean-up activities, nor does it include burning following clearing for ecological restoration.
- (3) **Neighborhood**--A platted subdivision or property contiguous to and within 300 feet of a platted subdivision.
- (4) **Practical alternative**--An economically, technologically, ecologically, and logistically viable option.
- (5) **Prescribed burn**--The controlled application of fire to naturally occurring vegetative fuels under specified environmental conditions and confined to a predetermined area, following appropriate planning and precautionary measures.
- (6) **Refuse**--Garbage, rubbish, paper, and other decayable and nondecayable waste, including vegetable matter and animal and fish carcasses.

- (7) **Structure containing sensitive receptor(s)**--A man-made structure utilized for human residence or business, the containment of livestock, or the housing of sensitive live vegetation. The term "man-made structure" does not include such things as range fences, roads, bridges, hunting blinds, or facilities used solely for the storage of hay or other livestock feeds. The term "sensitive live vegetation" is defined as vegetation that has potential to be damaged by smoke and heat, examples of which include, but are not limited to, nursery production, mushroom cultivation, pharmaceutical plant production, or laboratory experiments involving plants.
- (8) **Sunrise/Sunset**--Official sunrise/sunset as set forth in the United States Naval Observatory tables available from National Weather Service offices.
- (9) **Wildland**--Uncultivated land other than fallow, land minimally influenced by human activity, and land maintained for biodiversity, wildlife forage production, protective plant cover, or wildlife habitat.

#### **§111.205. Exception for Fire Training.**

- (a) Outdoor burning shall be authorized for training fire-fighting personnel when requested in writing and when authorized either verbally or in writing by the local air pollution control agency. In the absence of such local entities, the appropriate commission regional office shall be notified. The burning shall be authorized if notice of denial from the local air pollution control agency, or commission regional office is not received within 10 working days after the date of postmark or the date of personal delivery of the request.
- (b) Facilities dedicated solely for fire-fighting training, at which training routinely will be conducted on a frequency of at least once per week, shall submit an annual written notification of intent to continue such training to the appropriate commission regional office and any local air pollution control agency.
- (c) Facilities dedicated solely for fire-fighting training, at which training is conducted less than weekly, shall provide an annual written notification of intent, with a telephone or electronic facsimile notice 24 hours in advance of any scheduled training session. No more than one such notification is required for multiple training sessions scheduled within any one-week period, provided the initial telephone/facsimile notice includes all such sessions. Both the written and telephone notifications shall be submitted to the appropriate commission regional office and any local air pollution control agency.
- (d) Authorization to conduct outdoor burning under this provision may be revoked by the executive director if the authorization is used to circumvent other prohibitions of this subchapter.

#### **§111.207. Exception for Fires Used for Recreation, Ceremony, Cooking, and Warmth.**

Outdoor burning shall be authorized for fires used solely for recreational or ceremonial purposes, or in the noncommercial preparation of food, or used exclusively for the purpose of supplying warmth during cold weather. Such burning shall be subject to the requirements



of §111.219(7) of this title (relating to General Requirements for Allowable Outdoor Burning).

**§111.209. Exception for Disposal Fires.**

Except as provided in Local Government Code, §352.082, outdoor burning is authorized for the following:

- (1) domestic waste burning at a property designed for and used exclusively as a private residence, housing not more than three families, when collection of domestic waste is not provided or authorized by the local governmental entity having jurisdiction, and when the waste is generated only from that property. Provision of waste collection refers to collection at the premises where the waste is generated. The term "domestic waste" is defined in §101.1 of this title (relating to Definitions). Wastes normally resulting from the function of life within a residence that can be burned include such things as kitchen garbage, untreated lumber, cardboard boxes, packaging (including plastics and rubber), clothing, grass, leaves, and branch trimmings. Examples of wastes not considered domestic waste that cannot be burned, include such things as tires, non-wood construction debris, furniture, carpet, electrical wire, and appliances;
- (2) diseased animal carcass burning when burning is the most effective means of controlling the spread of disease;
- (3) veterinarians in accordance with Texas Occupations Code, §801.361, Disposal of Animal Remains;
- (4) on-site burning of trees, brush, grass, leaves, branch trimmings, or other plant growth, by the owner of the property or any other person authorized by the owner, and when the material is generated only from that property:
  - (A) in a county that is part of a designated nonattainment area or that contains any part of a municipality that extends into a designated nonattainment area; if the plant growth was generated as a result of right-of-way maintenance, land clearing operations, and maintenance along water canals when no practical alternative to burning exists. Such burning is subject to the requirements of §111.219 of this title (relating to General Requirements for Allowable Outdoor Burning). Commission notification or approval is not required; or
  - (B) in a county that is not part of a designated nonattainment area and that does not contain any part of a municipality that extends into a designated nonattainment area; this provision includes, but is not limited to, the burning of plant growth generated as a result of right-of-way maintenance, land clearing operations, and maintenance along water canals. Such burning is subject to local ordinances that prohibit burning inside the corporate limits of a city or town and that are consistent with the Texas Clean Air Act, Chapter 382, Subchapter E, Authority of Local Governments, and the requirements of

§111.219(3), (4), (6), and (7) of this title. Commission notification or approval is not required.

- (5) at a site designated for consolidated burning of waste generated from specific residential properties. A designated site must be located outside of a municipality and within a county with a population of less than 50,000. The owner of the designated site or the owner's authorized agent shall:
  - (A) post at all entrances to the site a placard measuring a minimum of 48 inches in width and 24 inches in height and containing, at a minimum, the words "DESIGNATED BURN SITE - No burning of any material is allowed except for trees, brush, grass, leaves, branch trimmings, or other plant growth generated from specific residential properties for which this site is designated. All burning must be supervised by a fire department employee. For more information call {PHONE NUMBER OF OWNER OR AUTHORIZED AGENT}." The placard(s) must be clearly visible and legible at all times;
  - (B) designate specific residential properties for consolidated burning at the designated site;
  - (C) maintain a record of the designated residential properties. The record must contain the description of a platted subdivision and/or a list of each property address. The description must be made available to commission or local air pollution control agency staff within 48 hours, if requested;
  - (D) ensure that all waste burned at the designated site consists of trees, brush, grass, leaves, branch trimmings, or other plant growth;
  - (E) ensure that all such waste was generated at specific residential properties for which the site is designated; and
  - (F) ensure that all burning at the designated site is directly supervised by an employee of a fire department who is part of the fire protection personnel, as defined by Texas Government Code, §419.021, and is acting in the scope of the person's employment. The fire department employee shall notify the appropriate commission regional office with a telephone or electronic facsimile notice 24 hours in advance of any scheduled supervised burn. The commission shall provide the employee with information on practical alternatives to burning. Commission approval is not required;
- (6) crop residue burning for agricultural management purposes when no practical alternative exists. Such burning shall be subject to the requirements of §111.219 of this title and structures containing sensitive receptors must not be negatively affected by the burn. When possible, notification of the intent to burn should be made to the appropriate commission regional office prior to the proposed burn. Commission notification or approval is not required. This section is not applicable to crop residue burning covered by an administrative order; and
- (7) brush, trees, and other plant growth causing a detrimental public health and safety condition burned by a county or municipal government at a site it owns

upon receiving site and burn approval from the executive director. Such a burn can only be authorized when there is no practical alternative, and it may be done no more frequently than once every two months. Such burns cannot be conducted at municipal solid waste landfills unless authorized under §111.215 of this title (relating to Executive Director Approval of Otherwise Prohibited Outdoor Burning), and shall be subject to the requirements of §111.219 of this title.

#### **§111.211. Exception for Prescribed Burn.**

Outdoor burning shall be authorized for:

- (1) Prescribed burning for forest, range and wildland/wildlife management purposes, with the exception of coastal salt-marsh management burning. Such burning shall be subject to the requirements of §111.219 of this title (relating to General Requirements for Allowable Outdoor Burning), and structures containing sensitive receptors must not be negatively affected by the burn. When possible, notification of intent to burn should be made to the appropriate commission regional office prior to the proposed burn. Commission notification or approval is not required.
- (2) Coastal salt-marsh management burning conducted in Aransas, Brazoria, Calhoun, Chambers, Galveston, Harris, Jackson, Jefferson, Kleberg, Matagorda, Nueces, Orange, Refugio, and San Patricio Counties. Coastal salt-marsh burning in these counties shall be subject to the following requirements:
  - (A) All land on which burning is to be conducted shall be registered with the appropriate commission regional office using a United States Geological Survey map or equivalent upon which are identified significant points such as roads, canals, lakes, and streams, and the method by which access is made to the site. For large acreage, the map should be divided into manageable blocks with identification for each defined block. The information must be received for review at least 15 working days before the burning takes place.
  - (B) Prior to any burning, notification, either verbal or written, must be made to, and authorization must be received from the appropriate commission regional office. Notification must identify the specific area and/or block to be burned, approximate start and end time, and a responsible party who can be contacted during the burn period.
  - (C) Such burning shall be subject to the requirements of §111.219 of this title.

#### **§111.213. Exception for Hydrocarbon Burning.**

Outdoor burning shall be authorized for hydrocarbon burning from pipeline breaks and oil spills only upon proper notification as set forth in §101.6 of this title (relating to Notification Requirements for Major Upset), and if the executive director has determined that the burning is necessary to protect the public welfare. Sampling and monitoring may be required to determine and evaluate environmental impacts.

#### **§111.215. Executive Director Approval of Otherwise Prohibited Outdoor Burning.**

If not otherwise authorized by this chapter, outdoor burning may be authorized by written permission from the executive director if there is no practical alternative and if the burning will not cause or contribute to a nuisance, traffic hazard or to a violation of any federal or state primary or secondary ambient air standard. The executive director may specify procedures or methods to control or abate emissions from outdoor burning authorized pursuant to this rule. Authorization to burn may be revoked by the executive director at any time if the burning causes nuisance conditions, is not conducted in accordance with the specified conditions, violates any provision of an applicable permit, or causes a violation of any air quality standard.

#### **§111.219. General Requirements for Allowable Outdoor Burning.**

Outdoor burning which is otherwise authorized shall also be subject to the following requirements when specified in any section of this subchapter.

- (1) Prior to prescribed or controlled burning for forest management purposes, the Texas Forest Service shall be notified.
- (2) Burning must be outside the corporate limits of a city or town except where the incorporated city or town has enacted ordinances which permit burning consistent with the Texas Clean Air Act, Subchapter E, Authority of Local Governments.
- (3) Burning shall be commenced and conducted only when wind direction and other meteorological conditions are such that smoke and other pollutants will not cause adverse effects to any public road, landing strip, navigable water, or off-site structure containing sensitive receptor(s).
- (4) If at any time the burning causes or may tend to cause smoke to blow onto or across a road or highway, it is the responsibility of the person initiating the burn to post flag-persons on affected roads.
- (5) Burning must be conducted downwind of or at least 300 feet (90 meters) from any structure containing sensitive receptors located on adjacent properties unless prior written approval is obtained from the adjacent occupant with possessory control.
- (6) Burning shall be conducted in compliance with the following meteorological and timing considerations:
  - (A) The initiation of burning shall commence no earlier than one hour after sunrise. Burning shall be completed on the same day not later than one hour before sunset, and shall be attended by a responsible party at all times during the active burn phase when the fire is progressing. In cases where residual fires and/or smoldering objects continue to emit smoke after this time, such areas shall be extinguished if the smoke from these areas has the potential to create a nuisance or traffic hazard condition. In no case shall the extent of the burn area be allowed to increase after this time.

- (B) Burning shall not be commenced when surface wind speed is predicted to be less than six miles per hour (mph) (five knots) or greater than 23 mph (20 knots) during the burn period.
  - (C) Burning shall not be conducted during periods of actual or predicted persistent low-level atmospheric temperature inversions.
- (7) Electrical insulation, treated lumber, plastics, non-wood construction/demolition materials, heavy oils, asphaltic materials, potentially explosive materials, chemical wastes, and items containing natural or synthetic rubber must not be burned.

#### **§111.221. Responsibility for Consequences of Outdoor Burning.**

The authority to conduct outdoor burning under this regulation does not exempt or excuse any person responsible from the consequences, damages, or injuries resulting from the burning and does not exempt or excuse anyone from complying with all other applicable laws or ordinances, regulations, and orders of governmental entities having jurisdiction, even though the burning is otherwise conducted in compliance with this regulation.

#### **ENFORCEMENT:**

The rules above were adopted by TCEQ under the Texas Clean Air Act, Chapter 382 of the Health and Safety Code. A violation of these rules is an offense under Sec. 7.177 of the Water Code, with the range of punishment set out in Section 7.187 (1b, 2c or both) of the Water Code.

A person commits an offense if the person intentionally or knowingly, with respect to the person's conduct, violates the General Requirements for Allowable Outdoor burning or any other rule promulgated by the Texas Commission on Environmental Quality regarding outdoor burning. An offense is punishable for an individual by a fine of not less than \$1,000.00 or more than \$50,000.00, confinement in the county jail for a period not to exceed 180 days, or both. An offense is punishable for a person other than an individual by fine of not less than \$1,000.00 or more than \$100,000.00.

**EXHIBIT C-2**  
**GATED COMMUNITIES AND MULTI-UNIT HOUSING PROJECTS**

**TEXAS LOCAL GOVERNMENT CODE**

**TITLE 11: PUBLIC SAFETY**

**SUBTITLE B: COUNTY PUBLIC SAFETY**

**CHAPTER 352: COUNTY FIRE PROTECTION**

**SUBCHAPTER E: GATED COMMUNITIES AND MULTI-UNIT HOUSING PROJECTS**

**Sec. 352.111. GATED COMMUNITY OR HOUSING PROJECT SUBJECT TO SUBCHAPTER.**

This subchapter applies only to a gated community, or to a multi-unit housing project that controls access to the project by a pedestrian or vehicular gated, located outside municipal boundaries in an area not already subject to municipal regulations regarding vehicular or pedestrian gates.

**Sec. 352.112. DEFINITIONS.** In this subchapter:

- (1) "gated community" means a residential subdivision or housing development with a vehicular or pedestrian gate that contains two or more dwellings not under common ownership. The term does not include a multi-unit housing project.
- (2) "Multi-unit housing project" means an apartment, condominium, or townhome project that contains two or more dwelling units.

**Sec. 352.113. COUNTY AUTHORITY TO REGULATE VEHICULAR OR PEDESTRIAN GATES TO GATED COMMUNITIES AND MULTI-UNIT HOUSING PROJECTS.**

To assure reasonable access for fire-fighting vehicles and equipment, emergency medical services vehicles, and law enforcement officers, a county may require the owner or the owners association of a gated community or multi-unit housing project to comply with this subchapter.

**Sec. 352.114. LOCKBOX REQUIREMENTS.**

- (a) Each vehicular gate to the gated community or multi-unit housing project must have a lockbox within sight of the gate and in close proximity outside the gate. The lockbox at all times must contain a key, card, or code to open the gate or a key switch or cable mechanism that overrides the key, card, or code that normally opens the gate and allows the gate to be opened manually.
- (b) If there are one or more pedestrian gates, at least one pedestrian gate must have a lockbox within sight of the gate and in close proximity outside the gate. The lockbox at all times must contain a key, card, code, key switch, or cable mechanism to open the gate.
- (c) If different pedestrian gates are operated by different keys, cards, or codes, the lockbox must contain:
  - (1) each key, card, or code, properly labeled for its respective gate; or
  - (2) a single master key, card, or code or a key switch or cable mechanism that will open every gate.

- (d) Access to a lockbox required by this section shall be limited to a person or agency providing fire-fighting or emergency medical services or law enforcement for the county.
- (e) If a gate is powered by electricity, it must be possible to open the gate without a key, card, code, or key switch if the gate loses electrical power.

**Sec. 352.115. ADDITIONAL ACCESSIBILITY REQUIREMENTS.**

- (a) In a gated community or multi-unit housing project that has one or more vehicular gates:
  - (1) at least one vehicular gate must be wide enough for fire-fighting vehicles, fire-fighting equipment, emergency medical services vehicles, or law enforcement vehicles to enter; and
  - (2) at least one driveway apron or entrance from the public right-of-way must be free of permanent obstacles that might impede entry by a vehicle or equipment listed in Subdivision (1).
- (b) The county fire marshal or other authority shall waive the vehicular gate width requirements of Subsection (a) for a multi-unit housing project completed before January 1, 2002, if the requirements cannot readily be met because of space limitations or excessive cost. For purposes of this subsection, \$6,000 per entrance based on the value of the dollar on January 1, 2000, is considered an excessive cost for expanding gate width and achieving an obstacle-free driveway apron or entrance.
- (c) A pedestrian gate in a gated community or multi-unit housing project must be located so as to provide firefighters, law enforcement officers, and other emergency personnel reasonable access to each building.
- (d) This section does not require a multi-unit housing project to have a vehicular gate or a pedestrian gate.

**Sec. 352.116. BUILDING IDENTIFICATION.**

A county may require each residential building in a multi-unit housing project to have a number or letter in a contrasting color on the side of the building and placed so that the number or letter can be seen from the vehicular driving areas by a responding emergency agency.

**Sec. 352.117. COUNTY AUTHORITY TO REQUIRE PERMIT.**

- (a) A county may require the owner or the owners association of a gated community or multi-unit housing project to obtain a permit from the county fire marshal or other authority with fire-fighting jurisdiction in the county to ensure compliance with this subchapter.

- (b) A permit may be issued under this subchapter only if the requirements of this subchapter and standards adopted under this subchapter are met.
- (c) To pay for the cost of administering the permits, the county may collect a one-time fee not to exceed \$50 from each person to whom a permit is issued under this section.

**Sec. 352.118. SUSPENSION OR REVOCATION OF LICENSE.**

- (a) A permit issued under this subchapter may be suspended or revoked for violation of this subchapter or a regulation adopted under this subchapter after notice and a hearing on a complaint by the county fire marshal or other authority having jurisdiction for firefighting, emergency medical service, or law enforcement. The hearing shall be held by the commissioners court of the county or by a person or entity designated by the commissioners court.
- (b) A permit may be reinstated or a new permit issued if each violation that is a ground of the complaint is corrected within the time prescribed by the entity that holds the hearing.

**Sec. 352.119. LIMITATION ON SPECIFIC COUNTY STANDARDS.**

- (a) A county may not impose under this subchapter specific standards relating to vehicular gate widths, obstacle-free driveway aprons or entrances, pedestrian gate locations, or building numbers that exceed the requirements for new gated communities or new multi-unit housing projects contained in the municipal ordinances of:
  - (1) the municipality within whose extraterritorial jurisdiction the gated community or multi-unit housing project is located; or
  - (2) the municipality nearest, on a straight line, to the boundary of the gated community or multi-unit housing project, if the community or project is not within the extraterritorial jurisdiction of a municipality.
- (b) The county fire marshal or other authority with fire-fighting jurisdiction may adopt reasonable standards relating to vehicular gate width, obstacle-free driveway aprons or entrances, pedestrian gate locations, and building numbers if the appropriate municipality described by Subsection (a) has not adopted applicable standards.

**Sec. 352.120. OFFENSE.**

A person who violates this subchapter or a regulation adopted under this subchapter in a county that requires compliance with this subchapter under Section 352.113 commits an offense. An offense under this section is a Class C misdemeanor.



## 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 Sheriff's Office to hire the vacant Mechanic, slot 1060-003 at the 25th percentile effective December 30, 2019.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
ACTION-MISCELLANEOUS	December 17, 2019	\$3,951

#### LINE ITEM NUMBER

001-618-00]

#### AUDITOR USE ONLY

##### AUDITOR COMMENTS:

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

REQUESTED BY	SPONSOR	CO-SPONSOR
CUTLER	INGALSBE	N/A

#### SUMMARY

The Sheriff's Office is requesting approval to place a new hire at the 25th percentile of the Grade 109 Mechanic salary range. The candidate selected for filling this vacancy has 25 years of experience as an auto mechanic. Due to the amount of experience in automotive repair and maintenance, he can immediately contribute to the Fleet Maintenance team and the Sheriff's Office productivity. Funds are available in the Sheriff's Operating Budget due to attrition.

##### Fiscal Impact:

\$34,773 - Salary at Minimum

\$39,120 - Salary at 25th percentile

\$4,347 - Base Salary Increase

\$ 922 - Fringe

\$5,269 - Total (annualized)

\$3,951 - FY20 Impact (9 months covered through attrition)

## 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 Fourth Amendment to the Interlocal Cooperation Agreement with Hays Consolidated Independent School District to establish one (1) new School Resource Officer (SRO) effective January 1, 2020 for Johnson High School and amend the budget accordingly.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
ACTION-MISCELLANEOUS	December 17, 2019	\$25,407

#### LINE ITEM NUMBER

001-618-00]

#### AUDITOR USE ONLY

##### AUDITOR COMMENTS:

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

REQUESTED BY	SPONSOR	CO-SPONSOR
Sheriff Gary Cutler	JONES	N/A

#### SUMMARY

Hays CISD is requesting one additional SRO for the Johnson High School to begin around January 1st. The position would be 75% funded by the school district and 25% by the County, as other SRO positions on various campuses. Matching funds and equipment costs will be covered through salary savings due to attrition within the SO Operating budget.

Attachment: Hays CISD Amendment  
Letter Request

##### Budget Amendment:

Increase Intergovernmental Revenue .4301 - (\$56,837)

Increase Staff Salaries .5021 - \$55,320

Increase Fringe Benefits - \$20,463

Increase Communication Equipment - \$2,130 (for handheld radio)

Increase Law Enforcement Equipment - \$4,331 (for Shotgun, Taser, Rifle, Bulletproof and Rifle Resistant Vests)

Salary Savings due to attrition - (\$25,407)

**FOURTH AMENDMENT TO THE INTERLOCAL COOPERATION AGREEMENT**  
**BETWEEN HAYS COUNTY AND THE HAYS CONSOLIDATED**  
**INDEPENDENT SCHOOL DISTRICT**

This Fourth Amendment to the Interlocal Cooperation Agreement, attached as Exhibit "B" and executed September 6, 2013 ("Amendment") is made this 17<sup>th</sup> day of December, 2019, by and between Hays County, a political subdivision of the State of Texas (herein referred to as "County"), and the Hays Consolidated Independent School District (herein referred to as "HCISD"). The above-cited parties are collectively referred to as "the parties to this Agreement" or "the parties."

**Section II. B.** of the Agreement shall be amended to reflect the following modifications.

B. It is contemplated that TWELVE (12) full-time deputies will be assigned to provide the law enforcement services described herein and that these deputies shall be assigned to areas as agreed upon by the Sheriff's Office and the HCISD.

1. Two (2) deputies will divide their time between Hays High School and Live Oak Academy.
2. Two (2) deputies assigned to Lehman High School.
3. One (1) deputy assigned to Barton Middle School.
4. One (1) deputy assigned to Wallace Middle School.
5. One (1) deputy assigned to Simon Middle School.
6. One (1) deputy assigned to Chapa Middle School.
7. One (1) deputy will divide his/her time between Dahlstrom Middle School and Impact Alternative Education Program facility.
8. One (1) deputy assigned to McCormick Middle School.
9. Two (2) deputies assigned to Johnson High School.

**Exhibit "A"** of the Agreement shall be amended to reflect the modifications attached as Exhibit "A".

EXCEPT FOR THE ABOVE MODIFICATION, ALL OTHER TERMS AND CONDITIONS OF THE AGREEMENT SHALL REMAIN UNCHANGED, UNLESS PROPERLY MODIFIED BY SUBSEQUENT AMENDMENT UNDER THE TERMS OF THE AGREEMENT.

**This Fourth Amendment to the Interlocal Cooperation Agreement is hereby executed this 17<sup>th</sup> day of December, 2019, and effective on the first day of school in January, as is evidenced by the authorized signatures of the Parties, below.**

**HCISD**

**COUNTY**

By: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_  
**RUBEN BECERRA**  
**COUNTY JUDGE**

**ATTEST:** \_\_\_\_\_  
**ELAINE CARDENAS**  
**HAYS COUNTY CLERK**

## EXHIBIT "A"

- I.** The cost to Hays CISD of providing the full-time deputies is \$919,348.56 for three (3) quarters of the Agreement for 11 Officers and four (4) quarters for 1 Officer, calculated on the basis of **annual costs** totaling \$1,184,480.12 for the deputies, effective as of the date of this Agreement.
- A. Salaries: \$837,154.64** (Actual Costs for eleven (12) SROs)
- Hays CISD 75% - \$644,841.21
  - Hays County 25% - \$192,313.43
- B. Indirect Personnel Costs: \$317,325.48** (e.g. insurance, fringe)
- Hays CISD 75% - \$244,507.35
  - Hays County 25% - \$72,818.13
- C. Vehicle Maintenance: \$30,000** (\$2,500.00 per vehicle for eleven (12) vehicles)
- Hays CISD 100% (Fuel and routine maintenance estimates for 9-month period)
- II.** The costs of providing one or more full time deputies for the last quarter of the Agreement shall be calculated after HCISD has indicated which deputies it wishes to utilize for the last quarter but shall cost ***no less than \$23,488.47*** which represents utilization of the lowest number of SRO's allowed under this agreement.
- III. TOTAL MINIMUM CONTRACT COST:**
- |   |  |
|---|--|
| <b>1<sup>st</sup> Quarter (August – October):</b>   | <b>\$298,620.03</b>                                |
| <b>2<sup>nd</sup> Quarter (November – January):</b> | <b>\$298,620.03</b>                                |
| <b>3<sup>rd</sup> Quarter (February – April):</b>   | <b>\$298,620.03</b>                                |
| <b>4<sup>th</sup> Quarter (May – July):</b>         | <b>\$ 23,488.47 (required 1 deputy for summer)</b> |
| <b>4<sup>th</sup> Quarter (May – July):</b>         | <b>\$ 23,488.47 (optional summer per deputy)</b>   |

\*Fiscal Year 2020 will be pro-rated to reflect actual start date, beginning in the 2<sup>nd</sup> Quarter.

\*Salaries will be billed on actual costs and are subject to change dependent on personnel assignments per the Sheriff's discretion and/or future increases per the Collective Bargaining Agreement.

## 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 \$19,056.76 Visionality Second Phase Proposal, adding individual monitors with access to agenda and backup, as well as automated parliamentary procedures and recording of votes and amend the budget accordingly.

#### ITEM TYPE

ACTION-MISCELLANEOUS

#### MEETING DATE

December 17, 2019

#### AMOUNT REQUIRED

\$19,057

#### LINE ITEM NUMBER

101-617-11.5719\_700

#### AUDITOR USE ONLY

#### AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: YES

AUDITOR REVIEW: MARISOL VILLARREAL-ALONZO

#### REQUESTED BY

CARDENAS

#### SPONSOR

INGALSBE

#### CO-SPONSOR

N/A

#### SUMMARY

The monitors will aid the commissioners and judge during court by providing clear view of agenda and easy access to all back-up materials, as well as features to support management and recording of meetings and votes. Price reflects cost savings from installing equipment and software at same time as installation of other equipment is done. Funds are available in Records Management Fund.

Attachment: Visionality Proposals

DIR Contract: DIR-TSO-3889 - \$18,093.57

TIPS Contract: TIPS-171001 - \$963.19

Budget Amendment:

Increase Misc. Equipment\_Capital - .5719\_700

Decrease Contract Services - .5448

HAYS COUNTY - SECOND PHASE COUNCIL CHAMBERS UPGRADE -  
REQUEST TO TALK AND DAIS DISPLAYS, WITH VOTING

12/13/2019



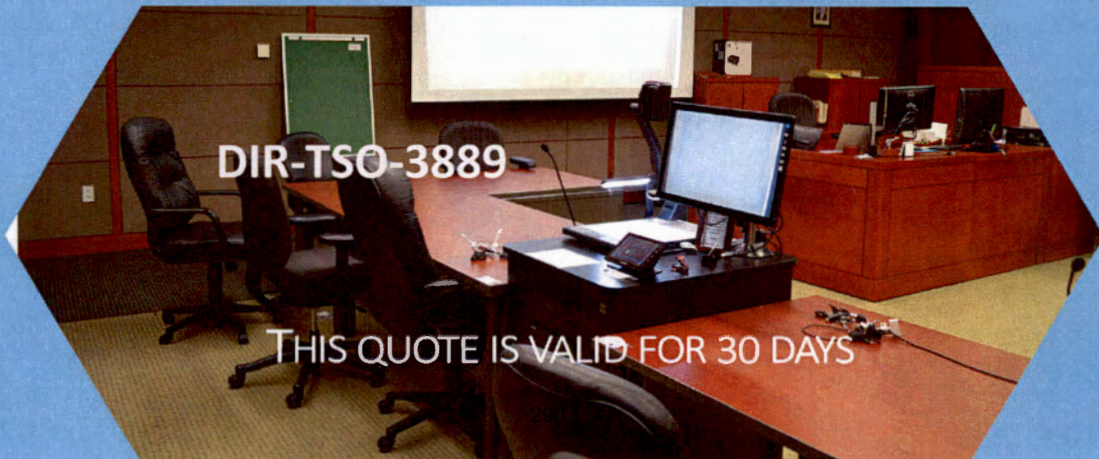
VISIONALITY

DESIGNS THAT COMPUTE  
1778 N. PLANO RD #211B  
RICHARDSON, TX 75081

PREPARED FOR:

HAYS COUNTY  
DR. ELAINE CARDENAS

RICHARD BARNETT  
OPERATIONS MANAGER  
RICHARD@VISIONALITY.COM  
(214) 276-0124



DIR-TSO-3889

THIS QUOTE IS VALID FOR 30 DAYS

## THANK YOU FOR ALLOWING VISONALTY TO SUBMIT THIS PROPOSAL

Visionality has over a quarter century of experience as a provider and integrator of audiovisual systems for business, education, government and healthcare. We take the time to consult with each customer to ensure that we are designing and implementing a custom solution to meet their needs. We also provide support and training to ensure that the systems are working properly, and the staff understands how to get the most out of them.

We carry all the major manufacturers including Cisco, Polycom, LifeSize, Crestron, Extron, AMX, Vidyo and many more. As a full system integrator we can create a custom collaborate environment designed to meet the needs and budget of our customers, such as displays, projectors, screens, furniture, etc.

We take our customers' needs seriously. We have tried to capture your needs in this proposal and turn those needs into a working system. If you have any questions or suggesting which would make our proposal more closely meet your needs, we are happy to work with you you.



Howard Barnett, President Visionality

## STATEMENT OF CONFIDENTIALITY

This proposal is the work product of Visionality - Designs That Compute (DTC), and as a result remains the property of Visionality-DTC. This proposal has been given to **Hays County** for the express interest of offering products and services to **Hays County**. The particulars of this proposal must remain confidential between the personnel of **Hays County** and Visionality-DTC. This proposal may not be offered to others without the express written consent of Visionality-DTC.

## CORPORATE MISSION

Visionality partners with its customers. Our goal is to enable a communication between the customer and DTC to enhance the relationship and produce a result which meets or exceeds the needs of our customers.

Visionality was founded in 1985 and has been at the forefront of technological development. We are an Audio Visual integrator with an emphasis on video communications. Visionality has aligned with the leading manufacturers in the industry, enabling us to provide our customers the latest advancements in the industry at competitive prices. Visionality primarily focuses on its customer's needs. We work closely with our customers to examine the particular need of each customer and then design the best possible solution for their application.



## OUR VALUE PROPOSITION:

### VISIONALITY OFFERS A UNIQUE SET OF SKILLS

#### LONGEVITY

Visionality was incorporated in 1985. We are seasoned providers and integrators of audiovisual technology with hundreds of customers.

#### DIVERSITY OF PRODUCTS

We offer numerous products that can provide unique value to our customers. We have a great understanding of the needs of Hays County. This allows us to contribute in a meaningful way to the overall design in this proposal.

#### CONVERGENCE OF A/V AND IT

Visionality knows that the converged AV/IT world is here to stay. We understand network philosophies, infrastructure, and enterprise-based IT. We know how to intelligently discuss IT AV requirements, concerns, and deployment with your IT staff.

#### INTEGRATION CAPABILITIES

We are an Infocomm certified provider, which means our personnel have passed industry standard certification tests in audio visual systems. Our personnel also hold certifications offered by our manufacturers' for implementation with their equipment.

#### HISTORICALLY UNDERUTILIZED BUSINESS

We are a women-owned business in the state of Texas.

#### CUSTOMER SERVICE

We excel at customer service and have programs in place to service our customers at all levels. We have many customers, some in the fortune 500 which use our tech support resources to assure that they have support for their existing equipment. Once your equipment is installed, we will provide the level of service that best meets your needs. Whether you require onsite support, phone support, remote diagnostics, or preventative maintenance, our tech support department will take care of you.



## OUR PROCESS

### FROM DESIGN TO IMPLEMENTATION, TRAINING, & SERVICE



#### CONSULTATION

Visionality believes that each customer is unique, and therefore each design should be unique. For this reason, Visionality conducts a thorough consultation with each customer to ensure that we understand their individual needs as well as the layout and properties of the location in which the audiovisual technology will be used.



#### DESIGN

Armed with the knowledge of the customer's needs and the environment in which it will be used, Visionality will create a tailored design that will allow for the optimal use of the technology. Our experienced designers hold manufacturer certifications and are Certified Technology Specialists, a prestigious industry designation.



#### IMPLEMENTATION AND PROGRAMMING

Once the design has received customer approval, our well-trained implementation team will make the design a reality. They will ensure that all of the equipment is installed according to the design specifications. Our programmers will make sure that the software works properly and to the customer's satisfaction.



#### TRAINING

Training is a very important component to the success of a project, and Visionality will ensure that the customer has the proper training needed to get the most out of their new equipment and software. We will answer any questions, and provide documentation and training guides when necessary.



#### SERVICE

Once your equipment is installed, we will provide the level of service that best meets your needs. Whether you require onsite support, phone support, remote diagnostics, or preventative maintenance, our tech support department will take care of you.

## Statement of Work

This proposal responds with solutions adding features to Hays County's Council Chambers A/V system.

Update from M-01 quote to M-02 quote: the 15.6" displays originally quoted no longer ship, and were the last affordably sourced full HD (1080p) 15.6" displays on the market. Therefore the 15.6" displays are replaced with the standard 21.5" displays Visionality typically uses in this type of deployment. However, at the bottom of the quote is an option to convert the 21.5" displays to another manufacturer's 15.6" displays, albeit these broadcast-grade displays are significantly more expensive than the ones originally quoted.

-02A is only part of -02. -02B is the second part of -02 and must be purchased at the same time.

### Customer Request:

Details elicited from discussion between Visionality sales staff and customer shows the following needs:

1. Council Chambers:
  - a. Typical courtroom/chambers layout with gallery with recently upgraded A/V system.
  - b. Per-station needs:
    - i. Dais stations (4 seats):
      1. 1 small tabletop-mounted touchpanel providing request-to-speak and voting functionality.
      2. 1 small tabletop-mounted display for video reinforcement.
    - ii. Judge's Dai Station (1 seat):
      1. 1 small tabletop-mounted display for video reinforcement.
      2. 1 tabletop-mounted touchpanel providing parliamentary administration of microphone muting, and voting functionality.
  - c. Video for Council Chambers Mode:
    - i. Content Inputs:
      1. Add input for 1 OFE PC that provides agenda management.
        - a. This input should be switchable, independently, to the new dais displays, so that the dais displays can show either the content feed for the agenda feed.
  - d. Voting:
    - i. Provide a voting system at each dais station, with voting controlled from the room's primary touchpanel at the meeting administrator's station.
    - ii. Show results at the close of each vote across all displays.
  - e. Control:
    - i. Add module allowing the naming of each seat, for request to speak queueing and vote recording.
    - ii. Upgrade existing primary user interface to provide parliamentary control:
      1. Request-to-speak feature on/off, queueing, promotion, and cancellation.
    - iii. Upgrade existing primary user interface to provide voting control:
      1. Start vote, end vote, and last vote tally.
    - iv. Provide 7" tabletop control panel at Judge's dais station:
      1. Mirror functionality of primary control panel, with default page being administration of request to speak queueing.
      2. Tabletop station to operate independent of primary control touchpanel.
    - v. 5" tabletop control panels at dais stations:
      1. Default page shows request-to-speak functionality.
      2. When a vote is started, secondary page with voting features becomes available.



#### Description of the project for M-02 Quote:

The project consists of following solutions for the Council Chambers upgrade:

**Project Overview:** Project upgrades the audio and video components within the county's council chambers to provide newly requested features, as well as the control system/control interfaces for the overall project. Each dais station receives a 5" touchpanel which provides the end-user request-to-speak and voting functions, which are discussed in greater detail, below. Each dais station also receives a tabletop-mounted 22" display, that is mounted atop a half-height articulating arm mount for low visibility and clearing of table space. Also, when a vote is closed, the results are displayed across all displays for a predetermined amount of time, as well as the SWAGIT recording and streaming feed. Control also expanded to County Judge's seat, via a 7" tabletop-mounted touchpanel, which provides the full room control features of the primary touchpanel, as well as the new parliamentary request-to-talk programming upgrade, as its primary page. County Clerk's station upgraded to send feed from the OFE agenda-management system to a video distribution system that allows the dais displays to show the current content feed OR the agenda independent of the content feeds to the existing room displays or SWAGIT recording and streaming feed. Control system also upgraded to allow for naming management of each seat, request-to-talk administration, and vote administration. Project expected to take 2 days of installation with an overlapping 1 day to commission.

**Room Video Outputs:** Content or agenda management PC feed delivered to 22" tabletop mounted displays at each dais location; these displays are placed on mounts which are half-height articulating mounts that both free space on the desktop, as well as provide a low-profile which allows eased viewing of the participants.

**Parliamentary Microphone Management System:** Control system upgraded to provide the ability to toggle the dais microphones between a request-to-speak (RTT) and the standard push-to-unmute (PTT) feature, with the mic LED ring reflecting the status of the microphone's mute status, as well as the local 5" touchpanel providing mute/unmute and request functions to the end-users. This system is operated via 5" touchpanels, on a tabletop mount, at each of the council seats (except the Judge's 7" touchpanel and Clerk's 10" touchpanel which manage the system). This interface allows the seat's user to request to speak, cancel the request to speak, as well as delivers visual indication of whether the mic is open or muted. This feature-rich microphone/speaker management system module allows administrators to name each seat with a user-friendly descriptive name, and change when need-be, through a sub-page within the control system. Also, the Judge's and Clerk's interactive control panels feature an additional control interface page which includes a visual representation of each seat, which can be muted/unmuted without request, as well as a bubble-list of incoming requests (listed as the descriptive text for each named seat), which the Judge or Clerk may change the order of, reject the request, or promote to an open-mic status. To mute a current speaker, the Judge or Clerk may cancel the open mic slot, which therefore mutes the seat, or promoting another speaker to the open mic slot automatically removes the current speaker, placing that seat into a muted state. At the council table seats, the 5" show buttons named "Request to Speak", "Cancel Request", "Mute/Unmute", "Mic Open", and "Mic Closed". Also, the Shure gooseneck microphone bases will no longer be able to toggle their mute status from the built-in buttons when in request-to-speak mode. By default, the "Request to Speak" button will be illuminated, and the "Mic Closed" button will be illuminated, (with the other three buttons dark) reflecting the standard state of the seat, which is muted, with the ability to request to speak. Also, the tabletop microphone's LED indicator will be red to reflect that it's muted. Upon pressing "Request to Speak", the pressed button changes color to green to reflect an active request being sent to the queue, and the "Cancel Request" button illuminates red. If the user presses the "Cancel Request" button, their place in the queue's list is removed, the "Cancel Request" button goes dark, and the "Request to Speak" button returns to white. Upon the promotion of the seat to an open-microphone status OR if the mayor directly unmutes the seat, the "Request to Speak" button goes dark, "Cancel Request" remains red, the "Mute/Unmute" button turns green, while the "Mic Open" button turns green/"Mic Muted" button

goes dark to signify that the seat's mic is active—also, the microphone's built-in LED turns green to provide further indication that the microphone is unmuted. While the seat has speaking privileges, the user may mute their mic at the touchpad by pressing the illuminated "Mute/Unmute" button, which toggles green and red to indicate its status (the microphone's built-in LED also changes color to reflect mute status); pressing mute at this stage does not relinquish assignment of the mic, but provides the ability for privacy should the need arise. Pressing "Mute/Unmute" afterwards will unmute the mic, and return the button's status to green. Upon the mayor promoting another speaker to the active microphone status, or manually muting that seat's mic, the control pad and microphone's LEDs will return to the default stat listed above.

**Voting System:** The same 5" touchpanels described in the request-to-speak system above, also deliver voting functions to each dais set. When the main control station (Clerk's 10" touchpanel) activates a vote, a voting page appears on each of the 5" touchpanels, where voting members of the council can choose, Yes, No, Abstain, and Record Vote (which finalizes the vote choice into the system). When ready, the person administering the vote then chooses "End Vote" on the main touchpanel, which will record each seat's response, and tally the Yes, No, Abstain, and No Vote responses. The results are then sent to a graphics-generated output for view on the room's displays, as well as the SWAGIT video production feed, until "End Display of Results" is pressed on the main touchpanel. Upon vote completion, the 5" touchpanels return to their normal mic-control request-to-speak display.

#### Approach:

**Installation:** Turnkey installation provided for project, with a professional project manager guiding pre-installation tasks, installation tasks, commissioning tasks, and handover to the service team. All cabling and system mounts included in pricing, with directly requested hardware, software, and licenses also delivered during installation. Visionality will place a lead technician onsite during the project, who along with Visionality's project manager, will manage communication, project progress, and issues. Project expected to take 2 days of installation with an overlapping 1 day to commission.

**Integration and Commissioning:** A pre-programming meeting of the key A/V personnel and end-users will be held to overview system functionality, and to ensure proper communication of system usability. Additional feature requests beyond those scoped in this document and accepted during this meeting will require a change order. Commissioning of system will also include 2-3 mock board meetings, with full testing of live system to find any bugs and optimize the workflow while further testing all equipment. One day before commissioning completion, a required walk-through with the A/V personnel and key end-users will occur to evaluate system performance, create bug lists, and establish a final sign-off punchlist. On the final day of the engagement, a final walk-through with the A/V personnel and key end-users will occur, with sign-off to occur at the completion of this meeting. Inability of key personnel attendance will not affect invoicing or signoff timelines, and additional walkthroughs will incur trip and/or change charges. Lastly, installation and commissioning are quoted as a single, contiguous period of days; pre-wire, splitting installation times, or return trips to complete installation/commissioning because of non-Visionality delays (for example--furniture, network, power, or construction delays), will result in additional trip and labor charges.

**Service and Warranty:** All systems have a warranty based on the manufacturer's warranty, specific warranty period varies by manufacturer; installation and programming are sold with a default 90-day warranty. In addition to the 90-day warranty, pricing includes a 1-year renewable maintenance contract which provides access to a dedicated Visionality support team, the exact terms of which vary by support level.



Example of Similar Dais Display Installation (note, these displays are not the same model, but are 16"):



**Customer Requirements:**

1. Power:
  - a. 110V 15 or 20A Duplexes, Quads, or bare-wire landings at locations specified within drawing package must be present and hot at time of installation.
2. Network Interfaces:
  - a. Additional network interfaces at rack locations specified on drawings required at time of installation
  - b. Switchports must be patched-in and correct VLAN, with network IP addresses, subnet mask, and gateway provided for specified equipment.
3. Display Mounting:
  - a. Backing and blocking will be provided for display mount for this build, however it will be the customer's responsibility to ensure current wall can sustain the weight of the proposed display.
4. Core/Conduit Access from Rack Location:
  - a. For cement floors with racks/podiums, above ceiling access on floor below drilling required before installation; must be within 15'.
5. Installation and Commissioning:
  - a. Unless otherwise stated, installation and commissioning are quoted as a single, contiguous period of days; pre-wire, split installation times, or return trips to complete installation/commissioning because of non-Visionality delays (for example--furniture, network, power, or construction delays), will result in additional trip and labor charges.
  - b. Drawings provided are not-to-scale, and often estimates of actual room dimensions.
    - i. At the start of an installation, a walk-through with the customer's key AV personnel and key end-user personnel reviewing equipment placement, heights, and locations is required.
6. Integration, Commissioning, and Sign-Off:

- a. A pre-programming meeting of the customer's key AV personnel and key end-user personnel will be held to overview touchpanel and system functionality, to ensure proper communication of system usability. Additional feature requests beyond those scoped in this document and accepted during this meeting will require a change order.
- b. One day before commissioning completion, a required walk-through with the customer's key AV and end-user personnel will occur to evaluate system performance, create bug lists, and establish a final sign-off punchlist.
- c. On the final day of commissioning, a final walk-through of the customer's key AV and end-user personnel will occur, with sign-off to occur at the completion of this meeting. Inability of key personnel attendance will not affect invoicing or signoff timelines, and additional walkthroughs will incur trip and/or change charges.

## Pricing

QTY	Manufacturer Part Number	Description	Unit List Price	Discount Price	Total Price
1	DIR-TSO-3889	This Quote is produced for the Texas DIR Contract DIR-TSO-3889 (Visionality) *****A/V Equipment for Council Chambers***** ***Dais Videc Equipment*** *Dais Display Monitors*			
5	K1D120B	5 x Tabletop Mounts for Planar Displays K1 DESK MNT SINGLE DISPLAY 2L ARM BLK ***Tabletop Interface for Voting/Request to Talk*** 4 x 5" Tabletop Mounted Touchscreens for RTS and Voting 1 x 7" Tabletop Mounted Touchscreen for Judge's Control of Mics and Voting	\$250.00	\$179.38	\$896.90
4	TSW-560-B-S	5" Touch Screen Black Smooth	\$1,000.00	\$565.00	\$2,260.00
4	TSW-560-TTK-B-S	Tabletop Kit for TSW-560 Black Smooth	\$150.00	\$84.75	\$339.00
1	TSW-760-B-S	7 in. Touch Screen Black Smooth	\$1,400.00	\$791.00	\$791.00
1	TSW-760-TTK-B-S	Tabletop Kit for TSW-760 and TSS-7 Black Smooth  ***A/V Switching and Control System*** 1 x Existing All-in-One A/V Switching and Control System 1 x Digital Graphics Processor for Voting System 1 x Set of Video Distribution and Extension Equipment	\$200.00	\$113.00	\$113.00
1	DGE-100	Digital Graphics Engine 100	\$2,000.00	\$1,130.00	\$1,130.00
1	VM-28H-NV/110V	2x1:8 HDMI Distribution Amplifier	\$1,183.00	\$798.53	\$798.53
6	HD-RX-101-C-E	DM Lite – HDMI® over CATx Receiver Surface Mount	\$330.00	\$186.45	\$1,118.70
6	HD-TX-101-C-E	DM Lite – HDMI® over CATx Transmitter Surface Mount	\$330.00	\$186.45	\$1,118.70
5	KRA400B	Rack, Display Mounts, and Wallplates ARM ADAPTER PLATE FOR FSBIB/FSBI2B	\$32.00	\$22.96	\$114.80
4	C-HM/HM-3	Room Cabling and Materials HDMI Cable 3'	\$12.00	\$8.10	\$32.40
8	C-HM/HM-6	HDMI Cable 6'	\$13.00	\$8.78	\$70.24
2	C-HM/HM-15	HDMI Cable 15'	\$26.00	\$17.55	\$35.10
1	ADC-DPM/HF	Adapter Cable – DisplayPort	\$26.00	\$17.55	\$17.55
0.25	DM-CBL-8G-P-SP1000	DigitalMedia 8G #153; Cable plenum 1000 ft spool	\$1,200.00	\$678.00	\$169.50
1		Project Professional Services and Programming	\$5,045.00	\$3,279.25	\$3,279.25
1		Installation, Integration, and Commissioning	\$8,900.00	\$5,332.00	\$5,332.00

**VISIONALITY**

1778 N. PLANO RD #211B  
RICHARDSON, TX 75081

**RAB111219M-02A**

**QUOTES@VISIONALITY.COM**

**(214) 276-0124**

Service Addition to Original Contract

1	VS-SLS-1	Silver level provides the coverage needed to fulfill a customer's basic service requirement. See attached descriptions. (1 Year)	\$502.00	\$476.90	\$476.90
			<b>TOTAL LIST</b>		\$29,730.00
			<b>TOTAL DISCOUNT</b>		\$18,093.57
			<b>PRICE</b>		
			<b>SHIPPING</b>		\$0.00
			<b>SALES TAX</b>		\$0.00
			<b>TOTAL</b>		\$18,093.57

*Visionality*  
1778 N. Plano Rd #211b

RAB111219M-02A  
Richardson, TX 75081

(214) 276-0124



## **Responsibilities** *(Unless otherwise specified above)*

### ***Visionality Obligations***

Visionality will be responsible for the following:

- Testing new system and making sure all is properly operational from both the hardware and software perspective.

### ***Company/Customer Obligations***

The following items shall be provided by the Company and are not part of this scope or proposal:

- All 120V Electrical provisions (Specifications and call-outs will be provided by Visionality after acceptance of the proposal).
- All conduit and raceway as required by local code.
- Conveyance (pathway) for AV cabling- includes any core drilling or structural modifications.
- "Hard Points" for mounting of equipment and structural supports will be provided and installed by the Company prior to Visionality deployment. When in doubt the Company should contact a certified Structural Engineer for safety factors.
- Custom millwork, construction, or trim. Includes ceiling, floor and structural amendments or repairs.
- Required Local Permits and/or plan approvals.
- Required local inspection and compliance procedures.
- Hazardous material discovery and/or abatement.
- Provide and commission all Telephony and Network demarcations as required prior to Visionality onsite deployment.
- Ready access to room
- A minimum of 8 A.M – 5 P.M. daily. Monday through Friday.
- Security and Safety
- Prior to installation, if equipment is to be shipped in advance, the customer is responsible for receiving and storing this equipment in a safe location.
- During installation, customer is responsible for making sure rooms can be secured and equipment is safe.
- Rooms are clean and ready for installation. All equipment, furniture, debris, or other objects needs to be removed from the room for access or safety, prior to onset of installation.
- Sufficient on-site support, persons readily available to answer questions
- Network connectivity. Computer or other Network connections are to be installed and tested prior to DTC personnel arriving on site. Necessary firewall ports will be opened prior to the installation time, and IT staff will be available during the installation process if there is a connectivity issue. Adequate bandwidth will be provided for the equipment chosen.
- Computer Network jacks are to be tested with information for connection readily available
- Customer will assure that any customer furnished equipment is in working order.
- Customer is responsible, for firewall or router configuration, unless expressly stated as a term of this proposal.
- For maintenance purposes, customer will work with Visionality to create a mutually acceptable method that will allow remote access to installed equipment.

## **Project Management Procedures**

*Visionality*  
1778 N. Plano Rd #211b

RAB111219M-02A  
Richardson, TX 75081

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Each entity will appoint one designee for as the prime project manager. These two people will ensure that the products are installed the way the project was envisioned. Any problems need to be funneled through these persons. For example, if there is a change in the room layout, this should be discussed between the two project managers and a change order written.

**Status Reviews.** Project implantation is taken seriously at Visionality. A weekly status meeting with management is held during all phases of the implementation to address issues early. Visionality Project Management is available to the customer for regular status meetings (via telephone or video) prior to the onset of installation. During the installation process, Visionality Project management will be available daily to discuss the status and needs of the installation with the customer designated representative.

**Payments.** Payment for the goods delivered is due when goods are shipped to site. Payment for installation is due when the installation is substantially complete. That is all work has been done and the equipment is operational. However there may be some tasks remaining (e.g. bug list).

**Change Orders.** All change orders must be submitted in writing from the customer designee to the Visionality project manager. If such a change is a fundamental change of scope either in parts or labor, the project manager will provide an estimate of the change in price. Visionality will proceed with this change when the change order has been completed and the approved by both parties.

## Terms and Conditions

### Disclaimers

Visionality - Designs That Compute (DTC) is a reseller of electronic equipment. Warranty and liability for use of any product sold is limited to what is stated by the manufacturer of these products. DTC creates no warranties express or implied beyond the manufacturer's warranty.

### Limitations

The express obligation stated above is in lieu of all liabilities or obligations of DTC for damages, including but not limited to any liability due to or associated with infringement of a third party's intellectual property rights or any loss, damage, or injury, direct or consequential (including any loss of profits, use, business or the like, even if DTC has been advised of the possibility of same), arising out of or in connection with the delivery, use or performance of products resold by DTC, and it is agreed that repair or replacement, in accordance with the foregoing warranty, is DTC's sole liability and buyer's sole remedy for such liability, loss, damage, or injury. This limitation of DTC's liability will apply regardless of the form of action, whether in contract or tort (including negligence) or based on a warranty. Any action against DTC must be brought within 12 months after the cause of action arises. The parties expressly agree that the products are not consumer goods.

To the extent any limitation of liability contained herein is construed by a court of competent jurisdiction to be a limitation of liability in violation of state law, such limitation of liability shall be void, however the validity of the remaining parts, terms or provisions shall not be affected thereby, and said illegal or invalid part, term or provision shall be deemed not to be a part of this limitation of liability.

At times, the goods and services in this proposal may be purchased by a government entity under a specific purchasing contract and that contract may have a clause which conflicts with this clause. In that case the terms of the purchasing contract will take precedence.

### Statement of Confidentiality

This proposal is the work product of DTC and as a result remains the property of DTC. This proposal has been submitted for the express interest of offering products and services. The particulars of this proposal must remain confidential between the receiving agency and DTC. This proposal may not be offered to others without the express written consent of DTC. Where applicable, confidentiality is to be consistent with freedom of information act. If there is a request for this document the customer will take all necessary steps to defend the confidentiality of this document including an appeal the disclosure to the attorney general.

### Installation (if applicable)

Installation prices are estimated based on the customers stated requirements. Unless otherwise noted, the customer is responsible for standard installation preparation and assistance; this include but is not limited to: Site security before and during the installation; fee access to perform installation during business hours while scheduled on site; customer furnished installation or materials are ready prior to Visionality installation; and resources are available quickly to resolve issues. A full list of these requirements is in the proposal above. If these conditions are not met, additional charges may apply.

### Product Returns

DTC does not accept product returns unless defective and only for replacement.

Designs That Compute is a Texas HUB

This Quote Valid for 30 days from date above

All Prices Subject to Shipping Charges and Sales Tax – Where Applicable

**Payment Terms**

Prepayment may be required. If terms are extended, payment is due immediately upon receipt of goods. Any objections to delivery or installation by the customer that may delay payment must be submitted to DTC in writing with 15 day of delivery of invoice to purchasing. When DTC resolves the problem they will resubmit invoice to purchasing. At that time customer must respond within 15 days if there is a further problem. DTC fully expects any invoice to be paid within 30 days of submittal. Failure to pay in a timely manner will constitute charges at the rate of 2% per month from date of invoice submittal.

Products delivered for an installation, are billed and due at the time of delivery. Installation will be billed and due when substantial completion has occurred. DTC will work with the customer to assure the highest quality products and services are delivered and installed. At the customer's request a payment schedule can be designed that withholds a percentage of the invoice based upon successful installation.

Some equipment has service or warranty that starts at the time of delivery. If installation is delayed this may affect the time coverage of those products is in effect after installation.

At times, the goods and services in this proposal may be purchased by a government entity or under a specific purchasing contract. In the cases where be a law or contract has conflicts with the above terms, the terms of a purchasing contract or law will take precedence.

**Non-Taxable Entities**

Please include a copy of your Sales Tax Exemption Form along with any Purchase Order sent to Designs That Compute dba Visionality

Designs That Compute is a **Texas HUB**

*This Quote Valid for 30 days from date above*

All Prices Subject to Shipping Charges and Sales Tax – Where Applicable



## Silver Service

### Prepared for: Hays County

#### ***Keep your equipment operational with a Visionality Service Contract!***

- **Longevity.** Visionality has been serving the public for three decades.
- **Experience.** Visionality understands traditional AV integrations as well as networks. We have been putting in networks solutions for over twenty years and have touched hundreds of backbone appliances such as MCUs.
- **Service Support.** Our dedicated support staff can take your call quickly. Many times problems can be solved over the phone. We can also provide technicians that can come on site to service your product.
- **Certifications.** Visionality believes in certifications. We have certifications from most of our vendors as well as the primary industry certification center, AVIXA.
- **Speed.** Visionality can take the headache out of working with the manufacturer on an issue. Our expert team can pinpoint the proper piece of equipment that is causing the problem. Then if the problem needs to escalate to the manufacturer, we can directly engage at a higher technical support level, shortening the time from problem to resolution..
- **Industry knowledge.** We have a deep knowledge of many products across the industry which enables us to handle many service needs for all of your audio visual products.
- **Focus.** Visionality focuses on Audio Visual and Videoconferencing technologies. The technician who answers the phone is trained to solve your problem. This ends the service queue headache in many companies where much of your time is spent just finding the proper support staff.
- **Call Management.** We employ technology in our call center to efficiently track your ongoing service concern. Visionality uses technology to keep logs on ongoing service issues and we use our service database to reduce time in verification of service programs.



## Silver Service

### Visionality offers several levels of service

- **Silver Service** provides unlimited remote technical support for your new system. Our trained professionals can work with our customers to diagnose problems. If there is a problem with a component, they can arrange for the repair or replacement of that component.
- **Gold Service** is available within 30 miles of one of our facilities. Gold Service provides all the same benefits as Silver Service as well as adding unlimited on-site support for repairing the system.
- **Gold Limited Service** is available outside the Dallas/Fort Worth and San Antonio areas. It offers the same benefits as Gold service however we limit the number of calls that we can dispatch for service. This allows us to offer Gold service to some customers who are not in our coverage areas.



#### **This Proposal is for Visionality Silver Service which includes:**

- Unlimited telephone support during normal business hours.
- On-site support can be provided at an additional charge on a per visit basis.
- Replacement parts are covered using standard Manufacturer's Warranty
- Some part maintenance has been enhanced with extended service as specified.
- Assistance with software upgrades.
- Reported Visionality software problems addressed
- Feature requests addressed with engineering options
- Visionality will handle servicing failed components through factory repair.
- Visionality software is warranted free from defects for the term of the contract.



## Silver Service

### Service Summary

<b>Service Level</b>	Silver Service
<b>Customer</b>	Hays County
<b>Location</b>	712 S. Stagecoach Trail  San Marcos TX
<b>Start Date</b>	2/1/2000
<b>End Date</b>	1/31/2001

**Coverage.** This is a list of the specific areas or components to be covered

Service Object	Location	Description	Price
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**Items having extended service.** These items have additional services such as software upgrades from the factory or next day parts.

Service Item	Serial Number
--------------	---------------



**VISIONALITY**  
DESIGNS THAT COMPUTE

CUSTOMER		DATE:	12/13/2019
COMPANY:	HAYS COUNTY	ACCT. REP.	RICHARD BARNETT
CONTACT:	DR. ELAINE CARDENAS	PHONE:	(214) 276-0124
PHONE:		FAX:	(214) 276-0123
FAX:		EMAIL:	RICHARD@VISIONALITY.COM
EMAIL:		TIPS#171001	
ADDRESS:	712 S. STAGECOACH TRAIL SAN MARCOS, TX 78666		
		PLEASE CONTACT ME IF I CAN BE OF FURTHER ASSISTANCE.	

HERE IS THE QUOTE YOU REQUESTED.

THIS IS -02B OF QUOTE -02. IT MUST BE PURCHASED IN CONJUNCTION WITH -02A AND IS A PART OF THAT SCOPE OF WORK.

**ITEMS**

QTY	MANF. PART#	DESCRIPTION	UNIT PRICE	DISCOUNT PRICE	TOTAL PRICE
1	TIPS#171001	THIS QUOTE IS PRODUCED FOR THE THE INTERLOCAL PURCHASING SYSTEM			
5	997-8001-00	PLX2270MW 22"HD DISPLAY	\$169.00	\$152.10	\$760.50
1	BMD-CONVMUDC	MINI CONVERTER - UPDOWNCROSS	\$155.00	\$147.25	\$147.25
0.25	24-4P-P-L5-EN-BLK	BLACK CATEGORY 5E U/UTP EN SERIES 24 AWG 4 PAIR UNSHIELDED CABLE	\$352.00	\$221.76	\$55.44

TOTAL LIST \$1,088.00

SUBTOTAL \$963.19

SHIPPING \$0.00

SALES TAX \$0.00

TOTAL \$963.19





**VISIONALITY**  
DESIGNS THAT COMPUTE

#### DISCLAIMERS

VISIONALITY - DESIGNS THAT COMPUTE (DTC) IS A RESELLER OF ELECTRONIC EQUIPMENT. WARRANTY AND LIABILITY FOR USE OF ANY PRODUCT SOLD IS LIMITED TO WHAT IS STATED BY THE MANUFACTURER OF THESE PRODUCTS. DTC CREATES NO WARRANTIES EXPRESS OR IMPLIED BEYOND THE MANUFACTURER'S WARRANTY.

#### LIMITATIONS

THE EXPRESS OBLIGATION STATED ABOVE IS IN LIEU OF ALL LIABILITIES OR OBLIGATIONS OF DTC FOR DAMAGES, INCLUDING BUT NOT LIMITED TO ANY LIABILITY DUE TO OR ASSOCIATED WITH INFRINGEMENT OF A THIRD PARTY'S INTELLECTUAL PROPERTY RIGHTS OR ANY LOSS, DAMAGE, OR INJURY, DIRECT OR CONSEQUENTIAL (INCLUDING ANY LOSS OF PROFITS, USE, BUSINESS OR THE LIKE, EVEN IF DTC HAS BEEN ADVISED OF THE POSSIBILITY OF SAME), ARISING OUT OF OR IN CONNECTION WITH THE DELIVERY, USE OR PERFORMANCE OF PRODUCTS RESOLD BY DTC, AND IT IS AGREED THAT REPAIR OR REPLACEMENT, IN ACCORDANCE WITH THE FOREGOING WARRANTY, IS DTC'S SOLE LIABILITY AND BUYER'S SOLE REMEDY FOR SUCH LIABILITY, LOSS, DAMAGE, OR INJURY. THIS LIMITATION OF DTC'S LIABILITY WILL APPLY REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT OR TORT (INCLUDING NEGLIGENCE) OR BASED ON A WARRANTY. ANY ACTION AGAINST DTC MUST BE BROUGHT WITHIN 12 MONTHS AFTER THE CAUSE OF ACTION ARISES. THE PARTIES EXPRESSLY AGREE THAT THE PRODUCTS ARE NOT CONSUMER GOODS.

TO THE EXTENT ANY LIMITATION OF LIABILITY CONTAINED HEREIN IS CONSTRUED BY A COURT OF COMPETENT JURISDICTION TO BE A LIMITATION OF LIABILITY IN VIOLATION OF STATE LAW, SUCH LIMITATION OF LIABILITY SHALL BE VOID, HOWEVER THE VALIDITY OF THE REMAINING PARTS, TERMS OR PROVISIONS SHALL NOT BE AFFECTED THEREBY, AND SAID ILLEGAL OR INVALID PART, TERM OR PROVISION SHALL BE DEEMED NOT TO BE A PART OF THIS LIMITATION OF LIABILITY.

#### STATEMENT OF CONFIDENTIALITY

THIS PROPOSAL IS THE WORK PRODUCT OF DTC AND AS A RESULT REMAINS THE PROPERTY OF DTC. THIS PROPOSAL HAS BEEN SUBMITTED FOR THE EXPRESS INTEREST OF OFFERING PRODUCTS AND SERVICES. THE PARTICULARS OF THIS PROPOSAL MUST REMAIN CONFIDENTIAL BETWEEN THE RECEIVING AGENCY AND DTC. THIS PROPOSAL MAY NOT BE OFFERED TO OTHERS WITHOUT THE EXPRESS WRITTEN CONSENT OF DTC.

#### INSTALLATION (IF APPLICABLE)

INSTALLATION PRICES ARE ESTIMATED BASED ON STANDARD REQUIREMENTS. UNLESS OTHERWISE NOTED, THESE INCLUDE BUT ARE NOT LIMITED TO: SITE SECURITY BEFORE AND DURING THE INSTALLATION; FREE ACCESS TO PERFORM THE INSTALLATION DURING BUSINESS HOURS WHILE SCHEDULED ON SITE; CUSTOMER FURNISHED INSTALLATION OR MATERIALS ARE READY PRIOR TO VISIONALITY INSTALLATION; AND RESOURCES ARE AVAILABLE QUICKLY WHILE ON SITE TO RESOLVE ISSUES. A FULL COPY OF OUR INSTALLATION REQUIREMENTS MAY BE REQUESTED. ADDITIONAL CHARGES MAY APPLY IF SOME CONDITIONS ARE NOT MET.

GENERALLY EQUIPMENT IS DELIVERED DURING INSTALLATION. IF INSTALLATION CANNOT BE SCHEDULED WITHIN 2 WEEKS OF RECEIPT OF THE EQUIPMENT BY DTC, DTC RESERVES THE RIGHT TO DELIVER AND BILL FOR THE EQUIPMENT. A SEPARATE DELIVERY CHARGE MAY APPLY.

#### TERMS AND CONDITIONS

DTC DOES NOT ACCEPT PRODUCT RETURNS UNLESS DEFECTIVE AND ONLY FOR REPLACEMENT.

#### PAYMENT TERMS

ORDERED ITEMS WILL BE DELIVERED AS SOON AS AVAILABLE. UNLESS OVERRIDDEN BY STATE LAW AND SUBJECT TO APPROVAL; 50% PAYMENT IS REQUIRED AT TIME OF ORDER WITH BALANCE DUE WHEN EQUIPMENT RECEIVED; FULL PAYMENT MAY BE REQUIRED BEFORE PROCESSING; FAILURE TO PAY IN A TIMELY MANNER WILL CONSTITUTE CHARGES AT THE RATE OF 2% PER MONTH FROM DATE OF INVOICE SUBMITTAL. DTC HAS THE RIGHT COLLECT PARTIAL PAYMENT BASED ON PARTIAL DELIVERY. INVOICES ARE TO BE PAID WITHIN 30 DAYS OF SUBMITTAL.

*Thank you*

*Richard Barnett*

## 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 Tyler Technologies, Inc. related to training for Justice of the Peace legislative updates within Odyssey Case Manager and amend the budget accordingly.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
ACTION-MISCELLANEOUS	December 17, 2019	\$1,400

#### LINE ITEM NUMBER

112-000-00.5448

#### AUDITOR USE ONLY

##### AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A

AUDITOR REVIEW: MARISOL VILLARREAL-ALONZO

REQUESTED BY	SPONSOR	CO-SPONSOR
Andy Cable/Jeff McGill	SHELL	N/A

#### SUMMARY

Tyler Technology has updated the Odyssey Case Manager program to implement legislative changes. This training will assist the County with configuration and testing of new changes within the program.

Attachment: Tyler Technology PSA

Budget Amendment:

Increase .5448

Decrease .5202



## Professional Services Agreement

This Professional Services Agreement (this "Agreement") is made and entered into by and between Tyler Technologies, Inc., a Delaware corporation ("Tyler"), and Hays County, TX (the "Client") as of the last date written below (the "Effective Date").

### Background

**WHEREAS**, Client is a current customer of Tyler and a user of Tyler's proprietary software; and

**WHEREAS**, Client desires to engage Tyler to provide certain professional services related thereto, all on the terms and conditions set forth in this Agreement.

**NOW, THEREFORE**, in consideration of the mutual promises contained herein, along with other good and valuable consideration, the receipt and sufficiency of which all parties mutually acknowledge, Tyler and the Client agree as follows:

A. Tyler shall furnish the services described in this Agreement, and Client shall pay the prices set forth in this Agreement.

B. This Agreement consists of this cover and signature page and the following attachments and exhibits attached hereto and to be attached throughout the Term of this Agreement, all of which are incorporated by reference herein: (1) Schedule 1, (2) Terms and Conditions and (3) Statement of Work

### Schedule 1

DESCRIPTION OF SERVICES	FIXED AMOUNT
Legislative Change Training – (8 hours)	\$1,400
Hays County – JP Office	
	TOTAL CONTRACT AMOUNT \$1,400

**IN WITNESS WHEREOF**, this Agreement has been executed by a duly authorized officer of each Party hereto.

#### TYLER TECHNOLOGIES, INC.

#### CLIENT

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

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

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

## Professional Services Agreement Terms and Conditions

1. Services. Tyler shall perform the services set forth in Schedule 1.
2. Compensation. Tyler shall perform its services hereunder for the fixed fee specified in Schedule 1. In addition, the Client shall reimburse Tyler for travel, lodging, and food expenses reasonably incurred by Tyler in performing its services hereunder as set forth in Schedule 1. Tyler shall invoice the Client on a monthly basis, which invoice shall be due and payable within thirty (30) days. Tyler prefers to receive payments electronically. Tyler's electronic payment information is as follows:  
Bank: Wells Fargo Bank, N.A.  
420 Montgomery  
San Francisco, CA 94104  
ABA: 121000248  
Account: 4124302472  
Beneficiary: Tyler Technologies Inc. – Operating
3. Termination. The Client may terminate this Agreement at any time by delivering a written notice of its intent to terminate to Tyler; provided, however, that the Client must pay Tyler for all costs and expenses incurred under this Agreement prior to the date of termination. Tyler may terminate this Agreement if the Client fails to pay any invoice when due or if the Client breaches any of its other obligations hereunder. Upon termination for any reason, each party shall immediately return all documentation, confidential information, and other information disclosed or otherwise delivered to the other party prior to such termination.
4. Confidentiality. All documents and other materials produced under this Agreement shall be deemed to be "confidential information" and the receiving party shall not disclose, use, or reproduce, or authorize any third party to disclose, use, or reproduce, any such confidential information, without the prior written approval of the disclosing party unless required by Texas Public Information Act and any applicable Open Records Decisions; provided, however, that the receiving party may disclose such confidential information to its employees and representatives of the receiving party as may be required to perform its obligations under this Agreement and, provided further, that the receiving party informs such persons of the existence of this confidentiality obligations and will be responsible for any breach of this such obligations by such persons. Notwithstanding anything in the foregoing to the contrary, the following shall not be deemed to be "confidential information": (i) information that is publicly known or becomes publicly known through no fault of the receiving party, (ii) information that is generally or readily obtainable by the public, or (iii) information that constitutes the general skills, knowledge, and experience acquired by either party before entering into this Agreement and thereafter.
5. Warranty. Tyler warrants that it shall perform services in a professional, workmanlike manner, consistent with industry standards. In the event Tyler provides services that do not conform to this warranty, Tyler will re-perform the services at no additional cost to Client.
6. Limitation of Liability.  

THE LIABILITY OF TYLER FOR DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, WHETHER BASED ON A THEORY OF CONTRACT OR TORT, INCLUDING NEGLIGENCE AND STRICT LIABILITY, SHALL BE LIMITED TO TOTAL FEES PAID TO TYLER UNDER THIS AGREEMENT.

IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, OR SPECIAL DAMAGES OF ANY KIND, INCLUDING, WITHOUT LIMITATION, LOST REVENUES OR PROFITS, OR LOSS OF BUSINESS OR LOSS OF DATA ARISING OUT OF THIS AGREEMENT, IRRESPECTIVE OF WHETHER THE PARTIES HAVE ADVANCE NOTICE OF THE POSSIBILITY OF SUCH DAMAGE.

THE FOREGOING LIMITATIONS OF LIABILITY SET FORTH IN THIS SECTION 6 SHALL NOT APPLY WITH RESPECT TO: (A) DAMAGES OCCASIONED BY THE FRAUD, GROSS NEGLIGENCE, OR WILLFUL MISCONDUCT OF EITHER PARTY; (B) DAMAGES OCCASIONED BY VIOLATION OF LAW.
7. Force Majeure. Neither party shall be liable for delays in performing its obligations under this Agreement to the extent that the delay is caused by Force Majeure. "Force Majeure" is defined as an event beyond the reasonable control of a party, including governmental action, war, riot or civil commotion, fire, natural disaster, labor disputes, restraints affecting shipping or credit, delay of carriers, inadequate supply of suitable materials or any other cause which could not with reasonable diligence be foreseen, controlled or prevented by the party.
8. Insurance. Upon written request, Tyler shall provide Client with certificates of insurance evidencing the following insurance coverage:
  - a) Commercial general liability of at least \$1,000,000;
  - b) Automobile liability of at least \$1,000,000;
  - c) Professional liability of at least \$1,000,000; and
  - d) Workers compensation complying with statutory requirements.
9. Miscellaneous.
  - (a) Tax Exempt Status. Client is a governmental tax-exempt entity and shall not be responsible for any taxes for any services provided for herein, whether federal or state. The fees paid to Tyler pursuant to this Agreement are inclusive of any applicable sales, use, personal property, or other taxes attributable to periods on or after the Effective Date of this Agreement.
  - (b) Assignment. Neither Tyler nor the Client shall, sell, transfer, assign, or otherwise dispose of any rights or obligations created by this Agreement without the written consent of the other party.
  - (c) Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
  - (d) Entire Agreement. This Agreement and the Schedules hereto constitute the entire understanding and contract between the Parties and supersedes any and all prior or contemporaneous oral or written representations or communications with respect to the subject matter hereof. The Exhibits to this Agreement are incorporated by reference herein.
  - (e) Amendment. This Agreement shall not be modified, amended, or in any way altered except by an instrument in writing signed by the properly delegated authority of each party. All amendments or modifications of this Agreement shall be binding upon the parties despite any lack of consideration.
  - (f) Relationship of Parties. The parties intend that the relationship between the parties created pursuant to or arising from this Agreement is that of an independent contractor only. Neither party shall be considered an agent, representative, or employee of the other party for any purpose.
  - (g) Governing Law. Any dispute arising out of or relating to this Agreement or the breach thereof shall be governed by the laws of the State of Texas, without regard to or application of choice of law rules or principles.
  - (h) No Third Party Beneficiaries. Nothing in this Agreement is intended to benefit, create any rights in, or otherwise vest any rights upon any third party.
  - (i) Equitable Relief. Each party covenants, represents, and warrants that any violation of this Agreement by such party with respect to its respective obligations set forth in Section 4 shall cause irreparable injury to the other party and shall entitle the other party to extraordinary and equitable relief by a Client of competent jurisdiction, including, without limitation, temporary restraining orders and preliminary and permanent injunctions, without the necessity of posting bond or security.
  - (j) Survival. The provisions of Sections 4 through 9 shall survive the expiration or termination of this Agreement.

## Statement of Work

### Texas Legislative Configuration Change Assistance

Tyler Technologies, Courts & Justice Division  
5101 Tennyson Parkway  
Plano, Texas 75024  
(972)713-3770 phone

“Tyler”



Statement of Work (SOW)

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## Introduction

### Overview

This Statement of Work (SOW) presents the training and activities that Tyler will execute during a one-day remote activity.

The purpose of the project is to assist the identified County with configuration and testing of new changes within the Odyssey Case Manager application relating to the legislative updates listed below:

SB346 - Changes to Fees/Costs

HB2048 – State Traffic Fines

HB435 – Uncollectible Fees

SB891 - Fees and Costs List, CIP Repeal

There are two options outlined below; either of which a client can select for Tyler assistance in implementing these legislative changes. The Level of Effort (LOE) will differ depending on the option selected and the cost associated with each option is listed below as a fixed price engagement. Additional scope will not be included in either of these fixed price agreements.

### Assumptions

- All Assumptions will apply to both Option 1 and Option 2.
- Proceeding PSA Fixed Price amount will confirm which option is in scope for the County.
- SME will be familiar with existing business processes and financial code usage today.
- SME will be able to support the updates by providing the TYLER resource with which codes will need updating.
- SME will be available to validate the work done by TYLER resource in both Non-Production and Production.
- TYLER resource will be available to answer questions to the SME in both Option 1 and Option 2 as it pertains to configuration changes relating to these legislative updates.
- SME will be available to complete all tasks in a timely manner in order to ensure that the process is completed in the approximate duration defined in both Option 1 or Option 2.

## Option 1

### 1. Level of Effort Defined

#### *Participants*

- Account Manager (CSAM)
- Consultant performing changes (TYLER)
- County Designated - Subject Matter Expert (SME)

#### *Roles Defined*

- Account Manager – Facilitator
- Consultant – Tyler consultant or application specialist who will make the application configuration changes
- Client SME – County designated user or manager with knowledge of existing fee codes and business processes able to provide necessary insights and approval for changes.

#### *Steps*

- Coordination of meeting to discuss details handled by (CSAM)
- Identification of codes (SME and TYLER)
- Updating identified codes and mapping in Non-Production (TYLER)
- Initial functional testing in Non-Production (TYLER)
- Client assisted verification (Requires both TYLER and SME in NON-PROD)
- Client Sign-Off Non-Production (CSAM and SME)
- Tyler update of Production configuration and mapping (TYLER)
- Client Sign-Off Production (CSAM and SME)
- Close out confirmation (CSAM)

#### *Approximate Duration*

- 8 Hours

#### *Pricing*

- Fixed Price: \$1400



## Option 2

### 1. Level of Effort Defined

#### *Participants*

- Account Manager (CSAM)
- Consultant performing changes (TYLER)
- Client Subject Matter Expert (SME)

#### *Roles Defined*

- Account Manager – Facilitator
- Consultant – Tyler consultant or application specialist who will make the application configuration changes
- Client SME – County designated user or manager with knowledge of existing fee codes and business processes able to provide necessary insights and approval for changes.

#### *Steps*

- Coordination of meeting to discuss details handled by (CSAM)
- Identification of codes (SME)
- Updating identified codes and mapping in Non-Production (TYLER led and SME shadows)
- Initial functional testing in Non-Production (TYLER led and SME shadows)
- Client Sign-Off Non-Production (CSAM and SME)
- Client update Production configuration and mapping (SME)
- Client verification of functionality (SME led with TYLER available for shadow if needed)
- Project close out confirmation (CSAM)

#### *Approximate Duration*

- 6 Hours

#### *Pricing*

- Fixed Price: \$800

## 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 in the amount of \$25,500 between Hays County and Blair Wildlife Consulting, LLC, related to management of Hays County's Regional Habitat Conservation Plan.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
ACTION-MISCELLANEOUS	December 17, 2019	NTE \$25,500

#### LINE ITEM NUMBER

151-756-00.5448

#### AUDITOR USE ONLY

##### AUDITOR COMMENTS:

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

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

#### SUMMARY

The Department of Countywide Operations manages the RHCP internally. Professional services are required to provide the field work and surveying needed to continue operations of the RHCP.

Attached: PSA

\*BWC Agreement Attached.

**PROFESSIONAL SERVICES AGREEMENT**  
**HAYS COUNTY, TEXAS**

**HAYS COUNTY**, a political subdivision of the State of Texas (hereinafter the “County”) with administrative offices at 111 E. San Antonio, Suite 300, San Marcos, Texas 78666, and **Blair Wildlife Consulting, LLC** hereinafter “Contractor”), whose primary place of business is located at 3815 Dacy Lane, Kyle, TX 78640, hereby enter into this Professional Services Agreement (hereinafter “Agreement”) effective the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ (hereinafter “Effective Date”). The County and Contractor (collectively “the parties to this Agreement” or “the parties”) agree as follows:

**1. OVERVIEW**

Environmental Support Services for the Hays County Regional Habitat Conservation Plan, Hays County, Texas Proposal to provide Environmental Support Services.

**2. SERVICES**

Contractor agrees to perform services for the County in accordance with the County’s instructions and, in particular, the instructions of Tammy Crumley, Director of Countywide Operations, Alexandra Thompson, Natural Resources Manager and/or legal counsel for the Hays County Commissioners Court; and in conformance with the descriptions, definitions, terms, and conditions of this Agreement. The Scope of Services shall be limited to those services and terms attached hereto as Exhibit “A”, and any subsections of Exhibit “A”, if as and when they are attached hereto and signed by the parties (collectively “the Work”). If the parties to this Agreement amend the Work required under this Agreement (by adding or removing specific services and/or terms enumerated in Exhibits “A” and/or “C”), the Compensation cited in Section 5 of this Agreement may also be amended to conform with the change in Scope of Services, as agreed by the parties. If and when the terms of the Scope of Services is in disagreement with Articles 1 through 23 of this Agreement, the terms and conditions within Articles 1 through 23 shall control.

**3. ADDITIONAL TERMS**

Additional Terms and Obligations of the parties to this Agreement, if any, are stated in Exhibit “C”, attached hereto.

**4. DURATION**

The parties agree that the Work shall be completed two hundred fifty (250) days after commencement date. (hereinafter the “Completion Date”). In the event that Contractor is unable to complete the Work by the Completion Date, Contractor shall request an extension of the Completion Date in writing no later than fifteen (15) business days prior to the Completion Date. The County may grant extensions of the Completion Date for all reasonable extension requests and shall do so in writing.

**5. COMPENSATION**

Contractor will be compensated for the Work on an hourly-charge basis, the terms of which are cited in Contractors rate schedule, which is attached hereto as Exhibit “B.” Despite any reference to Contractors rate schedule, which shall be used to calculate monthly invoice amounts

under this Agreement or a change in the Scope of Services (i.e. Amendment), the parties agree that the County shall pay Contractor a total fee not to exceed twenty five thousand five hundred dollars (\$25,500 USD) for the Work under this Agreement.

## **6. PAYMENT**

Contractor shall invoice the County for the Work performed under this Agreement on a monthly basis, beginning at the end of the first full month following the Effective Date. The County agrees to promptly pay all invoices in accordance with Texas Government Code Chapter 2251 and by sending payment to Contractor's address stated in Section 8, below.

## **7. NOTICE OF COMPLETION**

Upon completion of the Work, Contractor shall send a Notice of Completion to the County in writing, and the County shall have the option to inspect the Work (or the product thereof) before it is considered complete under this Agreement. If the County is satisfied that the Work under this Agreement is complete, the County shall send Contractor an Acceptance of Completion in writing. If, after inspection, the County does not agree that the Work is complete or believes that the Work is of deficient quality, the County shall send Contractor a Deficiency Letter, stating the specific aspects of the Work that are incomplete and/or deficient. If, after ten (10) business days from the County's receipt of Contractor's Notice of Completion, the County does not send Contractor either an Acceptance of Completion or a Deficiency Letter, the Work under this Agreement shall be considered complete.

## **8. NOTICE (GENERAL)**

All notices issued by Contractor under or regarding this Agreement shall be provided in writing to the County at: Hays County, Attn: County Judge, 111 E. San Antonio, Suite 300 San Marcos, Texas 78666; <judge.becerra@co.hays.tx.us>.

All notices issued by the County under or regarding this Agreement shall be provided in writing to Contractor at its primary place of business.

Notices from one party to another under this Section may be made by U.S. Mail, parcel post, Facsimile, or Electronic Mail, sent to the designated contact at any of the designated addresses cited above.

## **9. INSURANCE**

Contractor agrees that, during the performance of all terms and conditions of this Agreement, from the Effective Date until the County's acceptance of Contractor's Notice of Completion or until this Agreement is otherwise considered completed as a matter of law, Contractor shall, at its sole expense, provide and maintain Commercial General Liability insurance that meets or exceeds the industry standard for professional services providers in Contractor's field of employment and for the type of services that are being performed by Contractor under this Agreement. Such insurance coverage shall specifically name the COUNTY as co-insured. This insurance coverage shall cover all perils arising from the activities of Contractor, its officers, directors, employees, agents or sub-contractors, relative to this Agreement. Contractor shall be responsible for any deductibles stated in the policy. A copy of the current Certificate of Liability Insurance is attached hereto as Exhibit "D". A true copy of each new Certificate of Liability Insurance shall be provided to the COUNTY within seven (7) days of the new policy date at the following address: Office of General Counsel, Hays County Courthouse, 111 East San Antonio,

Suite 202, San Marcos, Texas 78666.

So long as this Agreement is in effect, Contractor shall not cause such insurance to be canceled nor permit such insurance to lapse. All insurance certificates shall include a clause to the effect that the policy shall not be canceled, reduced, restricted or otherwise limited until thirty (30) days after the COUNTY has received written notice as evidenced by a return receipt of registered or certified mail.

#### **10. MUTUAL INDEMNITY**

Contractor agrees, to the fullest extent permitted by law, to indemnify and hold harmless the County, its officers, directors and employees against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, to the extent caused by Contractor's negligent performance of the Work under this Agreement and that of its subcontractors or anyone for whom the Consultant is responsible or legally liable.

The County agrees, to the fullest extent permitted by law, to indemnify and hold harmless Contractor, its officers, directors, employees and subcontractors against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, to the extent caused by the County's negligent acts in connection with this Agreement.

Neither the County nor Contractor shall be obligated to indemnify the other party in any manner whatsoever for the other party's negligence.

#### **11. COMPLIANCE WITH LAWS**

Each party agrees to comply with all laws, regulations, rules, and ordinances applicable to this Agreement and/or applicable to the parties performing the terms and conditions of this Agreement.

#### **12. SURVIVAL**

Notwithstanding any termination of this Agreement, the following Sections, and the terms and conditions contained therein, shall remain in effect: 3, 5, 8, 10, 12, 14, 15, 16, 17, 18, 20, 21 and 22.

#### **13. FORCE MAJEURE**

Either of the parties to this Agreement shall be excused from any delays and/or failures in the performance of the terms and conditions of this agreement, to the extent that such delays and/or failures result from causes beyond the delaying/failing party's reasonable control, including but not limited to Acts of God, Forces of Nature, Civil Riot or Unrest, and Governmental Action that was unforeseeable by all parties at the time of the execution of this Agreement. Any delaying/failing party shall, with all reasonable diligence, attempt to remedy the cause of delay and/or failure and shall recommence all remaining duties under this Agreement within a reasonable time of such remedy.

#### **14. SEVERABILITY**

If any Section or provision of this Agreement is held to be invalid or void, the other Sections and provisions of this Agreement shall remain in full force and effect to the greatest extent as is possible, and all remaining Sections or provisions of this Agreement shall be construed so that they are as consistent with the parties' intents as possible.

## **15. MULTIPLE COUNTERPARTS**

This Agreement may be executed in several counterparts, all of which taken together shall constitute one single Agreement between the parties.

## **16. SECTION HEADINGS, EXHIBITS**

The Section and Subsection headings of this Agreement, as well as Section 1, Entitled “Overview,” shall not enter in the interpretation of the terms and conditions contained herein, as those portions of the Agreement are included merely for organization and ease of review. The Exhibit(s) that may be referred to herein and may be attached hereto, are incorporated herein to the same extent as if fully set forth herein.

## **17. WAIVER BY PARTY**

Unless otherwise provided in writing by the waiving party, a waiver by either of the parties to this Agreement of any covenant, term, condition, agreement, right, or duty that arises under this Agreement shall be considered a one-time waiver and shall not be construed to be a waiver of any succeeding breach thereof or any other covenant, term, condition, agreement, right, or duty that arises under this Agreement.

## **18. GOVERNING LAW AND VENUE**

THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS. Any lawsuit, claim, or action, whether in law or in equity, arising from this Agreement will be brought in Hays County, Texas.

## **19. ASSIGNMENT**

Neither party to this Agreement may assign its duties, interests, rights, benefits and/or obligations under this Agreement, in whole or in part, without the other party’s prior written consent thereto.

## **20. BINDING EFFECT**

Subject to any provisions hereof restricting assignment, this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors, permitted assigns, heirs, executors, and/or administrators.

## **21. ENTIRE AGREEMENT; AMENDMENT**

This Agreement (including any and all Exhibits attached hereto) constitutes the entire agreement between the parties hereto with respect to the subject matter hereof. Any amendments to this Agreement must be made in writing and signed by the parties to this Agreement prior to the performance of any terms or conditions contained in said amendments.

## **22. WORK PRODUCT**

Any and all product, whether in the form of calculations, letters, findings, opinions, or the like, shall be the property of Hays County during and after performance of the Work. Contractor shall have a right to retain a copy of all Work product for record-keeping purposes.

## **23. TERMINATION BY COUNTY**

This Agreement may be terminated by Hays County, for any reason whatsoever, by providing

thirty (30) days written notice to Contractor. Any approved services provided under this Agreement up to the date of termination may be invoiced by Contractor after the termination date, and payment of said invoice shall not be unreasonably withheld by the County.

*Signatures by the parties to this Professional Services Agreement follow on the next page.*

IN WITNESS WHEREOF, the undersigned have duly executed and delivered this Professional Services Agreement, and hereby declare that THEY HAVE READ AND DO UNDERSTAND AND AGREE TO EACH AND EVERY TERM, CONDITION, AND COVENANT CONTAINED IN THIS AGREEMENT AND IN ANY DOCUMENT INCORPORATED BY REFERENCE.

\_\_\_\_\_  
Hays County, Texas

By: Ruben Becerra  
Hays County Judge

\_\_\_\_\_  
Blair Wildlife Consulting, LLC

By: Jennifer Blair, CWB  
Principal



## **EXHIBIT A & B**

### **Scope of Work**

December 10, 2019

Mr. Mark Kennedy  
111 E. San Antonio St., Suite 202  
San Marcos, TX, 78666

Delivered via email to [mark.kennedy@co.hays.tx.us](mailto:mark.kennedy@co.hays.tx.us)

Re: Environmental Support Services for the Hays County Regional Habitat Conservation Plan, Hays County, Texas (the "Project") Proposal to provide Environmental Support Services (the "Proposal")

Dear Mr. Kennedy,

We are pleased to submit this Proposal to provide Environmental services for the above referenced Project. Upon verbal or written direction to proceed with performance of the services described herein, this Proposal, along with all attachments thereto will constitute a binding agreement (the "Agreement") between Blair Wildlife Consulting, LLC ("BWC") and Hays County, Texas (the "Client").

Blair Wildlife Consulting has the resources and experience to make your project a success and limit your financial liability. Our company has the capabilities to provide the following environmental services to include: Endangered Species Assessments, Compliance, Construction Monitoring, Land and Wildlife Management Planning and Implementation, Natural Resources Studies and Services, Project Management, Environmental Assessments, Environmental Impact Studies, Public Meeting and Hearings Coordination, applicable City, County, State (TxDOT) and Federal Permitting, Feasibility Assessments, Schematic Design Analysis and Evaluation, and Cost and Mitigation Estimates requirements.

Our professional biologists are experienced in environmental compliance and are familiar with permitting requirements in Texas for such areas as Clean Water Act (Section 404 and Section 10), Texas Commission on Environmental Quality (TCEQ) Section 401 Water Quality Certification, Section 106, Section 4(f), Section 6(f), Threatened or Endangered Species, NPDES Permits and Waste Discharge Requirements (WDRs), regulated materials, groundwater, and Governmental Entity coordination.

It is our understanding that the Project consists of assisting Hays County on an as needed basis with the implementation of the Hays County Regional Habitat Conservation Plan (RHCP). Annual implementation services may include but are not limited to the following: general management, administration, research, and support services, review and processing of RHCP participation applications, preserve acquisition and evaluations, management and monitoring services, and other services as needed and requested by the County.

## SCOPE OF SERVICES AND FEES

The scope of services (the “Scope”) and associated fees shall be as follows.

### TASK 19010 – HAYS COUNTY RHCP IMPLEMENTATION SUPPORT SERVICES

---

BWC will assist Hays County on an as needed basis with the implementation of the Hays County Regional Habitat Conservation Plan (RHCP). Annual implementation services may include but are not limited to the following: general management, administration, research, and support services, review and processing of RHCP participation applications, preserve acquisition and evaluations, management and monitoring services, and other services as needed and requested by the County.

**TOTAL FEE: \$25,500.00 TIME AND MATERIALS NOT TO EXCEED, WITHOUT PRIOR CLIENT APPROVAL, PLUS REIMBURSABLE EXPENSES**

### ADDITIONAL SERVICES

With the exception of the following additional service listed below, all other additional services, as requested by the Client, will be billed on a time-and-materials basis, in accordance with the attached Standard Rate Schedule or a separate proposal will be provided and amended to this Agreement upon approval.

### TASK 19099 – ADDITIONAL ENVIRONMENTAL SUPPORT SERVICES

---

At the request of the Client(s), BWC will provide general environmental support services associated with the proposed project.

### ANTICIPATED SCHEDULE

This proposal can be renewed annually or revised as needed, at the request of the County. We can begin work immediately upon notice to proceed, and conduct any necessary tasks as expeditiously as possible. For federally-listed species Presence/Absence survey needs, surveys will be conducted between March 15 to July 1. Normally, we request 30 days to finish requested tasks/reporting upon completion of field work (if applicable), though report preparation can be expedited, if necessary with advance notice and coordination associated with the overall project schedule. We understand that these projects will be time sensitive and we will work with you to complete the proposed scope of work as expeditiously as possible.

## ESTIMATED BUDGET

BWC proposes to invoice work performed on a time and materials basis unless otherwise specified below. The estimated budget for each project task r is as follows:

TASK	DESCRIPTION	FEE	FEE TYPE	QUANTITY	TOTAL
19010	RHCP Implementation Support Services	\$25,500.00	T&M, NTE	1	\$25,500.00
19099	Additional Wildlife Management Services		T&M		
98099	Reimbursable Expenses		AS ACCRUED	AS ACCRUED	AS ACCRUED

## SERVICES THAT ARE NOT PART OF THIS CONTRACT ARE AS FOLLOWS:

- ➔ Any additional environmental studies beyond those already outlined. Should additional studies be required not specifically identified above, a separate scope of work and cost estimate would be prepared and submitted to Client
- ➔ Additional documentation services requested as a result of a change in environmental regulations or documentation standards from those in practice and acceptable at the time of approval of this agreement.

## REIMBURSABLE EXPENSES

Reimbursable expenses shall include actual expenditures made by Blair Wildlife Consulting, LLC in the interest of the Project and will be invoiced at the actual cost to Blair Wildlife Consulting, LLC plus ten percent (10%) for handling and indirect costs. Reimbursable expenses shall include but not be limited to costs of the following:

- » Mailing, shipping, and out source delivery (i.e. DHL, FedEx) costs
- » Fees and expenses of special consultants as authorized by the Client

## REPROGRAPHIC, COURIER AND OTHER CHARGES

Reprographic, plotting, in-house courier, and archive retrieval services will be invoiced in accordance with the Rate Schedule attached hereto.

## CLIENT RESPONSIBILITIES

The Client shall be responsible for obtaining permission for BWC, its employees, agents and subcontractors to enter onto the subject property and any properties in the vicinity as reasonably necessary for BWC to perform the services described herein. By either countersigning this Proposal or verbally authorizing BWC to proceed, the Client warrants and represents that it has obtained such permission. BWC is not responsible for any delays to project schedule due to site access limitations. All fees accrued for the project which include mobilization tasks will be billed in addition to the budget identified above, and according to

the hourly rate schedule, for any mobilization in which access becomes unavailable after authorization to mobilize has been received.

The Client shall provide the following items upon request of BWC in a timely manner and at no expense to BWC:

- ➔ Digital map files of the proposed project area in a useable GIS format (preferably ArcGIS shapefiles).
- ➔ All relevant environmental reports that have been performed on the subject property, including geologic assessments, karst geological and biological surveys, environmental site assessments, endangered species habitat assessments and surveys, and similar documents. All engineering data and design information provided to BWC by others is assumed to be reliable. BWC will make reasonable effort to ascertain the reliability of any environmental information provided by the client, but may request additional investigation if review of existing information differs from BWC professionals findings and/or opinions. BWC does not warrant the work of third parties supplying information used in the preparation of the reports.
- ➔ Any known environmental conditions at the site (i.e., hazardous materials or processes, specialized protective equipment requirements, unsound structural members, etc.) shall be made known to BWC prior to site mobilization.

## OTHER TERMS

This proposal is based on the scope of services indicated herein and the information available at the time of the proposal preparation. If any additional services are required due to unforeseen circumstances and/or conditions, Client or regulatory requested revisions, additional meetings, regulatory changes, etc, BWC will notify the Client that additional scope of work and fees are required and will obtain the client's written approval prior to proceeding with any additional work.

BWC's Standard Terms and Conditions and Hourly Rate Schedule are attached hereto and incorporated into this Proposal by reference. You should read these standard terms and conditions and assure yourself that you understand them prior to accepting this proposal or authorizing BWC to proceed with the performance of the services described herein.

## ASSUMPTIONS AND EXCLUSIONS

- ➔ If not executed on or before December 31, 2019, BWC reserves the right to modify the schedule and budget of this Proposal to reflect current working conditions
- ➔ Right-of-entry onto the subject property will be provided to BWC, including keys or combinations to locked gates. Any restrictions or special access requirements regarding the site shall be made known to BWC prior to site mobilization.
- ➔ Client understands that no warranties or guaranties are expressed or implied by BWC regarding the actions of any government agency, including local, state, or federal agencies, in connection with the project for which the services are performed.
- ➔ Additional documentation services requested as a result of a change in environmental regulations or documentation standards from those in practice and acceptable at the time of approval of this agreement are not included.

- ➔ Client understands that revisions to the project after providing notice to proceed requires additional time and materials, and will be billed at an additional cost outside of this current scope of work.
- ➔ Client understands that we are required to report observations of endangered species or their habitat, under certain circumstances, to the U.S. Fish and Wildlife Service, and Client will communicate any concerns regarding such reporting to us prior to notification to proceed.
- ➔ BWC is considered responsible for the performance of only those services described explicitly in this contract. Additional tasks can be performed under a separate agreement or as an addendum to this current contract.
- ➔ This agreement has been prepared for the Client to whom it is addressed. Any reports prepared as part of the services herein shall be for the exclusive use and reliance of said parties and shall not be conveyed to third parties without prior written authorization from BWC.

In the event you wish to accept this proposal, please sign and return one executed original to us. The individual executing this proposal represents and warrants that he has the authority to sign on behalf of Hays County, Texas. Upon written direction to proceed with performance of the services described herein, this Proposal, along with all attachments thereto will constitute a binding agreement between Blair Wildlife Consulting, LLC and Hays County, Texas.

Thank you for the opportunity to assist you with your project needs, and please don't hesitate to contact me if you have any questions or need additional information. We welcome the opportunity to discuss this proposal with you and go over any details about our proposed services and your project concerns. Please call me at 512-415-9772 so we can answer any questions. We look forward to working with you and greatly appreciate your consideration of our services.

Sincerely,

BLAIR WILDLIFE CONSULTING, LLC



Jennifer Blair, CWB  
Principal

Hays County, Texas hereby accepts all terms and conditions of this Proposal (including the Standard Terms and Conditions) and authorizes BWC to proceed with the Project.

Hays County, Texas

By: \_\_\_\_\_  
(Signature)

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

## TERMS AND CONDITIONS

These Terms and Conditions are incorporated by reference into the Proposal (the "Proposal") from Blair Wildlife Consulting, LLC, a Texas Limited Liability Corporation ("BWC") to Hays County, Texas (the "Client") for performance of services described in the Proposal and associated with the project described in the Proposal (the "Project") and in any subsequent approved Change Order related to the Project. These Terms and Conditions, the accepted Proposal and any Change Orders or other amendments thereto, shall constitute a final, complete, and binding agreement (the "Agreement") between BWC and the Client.

1. Scope of Services: BWC will provide the services expressly described in the Proposal (the "Scope"). If in BWC's professional judgment the Scope must be expanded or revised, BWC will forward a change order agreement to the Client that describes the revision to the Scope (the "Change Order") and the increased fee associated therewith. The Client may approve a Change Order in writing, by electronic verification, or orally pursuant to Section 3 below.

2. Standard of Care: The standard of care for all services performed by BWC for the Client shall be the care and skill ordinarily used by members of the applicable profession practicing under similar circumstances at the same time and locality of the Project. The Client shall not rely upon the correctness or completeness of any design or document prepared by BWC unless such design or document has been properly signed and sealed by a licensed professional on behalf of BWC.

3. Client's Oral Decisions: The Client or any of its employees or agents with apparent authority may orally and with the express written consent of BWC: (a) make decisions relating to BWC's services under this Agreement, (b) authorize a Change Order and increased fee associated therewith, (c) direct BWC to forward information related to the Project to a third party, or (d) direct BWC to take any reasonable action in the interest of the Project. The Client may, from time to time, limit the authority of any or all persons to act orally on its behalf by providing seven (7) days notice to BWC. If BWC submits a Change Order by giving Notice to the Client then the Change Order shall be deemed accepted by Client unless the Client gives Notice to BWC that it rejects the Change Order not later than 10 business days after the Client receives the proposed Change Order.

4. Fees by Hourly Rate Schedule: If the Client requests BWC to perform services not included in the Proposal or an approved Change Order (including without limitation attending meetings and conferences on an as needed basis with public agencies), Client shall compensate BWC for such services in accordance with the Hourly Rate Schedule attached to and made a part of the Agreement. Expert witness testimony or participation at legal discussions, hearings or depositions, including necessary preparation time, will be charged at 150% of the quoted rates. If the Project extends beyond the calendar year in which the Proposal is dated, BWC may revise its Hourly Rate Schedule in January of each subsequent year.

5. Client Duties and Responsibilities: The Client shall inform BWC of any special criteria or requirements related to the Project or BWC's services and shall, in a timely manner and at its cost, furnish any and all information in its possession relating to the Project, including reports, plans, drawings, surveys, deeds, topographical information or title reports. BWC shall bear no responsibility for errors, omissions or additional costs arising out of its reliance upon such information supplied by the Client. Some services included in the Scope may, in BWC's discretion, require a current title report, and if so the Client shall timely and at its cost provide such a current title report to BWC. All off-site easements are the responsibility of the Client. Client shall indemnify and hold harmless BWC from and against any and all claims, demands, losses, costs, and liabilities, including without limitation, reasonable attorney fees and expenses incurred by BWC and arising out of (a) Client's breach of this Agreement or (b) an action by Client or a third party with respect to any matter not included in the Scope or that is excluded from the responsibility of BWC pursuant to this Agreement.

6. Exclusions from Scope: By way of illustration and not limitation BWC has no obligation or responsibility for the following unless specifically included in the Scope:

- a. Favorable or timely comment or action by any governmental entity.
- b. Taking into account off-site conditions or circumstances that are not clearly visible or reasonably ascertainable by the performance of on-site services.
- c. The accurate location or characteristics of any subsurface utility or feature that is not clearly and entirely visible from the surface.

7. Payment Terms. BWC will invoice the Client monthly or more frequently based on a percentage of the work completed for fixed fee tasks, number of units completed for unit tasks, and actual hours spent that month for hourly tasks. Invoices are due and payable in full upon receipt without offset of any kind or for any reason. Client agrees to pay a finance charge of one and one-half percent (1.5%) per month from the invoice date on any unpaid balance not received by BWC within thirty (30) days of the invoice date. Payment of invoices is subject to the following further terms and conditions.

(a) If any invoice is not paid in full within forty-five (45) days of the invoice date and the Client has not timely and in good faith disputed the invoice as provided below, BWC shall have the right at its election by giving notice to Client to either (i) suspend the performance of further services under this Agreement and, at its sole discretion, suspend the performance of further services on other projects which are being performed by BWC on behalf of the Client or any related Client entities, until all invoices are paid in full and BWC has received a retainer in such amount as BWC deems appropriate to be held as described in Section 8 below, or (ii) deem Client to be in material breach of this Agreement and proceed pursuant to Section 11 below. Client agrees to pay any and all charges, costs or fees incurred in collection of unpaid invoices, including reasonable attorneys' fees and costs. If BWC elects its rights under (a)(i) above BWC shall bear no liability to Client or any other person or entity for any loss, liability or damage resulting from any resulting delay, and any schedule for the performance of services hereunder prepared previously shall be deemed void, and any future schedule for the performance of services shall require the approval of both Client and BWC.

(b) If Client disputes any invoices submitted to it the Client shall give written notice to BWC within thirty (30) days of the invoice date detailing the dispute. If no written notice of a dispute is provided to BWC within that time period, the invoice shall then be conclusively deemed good and correct. If part of an invoice is disputed, then the Client shall remain liable to timely pay the undisputed portion of the invoice in accordance with the terms of this Agreement. Client and BWC shall promptly negotiate in good faith to resolve any disputed portion of an invoice,

8. Retainer. Should (a) the Proposal require a Retainer or (b) BWC have exercised its right to require a Retainer prior to continuing work as provided in Section 7(a)(i) above, the Client shall deliver to BWC by good check a retainer to be held by BWC as an advance against future billings (the "Retainer"). This Retainer is not intended as the regular source of payment for invoices issued under to this Agreement. Instead the parties intend that the Retainer be applied to the final invoice for the services described in the Agreement, or against any other unpaid amounts owed BWC under this Agreement should Client fail to timely pay invoices in accordance with Paragraph 7. If the retainer is applied during the course of the Agreement Client agrees to promptly replenish the retainer upon request of BWC. Upon the conclusion of this Agreement, or its earlier termination, then (i) the portion of the Retainer, if any, that exceeds the amount owed BWC shall be returned to Client upon request, or (ii) any amount owed BWC in excess of the Retainer shall be paid immediately to BWC by Client. The Retainer shall not be required to be held in a separate account nor shall it bear interest, and the Retainer may include other amounts paid to BWC by Client with respect to the Project or other projects.

9. Insurance. BWC and its employees are protected by workman's compensation, commercial general liability, and automobile liability insurance policies. Upon request of Client BWC shall provide a certificate of insurance to Client evidencing such coverage and shall attempt to include Client as an additional insured on such coverage. Client acknowledges it has been offered the opportunity to review the current limits of such coverage and finds them satisfactory, and further agrees that in no event shall BWC's liability to Client or any party claiming through Client be greater than the limits of such insurance. From time to time BWC may, without notice to Client, amend the carriers, conditions, exclusions, deductibles or limits of any such insurance; provided that prior to any decrease in any insurance limit becoming effective BWC shall give notice thereof to Client.

10. Potential Liability of BWC. The following provisions shall operate with respect to any potential liability of BWC arising under the Agreement.



(a) Client agrees that should it wish to assert that there is a breach, defect, error, omission or negligence in the services performed by BWC that Client believes creates liability on the part of BWC the Client must give written notice to BWC not later than the first to occur of (i) the beginning of any corrective work or (ii) thirty days after Client had knowledge of the existence of the breach, defect, error, omission or negligence. BWC shall have the opportunity to participate in decisions regarding the corrective work, and the Client shall insure that corrective action is taken at the lowest reasonable expense under the circumstances.

(b) Notwithstanding any other provision of this Agreement, the total liability, in the aggregate, of BWC and of its officers, directors, partners, employees, agents, and consultants, to Client and anyone claiming through Client shall not in any manner whatsoever exceed the direct losses incurred by Client (to the extent of and in proportion to BWC's comparative degree of fault) that resulted from the error, omission or negligent act of BWC in the performance of services under this Agreement.

(c) To the fullest extent permitted by law BWC and BWC's officers, directors, partners, employees, agents, and sub-consultants shall not be liable to Client or anyone claiming through Client for any special, incidental, indirect, or consequential damages whatsoever arising out of, resulting from, or in any way related to the Project or this Agreement, regardless of whether such damages are alleged to be caused by the negligence, professional errors or omissions, strict liability, breach of contract, or breach of express or implied warranty.

11. Termination: Either party may terminate the provision of further services by BWC under this Agreement for convenience with thirty (30) days advance notice to the other party. In addition, following a material breach by the other party the provision of further services under this Agreement may be immediately terminated by the non-breaching party giving notice to the other party, and such notice may be given at any time after such material breach (including less than thirty (30) days after notice of termination for convenience). Client acknowledges that its failure to timely pay undisputed invoices is a material breach. After a termination for convenience the Client shall immediately following the termination date pay BWC for all services performed through the termination date; including reasonable costs of transitioning the Project to a new professional designated by Client, if applicable. Following any termination BWC shall have the right to withhold from the Client the use or possession of data and documents prepared by BWC for the Client under this or any other agreement with the Client, until all outstanding invoices are paid in full. Following any termination by BWC following a material breach by Client BWC shall have the right to withdraw any plans, applications or other documents filed with any governmental agency by BWC in its name on behalf of the Client.

12. Assignment: This Agreement may not be assigned by one party without the express written consent of the other party. Notwithstanding the forgoing, BWC may employ consultants, sub consultants, or subcontractors, as it deems necessary to perform the services described in the scope. Also, BWC may assign its right to receive payments under this agreement.

13. Ownership of Documents and other Rights of BWC: (a) All reports, plans, specifications, computer files, field data, notes and other documents and instruments prepared by BWC as instruments of service shall remain the property of BWC up until such time as all monies due to BWC have been paid in full. At such time as all monies due to BWC have been paid in full, the Client may take possession of plans, documents and specifications prepared under this Agreement. If requested by BWC the Client (and Client's new professional if applicable) shall execute BWC's standard Electronic File Transfer Agreement or such other similar agreement as the parties shall in good faith negotiate. If the Client or a party acting on the Client's behalf modifies the plans and specifications or reuses them on a different project the Client agrees to indemnify and hold BWC harmless from any claim, liability or cost (including reasonable attorneys' fees and defense costs) arising therefrom. Client acknowledges that if BWC provides Client with plans, information and specifications in an electronic or digital format ("Electronic Data") the Client is responsible for cross checking the Electronic Data with the applicable paper document for full conformance and consistency between such paper document and the Electronic Data. The Client and BWC shall jointly retain all common law, statutory, and other reserved rights, including the copyright to all reports, plans, specifications, computer files, field data, notes and other documents prepared by BWC.

(b) BWC reserves the right to include photographs and descriptions of the Project in its promotional, marketing, and professional materials. Client grants its consent to BWC for BWC to install reasonable signage at the Project equivalent to that which is or could be installed by other vendors to the Project.

14. Covenants Benefiting Third Parties: BWC and Client acknowledge that from time to time third parties may request BWC to execute documents which benefit that third party. These documents may include certifications, consent of assignment, and waiver of certain of BWC's rights under this Agreement ("Requested Covenant"). Client acknowledges that execution of Requested Covenants is beyond the Scope, is at BWC's sole discretion, and if BWC decides to so execute a Requested Covenant the language, terms and conditions of such Requested Covenant must be acceptable to BWC, at BWC's sole discretion.

15. Applicable Law: This Agreement shall be governed and interpreted in accordance with the laws of the State of Texas, without giving effect to conflicts of laws principles thereof.

16. Severability: If any provision of this Agreement shall be held invalid, illegal or unenforceable, the other provisions of this Agreement shall remain in full force and effect.

17. Entire Agreement and Modification: This Agreement and the attachments hereto contains the entire agreement of BWC and Client in respect to the transactions contemplated hereby and supersedes any and all prior agreements, arrangements, and understandings among the parties relating to the subject matter hereof. Except for Change Orders authorized by Client either orally or by electronic verification this agreement may be amended, modified, or supplemented, but only in writing signed by all parties hereto. Signature by email transmission is permitted hereunder.

18. Waivers: The failure of a party to enforce any provision hereof shall not affect its right at a later time to enforce same. A waiver by a party of any condition or breach hereunder must be in writing to be effective and unless that writing provides otherwise shall waive only one instance of that condition or breach.

19. Notices: Any notice, request, instruction, or other document to be given hereunder by a party hereto shall be in writing and shall be deemed to have been given (a) when received when given in person or by a courier or a courier service, (b) on the date of transmission (or the next business day if the date of transmission is not a business day) if sent by facsimile, or (c) five business days after being deposited in the mail, certified or registered postage prepaid:

If to Client, addressed to the individual signing this Agreement at the address, facsimile number, or e-mail address noted on the Proposal;

If to BWC, to the address set forth in the proposal; provided that for any notice given by Client pursuant to Paragraphs 10 or 11 a copy shall be sent to:

Blair Wildlife Consulting, LLC  
c/o Rick C. Reed & Company, PLLC  
321 Cheatham Street  
San Marcos, Texas 78666  
Attn: David Crumbaugh  
Email: david@reedcocpa.com.com

Or to such other individual or address as a party hereto may designate for itself by notice given as herein provided.

20. No Third Party Beneficiaries: This Agreement is solely for the benefit of the parties hereto and, to the extent provided herein, their respective affiliates, directors, officers, employees, agents and representatives, and no provision of this Agreement shall be to confer upon third parties any remedy, claim, liability, reimbursement, cause of action, or other right.

21. Headings, Counterparts, Certain Rules of Construction: The headings in this Agreement are for convenience and identification purposes only, are not an integral part of this Agreement, and are not to be considered in the interpretation of any part hereof. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. References in this agreement to any gender shall include references to all genders. Unless the context otherwise requires, references in the singular include references in the plural and vice versa. The words "include", "including", or "includes" shall be deemed to be followed by the phrase "without limitation". The individual who signs this Agreement warrants that he has the authority to sign as, or on behalf of the Client and to bind the Client to all of the terms and conditions of this Agreement. To the extent

that they are inconsistent or contradictory, the terms of the Proposal or an authorized Change Order shall supersede these Terms and Conditions.

22. Estimates: Any cost, timing or quantity estimates provided as a part of the Scope are estimates only and reflect BWC's judgment as a design professional familiar with the construction industry. Estimates do not represent a guarantee that proposals, bids or the construction cost will not vary from the estimates prepared by BWC. Client acknowledges that BWC has no control over contractors as to cost, timing or quantity matters, and further acknowledges that if Client desires greater accuracy as to construction costs it has the opportunity to employ an independent cost estimator.

23. Use of Work Prepared by Others: If the Scope requires BWC to use work prepared by other parties (e.g. drawings, surveys, computations, calculations, specifications) then unless otherwise disclosed by the Client in writing to BWC the Client warrants and represents that the Client has obtained the full and unconditioned prior written consent from such other party. If the Client discloses that it has not obtained such prior consent then the Client, at its expense, shall use its best efforts to obtain such consent, which consent shall be in a form that, in BWC's reasonable discretion, does not violate any applicable law, regulation, or code of ethics. Unless the Scope specifically provides otherwise, BWC shall not be responsible for the accuracy, completeness, or correctness of work prepared by others.

24. Construction Means and Methods: Client acknowledges that BWC shall not have control of and shall not be responsible for construction means, methods, techniques, sequences, or procedures, or for any safety precautions in connection with the Project or for the acts or omissions of any contractor, subcontractor or any other person or entity performing work for the Project.

25. Shop Drawing Review: If specifically included in the Scope BWC shall review and check the contractor's shop drawings, product data, and samples, but only for the limited purpose of checking for general conformance with the intent of such contract documents. Client acknowledges that such review is not for the purpose of determining or substantiating the accuracy and completeness of other details such as dimensions or quantities or for substantiating instructions for installation or performance of equipment or systems designed by the contractor. BWC's review shall not constitute approval of safety precautions, construction means, methods, techniques, schedules, sequences or procedures, or of structural features. Client shall provide BWC with sufficient time in BWC's professional judgment to permit adequate review.

26. Plan and Permit Processing: If the Scope includes preparation of plans for review and approval by public agencies, submission and processing of such plans in a manner consistent with a normal course of business is included within the Scope. If the Client requests BWC to expedite the plan review process by attending meetings, hand carrying plans and documents from agency to agency, or performing other such services, these services will be performed by BWC at Client's request and as hourly rate services under Section 4 above. Except as described otherwise in the Scope, preparation and processing of permit applications will be performed at the Client's request and treated as hourly rate services under Section 4 above.

## REQUEST FOR INFORMATION

**Client:**

Contact name: \_\_\_\_\_

Legal Entity: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Phone \_\_\_\_\_

Fax: \_\_\_\_\_

E-Mail: \_\_\_\_\_

**Accounts Payable Contact:**

Contact name: \_\_\_\_\_

Phone \_\_\_\_\_

E-Mail: \_\_\_\_\_

**Billing Information:**

Billing Entity: \_\_\_\_\_

Billing Address: ☐ Same as Legal Entity  
☐ If different, please provide....

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Billing Requirements:**

Invoice Due Date: \_\_\_\_\_

Requirements/Attachments: \_\_\_\_\_

Transmit Invoices Via: ☐ Mail hardcopies to the billing address above  
☐ Transmit electronic copies to:

## **BASELINE PRESERVE EVALUATION**

The baseline preserve evaluation will include the following minimum information:

- The acreage of potential habitat for the golden-cheeked warbler present on the parcel, as identified by a habitat determination (see Section 7.4.2).
- A detailed map showing the specific location and extent of potential warbler habitat on the parcel.
- An estimate of the relative quality of potential warbler habitat on the parcel and documentation of the habitat characteristics used to justify the quality estimate.
- An estimate of the number of warblers occurring on the property and the extent (i.e., number of acres) and location of occupied and unoccupied habitat within the parcel.
- A description and map of other major vegetation communities and special or unique habitats on the parcel that may warrant special management consideration.
- A description and map of all structures or other property improvements on the parcel, including the size or aerial extent, condition, and use of such improvements. Improvements to be described include, but are not limited to, buildings, roads or trails, utilities, and dams and impoundments.
- A description and map of all current land uses on the parcel, including areas used for agricultural purposes, recreational purposes, or easements.
- A description and assessment of potential threats to the covered species or their habitats within the preserve system, such as information including (but not limited to) deer, feral hogs, cowbirds, fire ants, and invasive species. Such assessment will also include the potential impacts of land uses (including recreational uses) within or adjacent to the preserve on the covered species or their habitats, as applicable.
- Other information regarding the property that may be relevant to the management of the parcel in accordance with the terms of the Permit and the goals and objectives of the RHCP.

## **LAND MANAGEMENT PLAN**

At a minimum, land management plans will address the following topics and incorporate the concepts listed below:

1. Creating and maintaining effective preserve boundaries with adequate fencing and appropriate signage forbidding unauthorized access;
2. Limiting use of areas within the preserve, as appropriate, to only those activities that do not appreciably reduce the conservation value of the preserve;
3. Preserving, reproducing, or enhancing the ecological processes that create and maintain habitat for the covered species, including but not limited to vegetational succession, oak regeneration, and fire management/use of prescribed fire to the extent practicable;
4. Minimizing the effects of land uses adjacent to protected habitat to the extent practicable by:
  - a. Managing populations of urban-adapted, non-native, and/or invasive animals within the preserve system, including but not limited to feral cats and dogs, feral hogs, brown-headed cowbirds, white-tailed deer, and red imported fire ants;
  - b. Attempting to prevent the introduction and control the establishment or spread of non-native and/or invasive plants within the preserve system (which may include management of Ashe juniper); and
  - c. Preventing and/or controlling oak wilt and other diseases or infestations affecting the covered species or their habitats.

5. Choosing preserve management practices that minimize adverse effects to the species addressed by the RHCP;
6. Minimizing the potential negative effects of major vegetation management practices (such as selective clearing practices or prescribed burning to create or maintain black-capped vireo habitat or manage stands of Ashe juniper) by:
  - a. Conducting major vegetation management practices outside of the breeding seasons for the covered species (defined as March 1 through July 31 for the golden-cheeked warbler and March 15 through August 31 for the black-capped vireo);
  - b. Limiting the extent of major vegetation management activities in potential habitat for covered species (i.e., management activities that could substantially decrease the extent of potential habitat in the treated area) to avoid impacting the majority of such habitat in a preserve block in a single year; and
  - c. To the extent practicable, choosing specific management practices that minimize the disturbance, removal, or compaction of top soil (thereby preserving soil structure and texture) in the treated area, including but not limited to practices that utilize hand tools instead of heavy equipment or, if it is necessary to use heavy equipment, choosing equipment with rubber tires instead of tracks; and
7. Monitoring the sources and impacts of potential threats to the covered species or their habitats, as applicable to each parcel.

#### **HABITAT OCCUPANCY SURVEYS**

Baseline preserve evaluations for preserve parcels require an estimate of the amount and location of occupied and unoccupied habitats within their boundaries, with respect to the covered species. Occupancy monitoring within the RHCP preserve system will use occupancy modeling methods, as generally described by MacKenzie et al. (2002), MacKenzie et al. (2006), Rhodes et al. (2006), and Royle and Nichols (2003). The purpose of these occupancy surveys is to determine species presence or non-presence in potential habitat within the preserves and to track changes in habitat use over time using a survey methodology that incorporates more statistical rigor than traditional spot-mapping methods.

Occupancy monitoring surveys will be conducted at least once every five years for each preserve parcel, as described in Section 6.4.6. The standard methods to be used for habitat occupancy surveys of the covered species are described below. Alternate survey methods may be used provided that such methods are approved by Hays County and the USFWS in advance and are sufficient to achieve the survey purpose. The standard methods for occupancy monitoring surveys for the covered species include the following:

1. All personnel conducting occupancy monitoring surveys for the covered species must be covered by an USFWS Threatened and Endangered Species permit that authorizes the biologist to conduct surveys for the golden-cheeked warbler and black-capped vireo.
2. Surveys will be completed during the breeding seasons of the covered species, as follows:
  - a. Survey season for the golden-cheeked warbler starts March 15 and ends May 15; and
  - b. Survey season for the black-capped vireo starts April 10 and ends July 1.
3. Separate surveys will be conducted for warblers and vireos when habitat for each occurs within the same preserve parcel.
4. Survey visits may begin 30 minutes before sunrise and will end no later than eight hours after sunrise.
5. Surveys will include all areas of potential habitat for the covered species within a preserve parcel, including areas of potentially low quality or transitional habitat.

6. At least ten survey stations per 100 acres of potential habitat will be established, with each station positioned within potential habitat for the survey species and at least 200 meters apart. Survey stations will be arranged in a regular grid and positioned no closer than 100 meters of a preserve parcel edge, to the extent practicable given the size and shape of the particular survey area. The locations of all survey stations will be recorded in the field with GPS receivers capable of at least three meter accuracy.
7. Each survey station will be visited up to five times during the survey season or until presence of the survey species is established during that year. There will be at least 24 hours between visits to a station and all visits to a station will be completed within 30 days of the first visit.
8. Surveys at each station will last up to five minutes per visit or until presence of the survey species is established during that visit.
9. The order in which survey stations are visited will be varied among survey visits.
10. Surveys will be conducted on days when weather conditions are suitable for the detection of the survey species. Surveys will not be conducted on days with moderate or heavy rainfall or when sustained winds exceed approximately 25 miles per hour.
11. Surveyors will denote presence or absence of the survey species at each survey station for each visit to that station. Once presence has been established at a survey station, additional visits to that station are not needed for that year's survey. Presence at a survey station will be established with a visual or auditory observation of the survey species from that station, regardless of the sex, age, territorial behavior, precise location of the individual bird, or number of individuals of that species observed at that station.
12. Presence/non-presence data for the survey species will be analyzed with occupancy modeling software, such as the PRESENCE software program developed by Darryl MacKenzie of Proteus Research & Consulting Ltd. Under contract to the U.S. Geological Survey, to estimate occupancy and detection probabilities (with standard errors) for the survey species.
13. A report will be prepared for each survey documenting the results of the survey and indicating areas of presence or non-presence of the survey species. Reports will include the following information:
  - a. A description of the survey area, including parcel name, location, ownership, total size, acres of potential habitat for each of the covered species (i.e., the size of the survey area), and a general description of habitat conditions;
  - b. Conditions for each survey visit, including date, surveyor name, starting/ending times of survey visits, total survey time, and starting and ending weather conditions (i.e., temperature, wind speed and direction, cloud cover, and precipitation);
  - c. A matrix of detections for the survey species. Detection matrices will identify survey stations in rows and survey visits in columns, with a notation of absence, presence, or no visit for each cell in the matrix;
  - d. A summary of survey results, including estimates (with standard errors) of occupancy and detection probabilities for each of the covered species. Methods or statistical models used to derive occupancy and detection probabilities will be identified and described;
  - e. A map showing the location of the parcel, the extent of potential habitat within the parcel, and the location of survey stations classified by occupancy status; and
  - f. Digital copies of the survey report and the GIS database of survey results (including survey stations classified by occupancy status, parcel boundaries, and areas of potential habitat). All GIS data will be submitted in Texas State Plane Coordinates (South Central Zone), NAD83 datum, and map units of feet.

### **Territory Mapping Surveys**

Preserve managers will estimate the number of warblers and vireos utilizing each preserve parcel and use this information to prepare or update the baseline preserve evaluation for that parcel. This information will be obtained via breeding season surveys completed at least once every five years, as described in Section 6.4.6, for the warbler and vireo using methods that are sufficient to estimate the number of individuals of each species utilizing each preserve parcel during the survey year.

The standard methods to be used for territory mapping surveys of the covered species are described below and are based on bird territory spot-mapping methods. The methodology is adapted from the November 2007 version of the USFWS minimum procedures for determining the presence/absence of golden-cheeked warblers and black-capped vireos, with additional guidance on data collection and territory interpretation provided by the International Bird Census Committee (1970) and Bibby et al. (2000). Alternate survey methods may be used provided that such methods are approved by Hays County and the USFWS in advance and are sufficient to achieve the survey purpose.

The standard methods to be used for territory mapping surveys for the covered species are described below:

1. All personnel conducting population surveys for the covered species will be covered by an USFWS Threatened and Endangered Species permit that authorizes the biologist to conduct surveys for the golden-cheeked warbler and black-capped vireo.
2. Surveys will be completed during the breeding seasons of the covered species, as follows:
  - a. Survey season for the golden-cheeked warbler starts March 15 and ends May 15; and
  - b. Survey season for the black-capped vireo starts April 10 and ends July 1.
1. A minimum of 50 percent of the survey visits for the vireo will be completed between April 10 and May 31.
2. Survey visits may begin 30 minutes before sunrise and will end no later than eight hours after sunrise.
3. Surveys will include all areas of potential habitat for the covered species within a preserve parcel, including areas of potentially low quality or transitional habitat.
4. A complete survey will include at least five survey visits to each 100-acre unit of potential habitat within the preserve parcel, with each visit spaced at least five days apart.
5. Survey time for each visit will be at a rate of at least four hours for every 100 acres of potential habitat surveyed. A minimum of one hour of survey time per visit is required regardless of the number of acres surveyed. Therefore, the total survey time for a complete survey is at least 20 hours per 100 acres of potential habitat (with a minimum of five hours of total survey time for survey areas smaller than 25 acres).
6. Surveys will be conducted on days when weather conditions are suitable for the detection of the covered species. Surveys will not be conducted on days with moderate or heavy rainfall or when sustained winds exceed approximately 25 miles per hour.
7. Survey routes travelled during each visit will be designed to evenly cover the area of potential habitat for the covered species within a parcel (i.e., the survey area). The routes will be varied among visits to ensure that surveyors walk within 300 feet of all portions of the survey area at least once during the five survey visits. Starting and ending points and/or survey direction will also be varied for each survey visit.
8. Surveyors will quietly and slowly walk the survey route and record all detections of the covered species on field notes and maps (i.e., spot mapping observations). GPS receivers capable of at least three meter accuracy will be used to record the location of precise detections in the field.
9. Detections of the covered species will be recorded on detailed field maps and in field notes with standard mapping symbols as described in International Bird Census Committee (1970). Field



maps will be at a scale of no more than 1 inch = 400 feet and will contain base information sufficient to identify the observer's location and the location of bird detections, such as aerial imagery and/or topography. New field maps will be used for each survey visit. Additional field notes will be recorded as described below to interpret results.

10. Information about each warbler or vireo detection will be recorded on field maps and/or in field notes, including:
  - a. Species (i.e., warbler or vireo), sex, and age (i.e., adult or juvenile);
  - b. Detection type: a precise vs. imprecise detection, a territorial vs. nonterritorial detection (i.e., singing male vs. non-singing male), or an aggressive encounter between multiple birds;
  - c. Detection location precision (i.e., a standardized estimate of the precision of a detection location; for example, the true location of the bird is within 30, 60, 90, 120, 180, or 240+ feet of the recorded location);
  - d. Observations of movement for individual birds and observations of contemporary contacts between multiple birds; and
  - e. Other data, as applicable, such as observations of nests or behaviors.
11. Field data for bird detections will be entered into a GIS database (to include all GPS data and digitized versions of non-GPS data – including all point observations, precision buffers, and movement/contemporary lines). Data from individual surveys visits will be overlaid to interpret the results for a complete survey.
12. Bird detection data will be interpreted to estimate territory boundaries for individual warblers and vireos within or immediately adjacent to the preserve parcel, as described in Bibby et al. (2000). Approximate territory boundaries will be digitized and added to the GIS database of the survey results.
13. A report will be prepared for each survey documenting the results of the survey and estimating the number of warbler and vireos utilizing the preserve parcel. Reports will include the following information:
  - a. A description of the survey area, including parcel name, location, ownership, total size, acres of potential habitat for each of the covered species (i.e., the size of the survey area), and a general description of habitat conditions;
  - b. Conditions for each survey visit, including date, surveyor name, starting/ending times of survey visits, total survey time, and starting and ending weather conditions (i.e., temperature, wind speed and direction, cloud cover, and precipitation);
  - c. A summary of survey results, including the number of bird detections, the estimated number of warbler and vireo territories completely within, partially within, and immediately adjacent to the survey area.
  - d. A set of maps showing: 1) the location of the parcel and the extent of potential habitat within the parcel; 2) the combined survey routes for the complete survey; and 3) the combined survey results for the complete survey including individual bird detections and approximate territory boundaries.
  - e. Digital copies of the survey report and the GIS database of survey results (including bird detections, approximate territory boundaries, parcel boundaries, and areas of potential habitat). All GIS data will be submitted in Texas State Plane Coordinates (South Central Zone), NAD83 datum, and map units of feet.

**-- EXHIBIT "C" --**

**Additional Terms to the Services provided by Contractor, if any, are as follows:**

**A. N/A**

**B.** \_\_\_\_\_  
\_\_\_\_\_

**C.** \_\_\_\_\_  
\_\_\_\_\_

**D.** \_\_\_\_\_  
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**J.** \_\_\_\_\_  
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**K.** \_\_\_\_\_  
\_\_\_\_\_

**L.** \_\_\_\_\_  
\_\_\_\_\_

**EXHIBIT D**

**Certificate of Insurance**

## 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 a variance from Section 10 W-1 of the Hays County Rules for On-Site Sewage Facilities to the owner at 107 High Road, Kyle, TX 78610.

#### ITEM TYPE

ACTION-MISCELLANEOUS

#### MEETING DATE

December 17, 2019

#### AMOUNT REQUIRED

#### LINE ITEM NUMBER

#### AUDITOR USE ONLY

#### AUDITOR COMMENTS:

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

#### REQUESTED BY

STRICKLAND

#### SPONSOR

JONES

#### CO-SPONSOR

N/A

#### SUMMARY

The owner at 107 High Road, Kyle, TX is requesting a variance to section 10 W-1 of the Hays County Rules for On-Site Sewage Facilities. This section requires compliance that any structure or property used for residential, institutional, or commercial purposes shall be connected to an On-Site Sewage Facility permitted by the Department or a centralized sewage treatment facility permitted by the Texas Commission on Environmental Quality. The owner is requesting a variance to allow the temporary use of portable bathrooms during the times of the year, June 24th - July 4th and December 20th - December 31st, this establishment is open. These portable toilets will be serviced on-site during the open season and removed immediately after the establishment is no longer open to the public. Furthermore, this request is only applicable for the current business occupying the property, Mr. W Business, and if the establishment changes its practice or is open for longer durations of time, it will be required to obtain an On-Site Sewage Facility Permit from the Development Services Department. Justification is included in the backup.

## 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 additional naming on Utility Permits fee on the Hays County Development Services Fee Schedule.

#### ITEM TYPE

ACTION-MISCELLANEOUS

#### MEETING DATE

December 17, 2019

#### AMOUNT REQUIRED

#### LINE ITEM NUMBER

#### AUDITOR USE ONLY

#### AUDITOR COMMENTS:

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

#### REQUESTED BY

STRICKLAND

#### SPONSOR

JONES

#### CO-SPONSOR

N/A

#### SUMMARY

Utility Permits needs to be differentiated to :








Utility Permit (Overhead/Boring) \$50

Utility Permit (Trenching/Curb Cut) \$50

Boring could have fallen under the existing trenching, but the Transportation Department felt that it should be a \$50 permit.

## Permitting Fee Schedule Hays County, Texas

Jan-20

Development Permits		
	Development - Outside Special Flood Hazard Area (Outside Floodplain)	\$100 Class "A" (Habitable or Non-Habitable Structure)
	Development - Inside Special Flood Hazard Area (Inside Floodplain)	\$300 Class "B" (Habitable Structure)
	<i>Includes improvements, such as but not limited to any structure, dredging, filling, grading, excavation or storage of equipment or materials</i>	\$300 Class "C" (Non-Habitable Structure)
	Development Without a Permit - Fine (Inside Floodplain)	\$600 (Fine to be assessed w/ Permit Application Fee)
	Paper Application Processing Fee	\$30
On-Site Sewage Facility (OSSF) Permits		
	On-Site Sewage Facility Permit Application	\$275 Single Family Residence - Standard / Conventional System
		\$375 Single Family Residence - Advanced / Aerobic System
		\$500 Non-Single Family Residence - Standard / Conventional
		\$650 Non-Single Family Residence - Advanced / Aerobic System
	Reinspection Fee	\$100
	Design Resubmission	\$100
	Tie-In Inspection	\$100
	Sprayhead Relocation	\$200 (\$100 Resubmission & \$100 Inspection Fee)
	Pump Tank Replacement	\$200 (\$100 Resubmission & \$100 Inspection Fee)
	Conversion from Surface Application to Subsurface Drip Irrigation	\$375
	Aerobic Treatment Unit Replacement (Same as original design)	\$275
	Aerobic Treatment Unit Replacement (Any changes to original design)	\$375
	On-Site Sewage Facility Maintenance Contract Late Fee	\$50
	Paper Application Processing Fee	\$30
Food Establishment Permits		
	Food Establishment 1-15 Employees	\$200 Annually
	Food Establishment 16+ Employees	\$300 Annually
	Permit Review Fee	1/2 of Permit Fee (New Establishments Only)
	Food Establishment Non-Routine Inspection Fee	\$100
	<i>Non-Routine Inspection: Any inspection other than initial opening and/or two annual inspections</i>	
	Paper Application Processing Fee	\$30
Planning / Subdivision		
	Subdivision Plat / Plan Submittal	\$500 + \$450 per lot
	<i>With Floodplain</i>	Submittal fee plus \$300
	Subdivision Plat / Plan Submittal with 2 lots or less	\$500 + \$150 per lot
	<i>With Floodplain</i>	Submittal fee plus \$300
	Condominium Regime Plat Submittal	\$500 + \$450 per unit
	<i>With Floodplain</i>	Submittal fee plus \$300
	Revised plat and cancellation	\$200 + \$100 per lot or unit
	Subdivision Plat / Plan Review Fee	\$100 (Non-Refundable)
	Plat Submittal under 1445 Interlocal Agreement	\$370 per lot or unit
	<i>Interlocal Fees apply to following cities: Buda, Dripping Springs, Kyle, San Marcos, Wimberley, and Woodcreek</i>	
	Variance Request, per variance requested	\$100
	Release of easement	\$100
	Flood study review	based on actual cost of review
	Public notification for plat revision or cancellation	\$100 plus actual cost of notification
	<i>Includes certified mail and newspaper announcement</i>	
	<i>Applies to all subdivision applications not submitted via MyGovernmentOnline</i>	
	Paper Application Processing Fee	\$30
GIS / Mapping		
	Technical Services	\$ 30/Hour
	<i>Compile existing data into printed map, Print saved map file, New data research, Data conversion or reformatting, Report generation, Scanning or digitizing</i>	
	Professional Services	\$ 50/Hour
	<i>Create new data, Statistical analysis, Programming, GPS field data collection</i>	
	Printed 8½x11 Map**	\$0.50
	Printed 11x17 Map**	\$1.00
	Printed 24x36 Map**	\$17.25
	Printed 42x48 Map**	\$40
	<i>*Cost of printed maps are in addition to service fees and does not include tax.</i>	
	<i>*Maps larger than 11x17 are based on approximately \$0.02 per square inch.</i>	
Health Inspection		
	Day Care Inspection	\$100
	Foster Care Inspection	\$25
Driveway / Utility Permits		
	Driveway Permit	\$50
	Paper Application Processing Fee	\$30
	Utility Permit (ROW - Overhead / Boreing)	\$50
	Utility Permit (ROW - Trench / Road Cut)	\$125

# Permitting Fee Schedule Hays County, Texas

Jan-20

## Fire Marshal Fees

### Permits



Construction Permit w/plan review - up to 5000 square feet	\$150
Construction Permit w/plan review - > 5000 square feet	\$150 + \$.05 square foot
Site/Plat only - Single Family dwellings 1-5	\$75
Site/Plat only - Single Family >5 Multi Family and/or commercial	\$200
Fire Sprinkler System - 1-100 heads *	\$500
Fire Sprinkler System - each additional head >100 *	\$0.50
Fire Sprinkler Modification - up to 20 heads *	\$75
Fire Sprinkler Modification - each additional head > 20 *	\$0.50
Underground Fire Protection - when separate from the Sprinkler System*	\$250
Fire Pump - per pump*	\$250
Standpipe (Stand Alone) per system *	\$250
Water Supply Tank - per tank *	\$150
Fixed Fire Suppression System - Per system *	\$150
Fire Alarm System - 1-50 initiating and/or signaling devices *	\$200
Fire Alarm System - each additional initiating and/or signaling device >50 *	\$0.50
Fire Alarm System - Maximum fee *	\$1500
Fire Alarm Modification - up to 20 initiating or signaling devices *	\$75
Fire Alarm Modification - each additional initiating or signaling device *	\$0.50
Smoke Control System - Per system *	\$150
Petroleum Tank - Per system *	\$250
Tents and Membrane Structures - 400 to 600 square feet *	\$50
Tents and Membrane Structures - 601 to 1000 square feet *	\$75
Tents and Membrane Structures - 1001 square feet and over *	\$100
Fireworks - Display - Single shoot date *	\$100
Fireworks - Display - each additional consecutive shoot date per day *	\$50
Fireworks Sales - Outdoor Retail stands, per season *	\$100
Fireworks Sales - Outdoor Retail stands each additional stand, per season *	\$75
Fireworks Sales - Indoor Retail sales, per season *	\$200
Fireworks Sales - Indoor Retail sales each additional site, per season *	\$100
Operational Permit - listed in Section 105.6 of the IFC *	\$100
Bonfire *	\$50
Mass Gathering *	\$300
Special Permit - Other required permits not listed *	\$50
Taxing Entities Permit Fees (ISD's, ESD's, Municipalities, State or Federal)	50.00%

\* Includes one or one series of the required inspections. Additional or re-inspections see below for fees.


### Inspections



Final Inspection / Certificate of Compliance (CoC)	\$100
Building Inspection **	\$50
Change of Occupancy Type or Occupancy Load	\$50
License Inspections - Private School / Day Care - 25 or less	\$50
License Inspections - Private School / Day Care - 26 to 100	\$100
License Inspections - Private School / Day Care - 101 and greater	\$200
License Inspections - Nursing or Assisted Living	\$150
License Inspections - Hospitals	\$200
License Inspections - Medical/Dental Office	\$50
License Inspections - Institutional - Restrained	\$200
License Inspections - Licensed Group Home	\$75
License Inspections - Foster, Adoption, 501C3 and/or Taxing Entities	Exempt
Re-inspection Fee - First reinspection	\$75
Re-inspection Fee - Second reinspection	\$150
Re-inspection Fee - Third and subsequent reinspections	\$300
Fire Sprinkler System - Visual or Final - 1 to 50 heads **	\$50
Fire Sprinkler System - 51 to 100 heads **	\$100
Fire Sprinkler System - > 100 heads **	\$200
Fire Sprinkler Modification - up to 20 heads **	\$50
Fire Sprinkler Modification - each additional head > 20 **	\$75
Underground Fire Protection **	\$50
Fire Pump - per pump **	\$200
Standpipe - per system **	\$200
Water Supply Tank - per system **	\$50
Fixed Fire Suppression System - Per system **	\$50
Fire Alarm System - 1-50 initiating and/or signaling devices **	\$50
Fire Alarm System - 51-100 initiating and/or signaling devices **	\$100
Fire Alarm System - > 101 initiating and/or signaling devices **	\$200
Fire Alarm Modification - up to 20 initiating or signaling devices **	\$50
Fire Alarm Modification - > 21 initiating or signaling devices **	\$75
Smoke Control System - Per system **	\$50
Petroleum Liquid Tank - Per system **	\$50
Operational Permit - listed in Section 105.6 of the IFC **	\$50

\*\* for any additional inspections requested that are not part of the permit

### Other Fees / Penalties / Refunds



Paper plans and documents fee	\$1 per page
Late Fee on submittals with a minimum deadline	\$25.00 each
Project and/or Plan Consultation	\$50 per hour, 1 hour minimum
Plan Review w/o permit	\$50 per hour
Fire Watch, Fire Marshal or Fire Inspector	\$50 per hour
Triple permit fees -	Triple permit fees
The Fire Marshal may impose triple the fees if he finds construction, activity or occupancy requiring a permit exists and no permit has been issued.	
Fire Code Violations - Per offense/per day - Class C misdemeanor	\$200-\$2000
Fire Code Violations - Per day - Civil	\$200

**Refund Policy** = Full refund if project was not started; Partial at % or hour rate if project was started; no refund if project is completed.

## 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 the First Amendment to the Anthem Subdivision Phasing Agreement.

#### ITEM TYPE

ACTION-MISCELLANEOUS

#### MEETING DATE

December 17, 2019

#### AMOUNT REQUIRED

#### LINE ITEM NUMBER

#### AUDITOR USE ONLY

#### AUDITOR COMMENTS:

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

#### REQUESTED BY

STRICKLAND

#### SPONSOR

JONES

#### CO-SPONSOR

N/A

#### SUMMARY

The Anthem Phasing agreement was approved April 4th, 2017. The Anthem Subdivision has been updated and part of the subdivision has been made into a conservation easement. The execution of the agreement was to ensure the project would move forward with the development regulations set forth in 2017 and would allow for reasonable timelines for approvals for all final phases.

The first amendment to the phasing agreement will outline the new phasing timelines the developer has outlined for the county and the new amount of acreage for the entire site since part of the site has been put into conservation.



**FIRST AMENDMENT TO**  
**PHASING AGREEMENT – ANTHEM SUBDIVISION**

This First Amendment to the Phasing Agreement for the Anthem Subdivision (“Amendment”) is made this 17<sup>th</sup> day of December, 2019, by and between Hays County, a political subdivision of the State of Texas (hereinafter referred to as “County”) and Mountain City 150, LP (hereinafter referred to as “Subdivision Declarant”). The County and Subdivision Declarant are sometimes hereinafter collectively referred to as “the parties to this Agreement” or “the parties.” The original Phasing Agreement for Anthem Subdivision was executed by the parties on or about April 4, 2017.

**Section 1.01 “Exhibit A” referenced in this section of the Phasing Agreement for Anthem Subdivision is being replaced with the attached “Exhibit A” regarding the land (“Property”) acquired for the Project.**

**Section 2.03 “Exhibit B” referenced in this section of the Phasing Agreement for Anthem Subdivision is being replaced with the attached “Exhibit B” regarding the phasing table for the Project.**

**Section 2.04 “Exhibit B” referenced in this section of the Phasing Agreement for Anthem Subdivision is being replaced with the attached “Exhibit B” regarding the phasing table for the Project.**

**Section 4.02 “Exhibit B” referenced in this section of the Phasing Agreement for Anthem Subdivision is being replaced with the attached “Exhibit B” regarding the phasing table for the Project.**

EXCEPT FOR THE ABOVE MODIFICATIONS, ALL OTHER TERMS AND CONDITIONS OF THE AGREEMENT SHALL REMAIN UNCHANGED, UNLESS PROPERLY MODIFIED BY SUBSEQUENT AMENDMENT UNDER THE TERMS OF THE AGREEMENT.

**This First Amendment to the Phasing Agreement for Anthem Subdivision is hereby executed this the 17th day of December, 2019, as is evidenced by the authorized signatures of the Parties, below.**

**MOUNTAIN CITY, 150, LP**

**COUNTY**

\_\_\_\_\_  
**BY:**  
**Name:** \_\_\_\_\_  
**Title:** \_\_\_\_\_

\_\_\_\_\_  
**HAYS COUNTY, TEXAS**  
**RUBEN BECERRA**  
**HAYS COUNTY JUDGE**

**ATTEST:** \_\_\_\_\_  
**ELAINE CARDENAS**  
**HAYS COUNTY CLERK**

**EXHIBIT A**  
**PROPERTY DESCRIPTION**  
**422.996 ACRES**

**BEING 422.996 ACRES OF LAND LOCATED IN THE ANDREW DUNN LEAGUE, ABSTRACT NO. 4, THE JOHN COOPER SURVEY NO. 13, ABSTRACT NO. 100 AND THE JESSE DAY SURVEY, ABSTRACT 152 IN HAYS COUNTY, TEXAS AND BEING A REMAINDER OF THE SAME LAND CONVEYED TO MOUNTAIN CITY-150, L.P., CALLED TRACT 1, A 599.25 ACRE TRACT AND TRACT 2 A CALLED 73.693 ACRE TRACT AS DESCRIBED IN VOLUME 5272, PAGE 475 AND A CALLED 857 SQUARE FOOT TRACT 3 AND A 0.308 ACRE TRACT 4 AS DESCRIBED IN VOLUME 5272, PAGE 490 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS; SAID 422.996 ACRES OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:**

**BEGINNING** at a ½-inch iron rod located on the northwesterly right of way line of RM 150, an 80 foot wide public right of way, for the southwest corner of said 73.693 acre Tract 2, same being the northwest corner of a called 17.95 acre tract described in a deed to Robert and Linda Rosebrock recorded in Volume 1126, Page 236 of the Hays County Deed Records;

**THENCE**, with the northwest right of way line of said RM 150 the following courses and distances:

1. N45°54'47"W, 312.73 feet with the westerly line of said 73.693 acre tract to a Texas Department of Transportation Type 1 Concrete Monument;
2. N44°00'03"W, 1476.41 feet to a Texas Department of Transportation Type 1 Concrete Monument found at the beginning of a curve to the left;
3. with the arc of said curve to the left, passing the most southerly southwest corner of said 599.25 acre tract, a found 3/8-inch iron rod at an arc distance of 39.42 feet, passing the southerly corner of a 875 square foot and 0.308 acre tract described in a deed to Mountain City – 150, L.P. in Volume 5272, Page 490 and continuing for an arc distance of 568.29 feet, having a radius of 1185.90 feet, a central angle of 27°27'23" and a chord bearing and distance of N57°43'45"W, 562.87 feet to a ½-inch iron rod with cap stamped "AST" set for corner on said northwesterly right of way line, same being on the southerly line of a called 581.00 acre tract described in a deed to M I W L S, LP and being a re-entrant corner and most westerly south corner of the herein described tract;

**THENCE**, leaving the northwesterly right of way line of RM 150 and with the common line of said 581.00 acre tract and said 599.25 acre tract the following courses and distances:

1. N88°36'39"E, 1422.09 feet to a ½-inch iron pipe found for an angle point in said line;
2. N88°38'02"E, 25.14 feet to a Mag Nail in concrete for an interior ell corner of the herein described tract;
3. N01°42'12"W, 2818.15 feet to a found 8-inch diameter Cedar Fence Post for an interior ell corner of the herein described tract;
4. S87°57'12"W, 2442.13 feet to a found 8-inch diameter Cedar Fence Post for an exterior ell corner of the herein described tract, same being the southeast corner of said 752.05 acre tract;

**THENCE**, with the westerly line of said 599.25 acre tract, same being the easterly line of said 752.05 acre tract the following courses and distances:

1. N01°27'27"E, 1085.94 feet to a ½-inch iron rod with cap stamped "AST" found;

**THENCE**, leaving said westerly line and crossing said 599.25 acre tract, same being the south line of a called 250.097 acres to the City of Austin in Document No. 19010061 of the Official Public Records of Hays County, Texas the following courses and distances:

2. N42°57'57"E, 440.38 feet to a ½-inch iron rod with cap stamped "AST" found for corner;
3. N20°52'40"E, 1067.39 feet to a ½-inch iron rod with cap stamped "AST" found for corner;
4. N37°09'29"E, 492.15 feet to a ½-inch iron rod with cap stamped "AST" found for corner;
5. S85°09'20"E, 319.53 feet to a ½-inch iron rod with cap stamped "AST" found for corner;
6. N84°25'47"E, 294.59 feet to a ½-inch iron rod with cap stamped "AST" found for corner to the beginning of a curve to the left;
7. with the arc of a non-tangent curve to the left, 511.24 feet, having a radius of 871.82 feet, a central angle of 33°35'56" and a chord bearing and distance of N68°19'13"E, 503.95 feet to a ½-inch iron rod with cap stamped "AST" found for corner and a point of compound curvature;
8. with a compound curve to the left, 763.84 feet, having a radius of 1431.82 feet, a central angle of 30°33'56" and a chord bearing and distance of N32°21'48"E, 754.81 feet to a ½-inch iron rod with cap stamped "AST" found for corner;
9. N08°59'58"E, 277.34 feet to a ½-inch iron rod with cap stamped "AST" found for corner;
10. N09°56'17"E, 409.55 feet to a ½-inch iron rod with cap stamped "AST" found for corner;
11. with the arc of a non-tangent curve to the left, 835.46 feet, having a radius of 2082.16 feet, a central angle of 22°59'23" and a chord bearing and distance of N48°50'55"E, 829.87 feet to a ½-inch iron rod with cap stamped "AST" found for corner;
12. N37°50'06"E, 277.44 feet to a ½-inch iron rod with cap stamped "AST" found for corner;
13. N45°32'16"E, 192.35 feet to a ½-inch iron rod with cap stamped "AST" found for corner on the southwesterly line of a called 1974.77 acre tract described in a deed as Tract 6, and recorded in Volume 3533, Page 150 of said deed records and being on the northeasterly line of said 599.25 acre tract;

**THENCE**, with said southwesterly line, same being the northeasterly line of said 599.25 acre tract, S47°09'20"E, 189.32 feet to a 5-inch diameter Cedar fence post found with 3 mag nails and shiner at the north corner of Tract 4, Indian Creek Ranch Subdivision as recorded in Volume 6, Page 59 of the Hays County Plat Records;

**THENCE**, leaving the southwesterly line of said 1974.77 acre tract, and with easterly line of said 599.25 acre tract the following courses and distances:

1. With the westerly line of said Indian Creek Ranch Tract 4, S06°08'47"W, 1374.75 feet to a ½-inch iron pipe found at the southwest corner of said tract 4, same being the northwest corner of Tract 2 of said Indian Creek Ranch and angle point in said easterly line;
2. With the westerly line of said Tract 2, S06°09'17"W, 3133.57 feet to a 6-inch diameter fence post at the southwest corner of said Tract 2 and an angle point in said easterly line;

3. With the southerly line of said Tract 2, N89°16'58"E, 1309.43 feet to a ½-inch iron pipe found at the southeast corner of said Tract 2, same being on the westerly line of Tract 1 of said Indian Creek Ranch and an angle point in said easterly line;
4. With the westerly line of said Tract 1, S00°29'12"E, 431.49 feet to a ½-inch iron pipe found for an angle point in said line;
5. S29°40'46"W, 298.05 feet to a ½-inch iron pipe for angle point in said line;
6. S34°36'44"W, 477.34 feet to an iron rod found with cap stamped RPLS 4542 at the southwest corner of said Tract 1, same being on the northerly line of a tract conveyed to the Hays Consolidated Independent School District (deed recital unknown);
7. S87°30'03"W, 5.50 feet to an iron rod with cap stamped "McMillan" for the northwest corner of said School District Tract;
8. S11°36'28"W, 614.17 feet to an iron rod with cap stamped "McMillan" for an angle point in said line;
9. S10°09'51"W, 395.16 feet to an iron rod with cap stamped "McMillan" for an angle point in said line;
10. S10°11'50"W, 101.83 feet to an iron rod with cap stamped "McMillan" for an angle point in said line;
11. S10°09'55"W, 625.50 feet to an iron rod with cap stamped "McMillan" for an angle point in said line;
12. S12°41'22"W, 447.62 feet to a Nail in a 6-inch fence corner post for an angle point in said line;
13. S42°49'53"W, 93.56 feet to a 30-inch Live Oak tree for an angle point in said line;
14. S00°59'19"W, 13.67 feet to an iron rod with cap stamped RPLS 4542 at the southwest corner of said School District tract and the southeast corner of said 599.25 acre tract and being a point on the northerly line of said 73.693 acre Tract 2;

**THENCE**, with the northerly line of said 73.693 acre tract, N88°39'49"E, passing a ½-inch iron rod at 243.73 feet and continuing for a total distance of 325.41 feet to a ½-inch iron rod on the southerly line of said School District tract and being the northwest corner of Lot 6, Century Acres, a subdivision of record in Volume 6, Page 53 of the Hays County Plat Records;

**THENCE**, with said easterly line of said 73.693 acre tract and with the westerly line of said Lot 6 and 7 of said Century Acres and the easterly line of said Lot 2B and 2C Resubdivision of Lot 2B of the Resubdivision of Lot 2 Century Acres of record in Document No. 17040812 of the Hays County Official Public Records, S13°28'59"E, 1658.91 feet to a ½-inch iron pipe found for the southeast corner of said 73.693 acre tract, same being the southwest corner of said Lot 2B and the common northerly corner of Lots 8 and 9 of Meadow Woods Section Two, a subdivision of record in Volume 3, Page 188 of said Plat Records, same being the northeast corner of said 17.95 acre tract;

**THENCE**, with the northerly line of said 17.95 acre tract, same being the southerly line of said 73.693 acre tract, S88°38'38"W, passing an iron rod with cap stamped "McMillan" at 103.02 feet and continuing for a total distance of 1505.09 feet to the **POINT OF BEGINNING** and containing, 422.996 acres of land, more or less.

# MAP OF ANTHEM MUNICIPAL UTILITY DISTRICT BOUNDARY

SCALE: 1" = 1000'

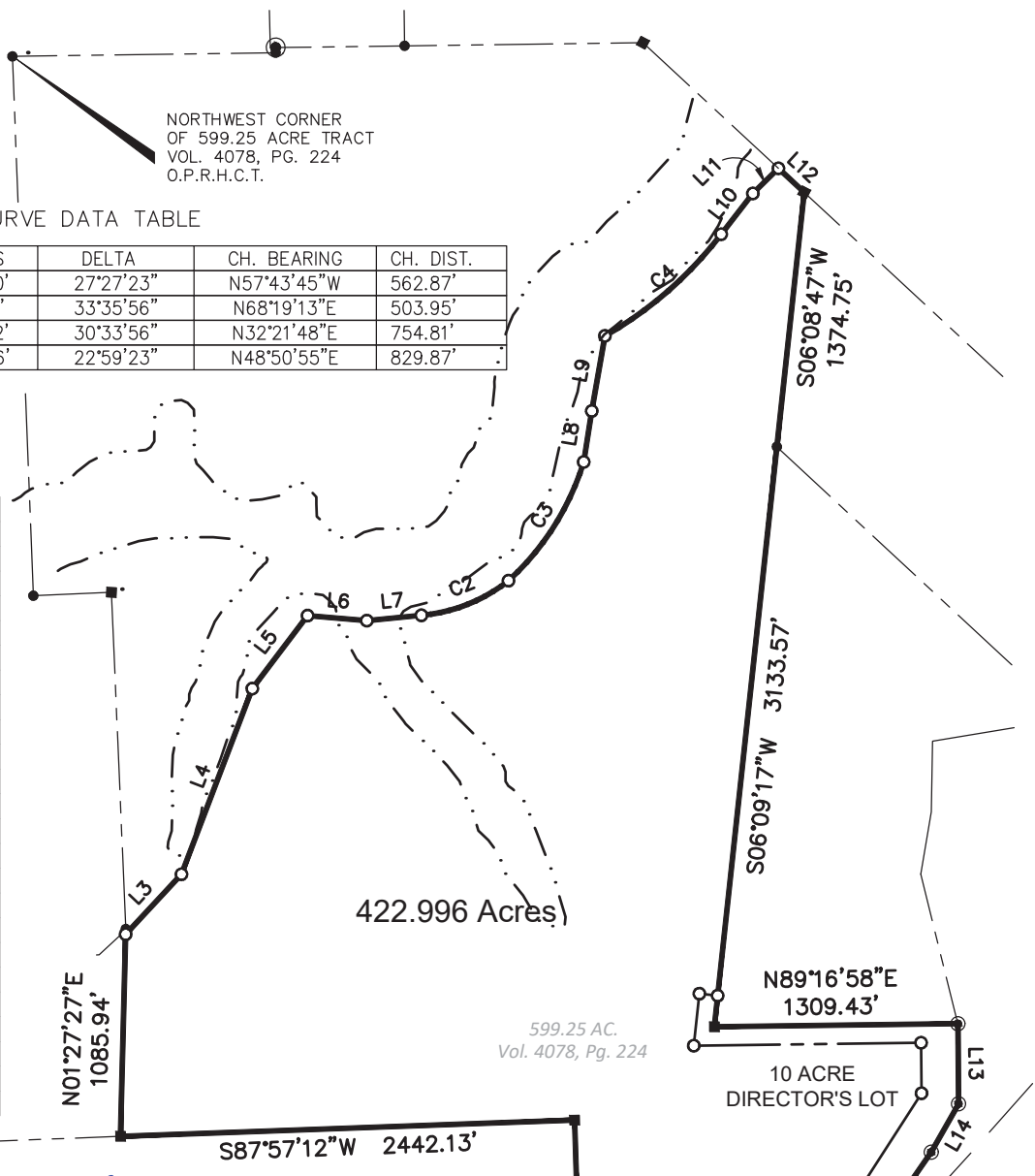
NORTHWEST CORNER  
OF 599.25 ACRE TRACT  
VOL. 4078, PG. 224  
O.P.R.H.C.T.

CURVE DATA TABLE

NO.	ARC DIST.	RADIUS	DELTA	CH. BEARING	CH. DIST.
C1	568.29'	1185.90'	27°27'23"	N57°43'45"W	562.87'
C2	511.24'	871.82'	33°35'56"	N68°19'13"E	503.95'
C3	763.84'	1431.82'	30°33'56"	N32°21'48"E	754.81'
C4	835.46'	2082.16'	22°59'23"	N48°50'55"E	829.87'

LINE TABLE

NO.	BEARING	DIST.
L1	N45°54'47"W	312.73'
L2	N88°38'02"E	25.12'
L3	N42°57'57"E	440.38'
L4	N20°52'40"E	1067.39'
L5	N37°09'29"E	492.15'
L6	S85°09'20"E	319.53'
L7	N84°25'47"E	294.59'
L8	N08°59'58"E	277.34'
L9	N09°56'17"E	409.55'
L10	N37°50'06"E	277.44'
L11	N45°32'16"E	192.35'
L12	S47°09'20"E	189.32'
L13	S00°29'12"E	431.49'
L14	S29°40'46"W	298.05'
L15	S34°36'44"W	477.34'
L16	S87°30'03"W	5.50'
L17	S11°36'28"W	614.17'
L18	S10°09'51"W	395.16'
L19	S10°11'50"W	101.83'
L20	S10°09'55"W	625.50'
L21	S12°41'22"W	447.62'
L22	S42°49'53"W	93.56'
L23	S00°59'19"W	13.67'
L24	N88°39'49"E	325.41'



## SURVEYOR'S STATEMENT

I HEREBY STATE THAT INFORMATION SHOWN ON THIS MAP IS THE RESULT OF AN ACTUAL SURVEY MADE ON THE GROUND UNDER MY SUPERVISION IN FEBRUARY 2019. ALL BEARINGS ARE BASED ON THE TEXAS COORDINATE SYSTEM, SOUTH CENTRAL ZONE NAD83.



## SKETCH TO ACCOMPANY PROPERTY DESCRIPTION

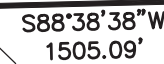
PAGE 1 OF 2



DATE: MARCH, 2019  
SCALE: 1"=1000'  
CHECKED BY: PCS  
DRAFTED BY: SAR  
DESIGNED BY:

ANTHEM MUNICIPAL  
UTILITY DISTRICT  
BOUNDARY

# BOUNDARY



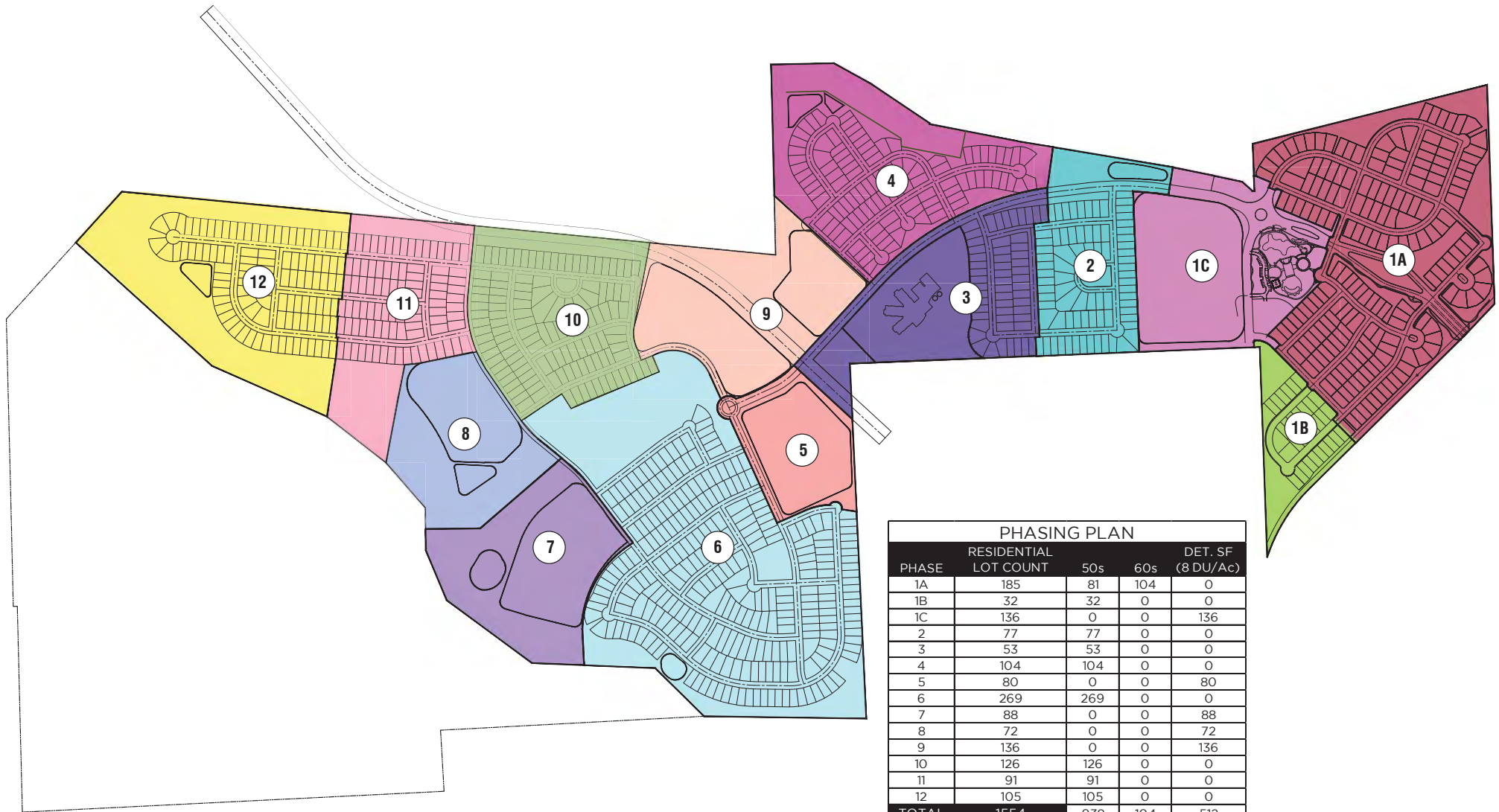
354

## Exhibit B

### PHASING PLAN - Anthem Schedule

APPROX FINAL PLAT SUBMITTAL DATE	PHASE	APPROXIMATE RESIDENTIAL LOT COUNT	50'S	60'S	Dettached SF (8DU.Ac)
12/31/2020	1C	136	0	0	136
12/31/2021	2	77	77	0	0
12/31/2022	3	53	53	0	0
12/31/2023	4	104	104	0	0
12/31/2024	5	80	0	0	80
12/31/2025	6	269	269	0	0
12/31/2026	7	88	0	0	88
12/31/2027	8	72	0	0	72
12/31/2028	9	136	0	0	136
12/31/2029	10	126	126	0	0
12/31/2030	11	91	91	0	0
12/31/2031	12	105	105	0	0
<b>TOTAL</b>		<b>1337</b>	<b>825</b>	<b>0</b>	<b>512</b>





PHASING PLAN				
PHASE	RESIDENTIAL LOT COUNT	50s	60s	DET. SF (8 DU/Ac)
1A	185	81	104	0
1B	32	32	0	0
1C	136	0	0	136
2	77	77	0	0
3	53	53	0	0
4	104	104	0	0
5	80	0	0	80
6	269	269	0	0
7	88	0	0	88
8	72	0	0	72
9	136	0	0	136
10	126	126	0	0
11	91	91	0	0
12	105	105	0	0
TOTAL	1554	938	104	512



## **PHASING AGREEMENT – ANTHEM SUBDIVISION**

This Phasing Agreement for the **ANTHEM** Subdivision (this "Agreement"), is made and entered into effective as of the 4<sup>th</sup> day of April, 2017, (the "Effective Date") by and between the Hays County, Texas (the "County") and **MOUNTAIN CITY 150, LP** (the "Subdivision Declarant" or "Declarant"). The County and Declarant are sometimes referred to herein as the "Parties". The Parties agree as follows:

### **Purposes, Term and Consideration**

- 1.01. Declarant has acquired 673.272 acres of land, more particularly described in Exhibit "A" attached hereto and incorporated herein by reference. The above-described property, whether one or more parcels, is hereinafter referred to as the "Property".
- 1.02. Declarant is authorized to enter into this Phasing Agreement with County. The County is authorized to enter into this Phasing Agreement with Declarant by authority of Chapter 232 of the Texas Local Government Code, Subchapter E, and Chapter 771 of the Hays County Development Regulations.
- 1.03. Declarant desires to subdivide the Property as a single family residential subdivision in accordance with the Concept Master Plan as more particularly described in the Map depicted in Exhibit "C" attached hereto and incorporated herein by reference.
- 1.04. The benefit to the Parties set forth in this Agreement which exceed the minimum requirements of State law and Hays County Development Regulations are good and valuable consideration for this Agreement, the sufficiency of which is hereby acknowledged by both Parties.

### **The Project**

- 2.01. The Project, as that term is described in Chapter 245, Texas Local Government Code, is the master planning and subdivision platting of the Property into a maximum of 1,900 single family residential home sites; the laying out of streets, parks, open space, drainage facilities and other improvements; the installation of electric, telephone, cable communication facilities; and the construction of water lines, sewer lines, the construction of water production, treatment and storage facilities. The project is subject to the Hays County Development Regulations as they existed on April 4, 2017 except as modified by this Agreement.
- 2.02. Declarant and County agree that before Hays County will accept for recording any final subdivision plat of all or any portion of the Property:
  - A. Declarant shall construct all streets and drainage facilities dedicated by said final plat in accordance with County street and drainage standards or provide fiscal surety for 100% of the estimated cost of street and drainage improvements.
  - B. Declarant shall demonstrate to the County's reasonable satisfaction that it has developed or secured contract commitments from a State approved public water supply in sufficient capacity to serve the final plat portion of the Property.

- C. Declarant shall demonstrate to the County's reasonable satisfaction that it has secured a public wastewater system disposal or non-discharge permit from the TCEQ in accordance with Chapter 26 of the Texas Water Code with sufficient capacity to serve each final plat portion of the Property.
- 2.03 The Project will be designed, developed, installed and constructed in proposed multiple phases, which are included in the Master Concept Plan and Phasing Table in Exhibits "B" and "C". Variations in the proposed phase boundaries and lot counts included in the Master Concept Plan and Phasing table, as necessary to improve the overall design of the Project, shall be acceptable per this agreement. However, the total number of home sites in the project may not exceed 1,900.
- A. Multiple Preliminary Plans will be submitted by the Declarant that will include all the phases listed in the Master Concept plan. The proposed number of home sites in final plat of each phase may also vary from the approved Preliminary Plan by plus or minus ten percent (10%).
  - B. At the time of the final plat application submission for each phase, the Declarant agrees to pay a review fee of \$500 plus an additional \$400 per residential lot. The \$400 per lot review fee is based on the total number of residential lots in each final plat submitted. No other fee shall be required.
- 2.04 The Parties agree that, if Declarant fails to submit a final plat application within one (1) year after the dates provided for any of the proposed phases described in Exhibit "B", that the Project shall expire, that the submittal of a new Master Concept Plan for the Anthem Subdivision shall be required, and that, for the purposes of Chapter 245 of the Texas Local Government Code, Declarant's new "project" shall run from the date the new Master Concept Plan is submitted to the County.

### **The County Street and Drainage Standards**

- 3.01 Declarant and County agree that all internal streets and driveways within the Property shall be built in accordance with Hays County Street and Drainage Construction Standards cited in Chapters 721 and 725 of the Hays County Development Regulations, as those Regulations existed on April 4, 2017 except as modified by this Agreement.
- A. This agreement shall modify the Hays County Development Regulations as presented in the Proposed Street Design Standards included in Exhibit "D".
- 3.02 All internal street improvements shall be initially built at Declarant's sole and exclusive costs and expense. Declarant may, but shall not be required to, seek formation of a Fresh Water Supply District, Water Control Improvement District or other statutory district to finance and develop the streets, drainage and utility infrastructure necessary to serve the Property.
- 3.03 The County agrees to timely process one or more preliminary subdivision plans and final plats of the Property submitted by Declarant's licensed engineer in accordance with the Hays County Development Regulations, as those standards existed on April 4, 2017 except as modified by this Agreement, and in accordance with the Concept Master Plan attached hereto as Exhibit "C", which shall be approved on the Effective Date of this Agreement.

- 3.04 Declarant shall dedicate to the County with each final plat of a portion of the Property all ***rights of way containing roads and related drainage improvements*** within said final plat and dedicate to the appropriate utility service provider all electric, water, sewer and communication utility easements as necessary to serve the final plat.
- 3.05 Declarant agrees to dedicate ***ownership and maintenance of all storm water treatment and detention ponds*** within each final plat section of the Property to a Fresh Water Supply District, Water Control Improvement District, other statutory district or a homeowner association. The drainage and detention facilities shall be built in accordance with County standards, as those standards existed on September 30, 2016 except as modified by this Agreement, and shall be designed to serve the Property assuming fully developed conditions, but shall not be required to assume developed conditions of any off-site properties. The Project shall adopt the FEMA approved 24-hour duration storm model, assuming fully developed storm conditions. FEMA permitting will follow applicable NFIP regulations.

#### **Assignment of Commitments and Obligations**

- 4.01 Declarant's right and obligation under this Agreement may be assigned by Declarant to one or more purchasers of all or any portion of the Property.
- 4.02 Upon approval of the Master Concept Plan, this Agreement and the associated Master Concept Plan shall be binding upon the Parties, their successors and assigns and shall be effective for a duration through the final phase as shown in the Phasing Table in Exhibit "B", unless expired under the provisions set for in this agreement or renewed and extended by mutual agreement of the Parties.

#### **Default**

- 5.01 Notwithstanding anything herein to the contrary, no Party shall be deemed to be in default hereunder until the passage of thirty (30) business days after receipt by such party of notice of default from the other party. Upon the passage of thirty (30) business days without cure of the default, such party shall be deemed to have defaulted for purposes of this Agreement.

#### **Notices**

- 6.01 Any notice to be given hereunder by any party shall be in writing and may be effected by personal delivery or by sending said notice by registered or certified mail, return receipt requested, to the addresses set forth below. Notice shall be deemed given when deposited with the United States Postal Service with sufficient postage affixed.

Any notice mailed to Hays County shall be addressed to:

Roxie McInnis  
PO Box 1006  
San Marcos, TX 78667-1006  
(512) 393-2167

Any notice mailed to Declarant shall be addressed to:

Clark Wilson  
3801 N. Capital of Texas Highway, Suite E-240-226  
Austin, TX 78746

Any Party may change the address for notice to it by giving notice of such change in accordance with the provisions of this section.

**Entire Agreement**

- 7.01 This Agreement, together with any exhibits attached hereto, constitutes the entire Agreement between Parties hereto, and may not be amended except in writing signed by all Parties and dated subsequent to the date hereof.

(SIGNATURES FOLLOW ON THE NEXT PAGE)

The above-stated Subdivision Agreement for the **ANTHEM** Subdivision is hereby EXECUTED in multiple originals to be effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 2017.

**HAYS COUNTY TEXAS**

By: Bert Cobb  
Name: Bert Cobb, M.D.  
Title: Hays County Judge

Date: April 4, 2017



Attest: Liz Q. Gonzalez  
Liz Q. Gonzalez  
Hays County Clerk Deputy

**MOUNTAIN CITY 150, LP**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

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

THE STATE OF TEXAS     §  
                                      §  
COUNTY OF TRAVIS     §

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2017, by, \_\_\_\_\_ of \_\_\_\_\_ general partner to \_\_\_\_\_, on behalf of said partnership.

\_\_\_\_\_  
NOTARY PUBLIC, State of Texas

**EXHIBIT “A”**  
**Metes and Bounds Description of the Property**

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**EXHIBIT   A**  
**PROPERTY DESCRIPTION**  
**ANTHEM MUNICIPAL UTILITY DISTRICT**

**BEING 673.272 ACRES OF LAND LOCATED IN THE ANDREW DUNN LEAGUE, ABSTRACT NO. 4, THE JOHN COOPER SURVEY NO. 13, ABSTRACT NO. 100 AND THE JESSE DAY SURVEY, ABSTRACT 152 IN HAYS COUNTY, TEXAS AND BEING THE SAME LAND AS CONVEYED TO NANCE RANCH, LP AND DESCRIBED IN VOLUME 4078, PAGE 224; VOLUME 5272, PAGE 368 AND VOLUME 4295, PAGE 756 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS; SAID 673.272 ACRES OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:**

**BEGINNING** at the northwest corner of a 599.25 acre tract as described in Volume 4078, Page 224 of said Official Public Records;

1. **THENCE**, with the northerly line of said 599.25 acre tract the following courses and distances:  
N89°44'27"E, 1414.84 feet to an angle point in said line;
2. N00°47'00"W, 27.78 feet to an angle point in said line;
3. N89°49'59"E, 693.95 feet to an angle point in said line;
4. N89°43'25"E, 1281.43 feet to an angle point in said line and being the most northeast corner of said 599.25 acre tract;

**THENCE**, with the easterly line of said 599.25 acre tract the following courses and distances:

1. S46°37'03"E, 1182.14 feet to an angle point in said line;
2. S06°41'04"W, 1375.37 feet to an angle point in said line;
3. S06°41'00"W, 3134.13 feet to an angle point in said line;
4. N89°47'57"E, 1309.23 feet to an angle point in said line;
5. S00°03'06"W, 431.75 feet to an angle point in said line;
6. S30°14'27"W, 298.09 feet to an angle point in said line;
7. S35°07'45"W, 477.50 feet to an angle point in said line;
8. S88°16'31"W, 5.47 feet to an angle point in said line;
9. S12°09'44"W, 614.10 feet to an angle point in said line;
10. S10°42'11"W, 395.16 feet to an angle point in said line;
11. S10°42'20"W, 101.87 feet to an angle point in said line;
12. S10°41'15"W, 625.60 feet to an angle point in said line;
13. S13°14'09"W, 447.64 feet to an angle point in said line;
14. S43°33'08"W, 93.70 feet to an angle point in said line;
15. S00°50'36"E, 13.89 feet to an angle point in said line on the northerly line of a called 73.693 acre tract as described in Volume 5272, Page 368 of said Official Public Records;

**THENCE**, with said northerly line, N89°09'26"E, 325.03 feet to the northeast corner of said 73.693 acre tract;

**THENCE**, with the easterly line of said 73.693 acre tract, S12°56'41"E, 1659.13 feet to the southeast corner of said 73.693 acre tract;

**THENCE**, with the southerly line of said 73.693 acre tract, S89°11'02"W, 1505.27 feet to the southwest corner thereof, same being on the easterly right of way line of Farm to Market Road 150 (FM 150);

**THENCE**, with the easterly line of said FM 150 the following courses and distances:

1. N45°21'37"W, 312.78 feet;
2. N43°27'44"W, 1477.29 feet to the beginning of a curve to the left;
3. With the arc of said curve to the left, passing at an arc distance of 39.59 feet the southwest corner of said 599.25 acre tract and continuing along said arc a distance of 566.15 feet having a radius of 1185.90 feet, a central angle of 27°21'12" and a chord bearing and distance of N57°08'19"W, 560.79 feet to a point of cusp on said right of way line and being the northwest corner of a 0.308 acre tract described in Volume 4295, Page 756 of said Official Public Records;

**THENCE**, with the northerly line of said 0.308 acre tract, N89°08'48"E, passing at 182.53 feet, the reentrant corner of said 599.25 acre tract and continuing for a total distance of 1420.79 feet;

**THENCE**, continuing with the southerly line of said 599.25 acre tract, N89°09'24"E, 25.02 feet to an angle point;

**THENCE**, with the westerly line of said 599.25 acre tract the following courses and distances:

1. N01°10'10"W, 2817.76 feet to an angle point in said line;
2. S88°30'04"W, 2442.06 feet to an angle point in said line;
3. N01°59'01"E, 1114.84 feet to an angle point in said line;
4. N01°53'36"W, 1811.51 feet to an angle point in said line;
5. S87°49'31"W, 420.43 feet to an angle point in said line;
6. N01°41'08"W, 2899.83 feet to the **POINT OF BEGINNING** and containing 673.272 acres of land, more or less.

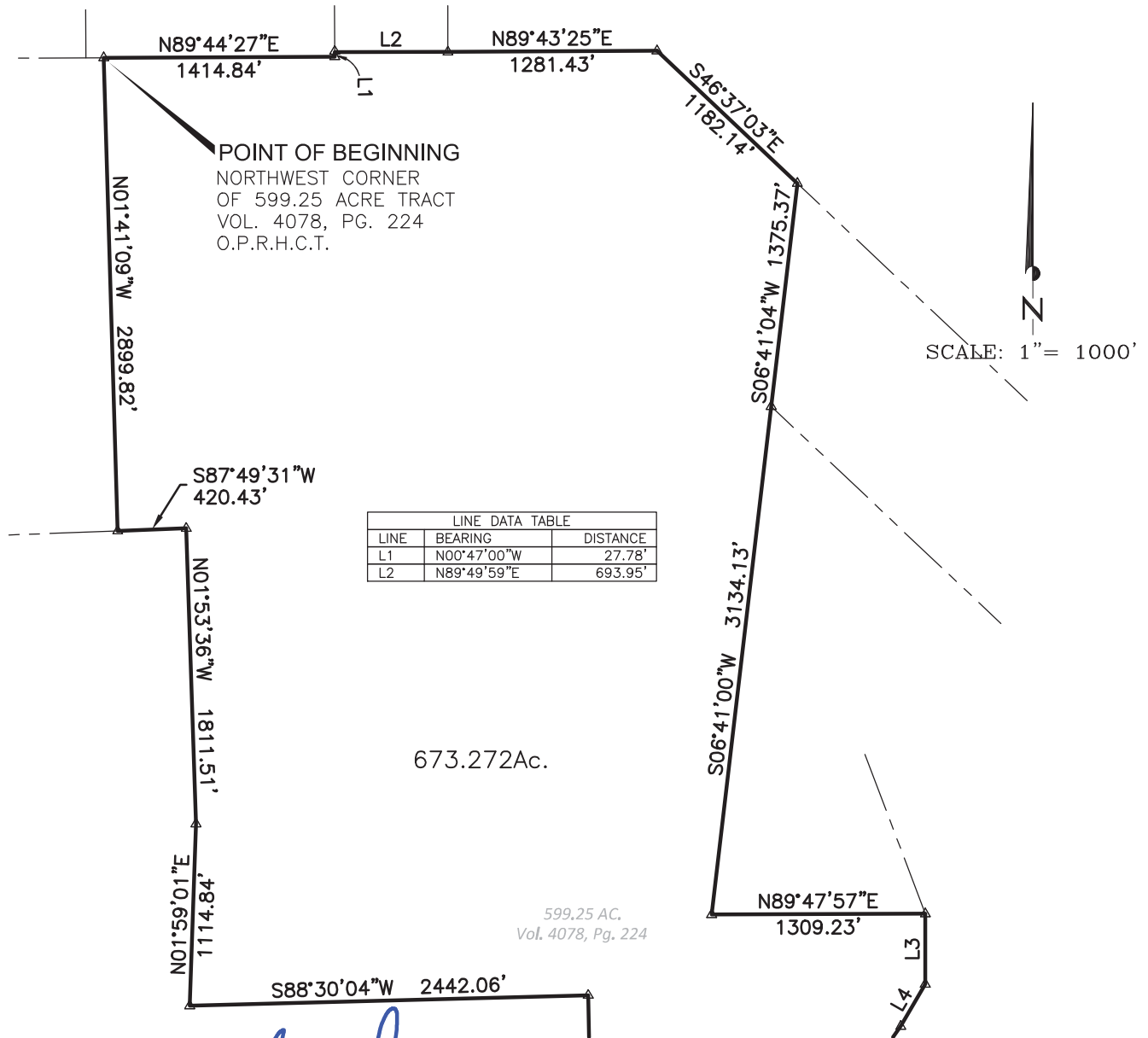
**THIS DOCUMENT WAS PREPARED UNDER 22 TAC §663.21, DOES NOT REFLECT THE RESULTS OF AN ON THE GROUND SURVEY, AND IS NOT TO BE USED TO CONVEY OR ESTABLISH INTERESTS IN REAL PROPERTY EXCEPT THOSE RIGHTS AND INTERESTS IMPLIED OR ESTABLISHED BY THE CREATION OR RECONFIGURATION OF THE BOUNDARY OF THE POLITICAL SUBDIVISION FOR WHICH IT WAS PREPARED.**

  
March 1, 2016





# MAP OF ANTHEM MUNICIPAL UTILITY DISTRICT BOUNDARY



THIS DOCUMENT WAS PREPARED UNDER 22 TAC §663.21, DOES NOT REFLECT THE RESULTS OF AN ON THE GROUND SURVEY, AND IS NOT TO BE USED TO CONVEY OR ESTABLISH INTERESTS IN REAL PROPERTY EXCEPT THOSE RIGHTS AND INTERESTS IMPLIED OR ESTABLISHED BY THE CREATION OR RECONFIGURATION OF THE BOUNDARY OF THE POLITICAL SUBDIVISION FOR WHICH IT WAS PREPARED.

SKETCH TO ACCOMPANY  
PROPERTY DESCRIPTION

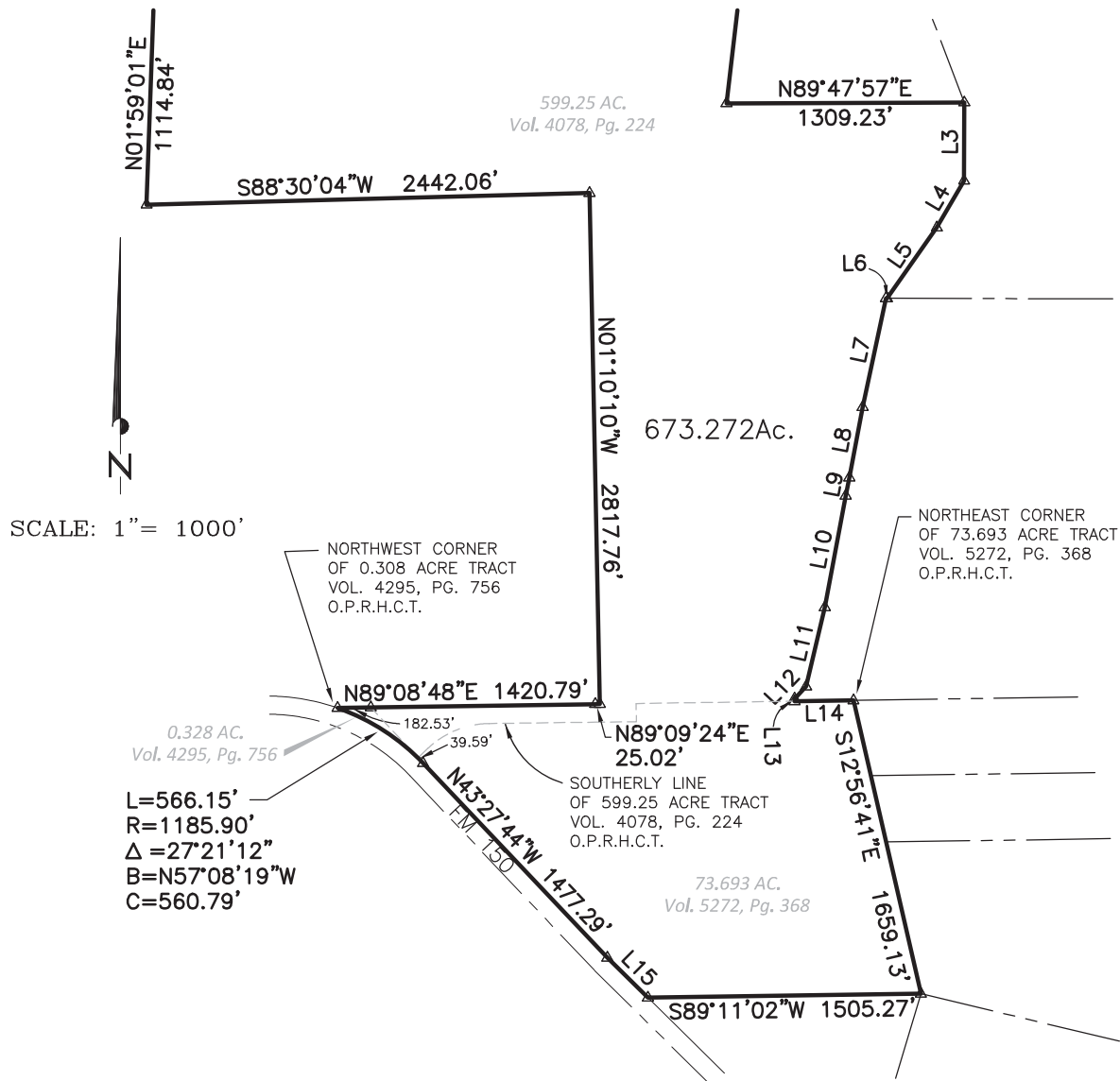
PAGE 3 OF 4



AUSTIN SPATIAL TECHNOLOGIES, LLC  
LAND SURVEYORS - GEOMATIC SPECIALISTS  
TBPLS FIRM CERTIFICATION NO. 10173100  
PH: 512-394-0264

DATE: FEBRUARY, 2016  
SCALE: 1"=1000'  
CHECKED BY: PCS  
DRAFTED BY: PC  
DESIGNED BY:

ANTHEM MUNICIPAL  
UTILITY DISTRICT  
BOUNDARY



LINE DATA TABLE		
LINE	BEARING	DISTANCE
L3	S00°03'06"W	431.75'
L4	S30°14'27"W	298.09'
L5	S35°07'45"W	477.50'
L6	S88°16'31"W	5.47'
L7	S12°09'44"W	614.10'
L8	S10°42'11"W	395.16'
L9	S10°42'20"W	101.87'
L10	S10°41'15"W	625.60'
L11	S13°14'09"W	447.64'
L12	S43°33'08"W	93.70'
L13	S00°50'36"E	13.89'
L14	N89°09'26"E	325.03'
L15	N45°21'37"W	312.78'

SKETCH TO ACCOMPANY  
PROPERTY DESCRIPTION

PAGE 4 OF 4



AUSTIN SPATIAL TECHNOLOGIES, LLC  
LAND SURVEYORS - GEOMATIC SPECIALISTS  
TBPLS FIRM CERTIFICATION NO. 10173100  
PH: 512-394-0264

DATE : FEBRUARY, 2016  
SCALE : 1"=1000'  
CHECKED BY: PCS  
DRAFTED BY: PC  
DESIGNED BY:

ANTHEM MUNICIPAL  
UTILITY DISTRICT  
BOUNDARY

**EXHIBIT “B”**  
**Phasing Table**

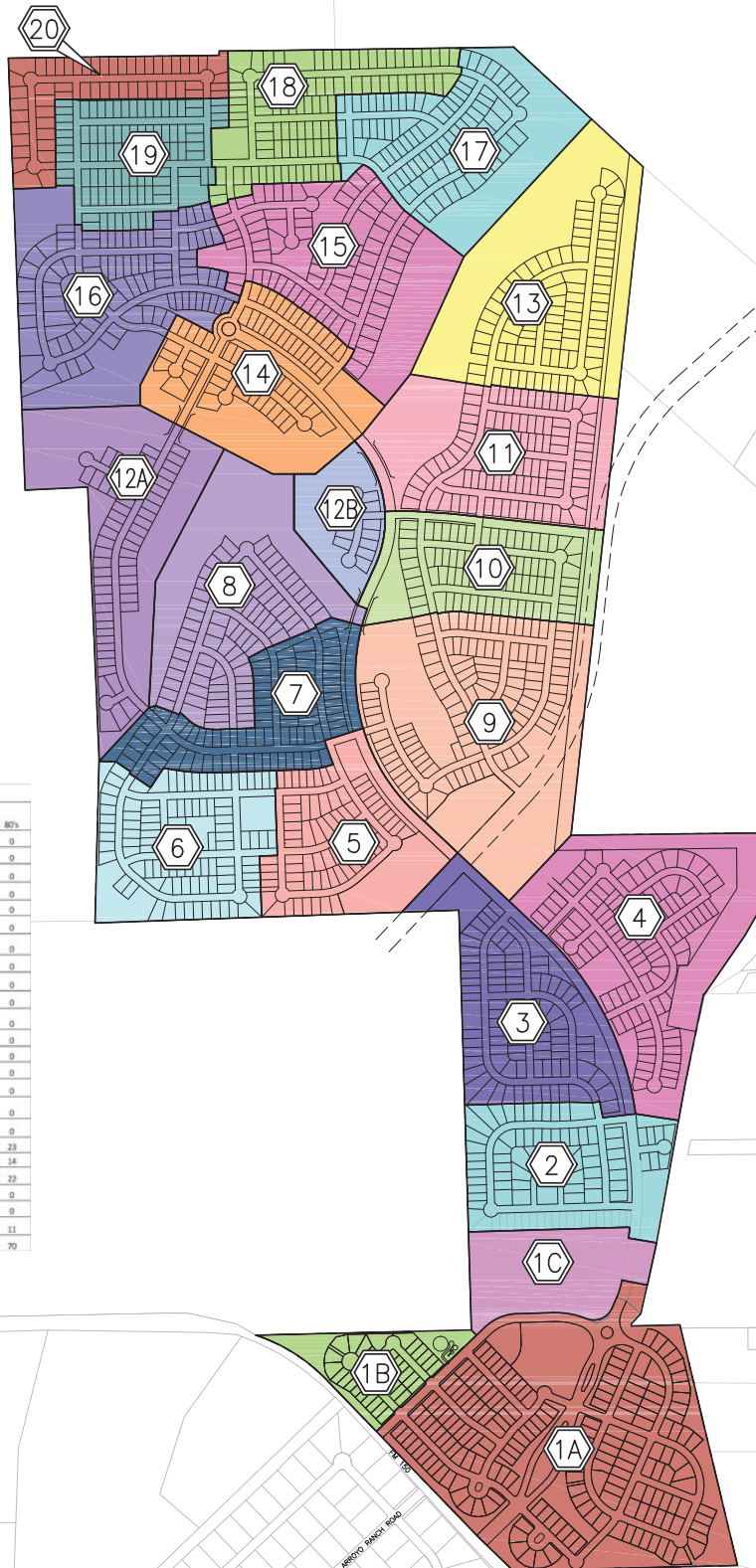
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EXHIBIT B  
Phasing Table - Anthem Subdivision

PHASING PLAN						
APPROX FINAL PLAT SUBMITTAL DATE	PHASE	APPROXIMATE RESIDENTIAL LOT COUNT	50'S	60'S	70'S	80's
12/31/2016	1A	185	80	105	0	0
12/31/2017	1B	34	34	0	0	0
12/31/2017	1C	0	0	0	0	0
12/31/2018	2	85	36	37	12	0
12/31/2019	3	90	54	32	4	0
12/31/2020	4	102	55	32	15	0
12/31/2021	5	72	53	19	0	0
12/31/2022	6	96	59	35	2	0
12/31/2023	7	88	77	0	11	0
12/31/2024	8	81	31	19	31	0
12/31/2025	9	112	65	36	11	0
12/31/2026	10	81	62	19	0	0
12/31/2027	11	100	71	29	0	0
12/31/2028	12A	58	7	44	7	0
12/31/2028	12B	12	0	12	0	0
12/31/2029	13	88	30	40	18	0
12/31/2030	14	65	28	37	0	0
12/31/2031	15	77	0	37	17	23
12/31/2032	16	95	56	4	21	14
12/31/2033	17	85	55	8	0	22
12/31/2034	18	96	53	43	0	0
12/31/2035	19	93	93	0	0	0
12/31/2036	20	56	6	32	7	11
<b>TOTAL</b>		<b>1851</b>	<b>1005</b>	<b>620</b>	<b>156</b>	<b>70</b>

**EXHIBIT “C”**  
**Master Concept Plan**

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PHASING PLAN						
COMPLETION DATE	PHASE	RESIDENTIAL LOT COUNT	50%	60%	70%	80%
2017	1A	185	80	105	0	0
2018	1B	34	34	0	0	0
2018	1C	0	0	0	0	0
2019	2	85	36	37	12	0
2020	3	90	54	32	4	0
2021	4	102	55	32	15	0
2022	5	72	53	19	0	0
2023	6	96	59	35	2	0
2024	7	88	77	0	11	0
2025	8	81	31	19	31	0
2026	9	112	65	36	11	0
2027	10	81	62	19	0	0
2028	11	100	71	29	0	0
2029	12A	58	7	44	7	0
2030	12B	12	0	12	0	0
2031	13	88	30	40	18	0
2032	14	65	28	37	0	0
2033	15	77	0	37	17	23
2034	16	95	56	4	21	14
2035	17	85	55	8	0	22
2036	18	96	53	43	0	0
2037	19	93	93	0	0	0
2038	20	56	6	32	7	11
TOTAL		1851	1005	629	156	70

FM 150

AIRPORT RANCH BLVD

ANTHEM - MASTER CONCEPT PLAN



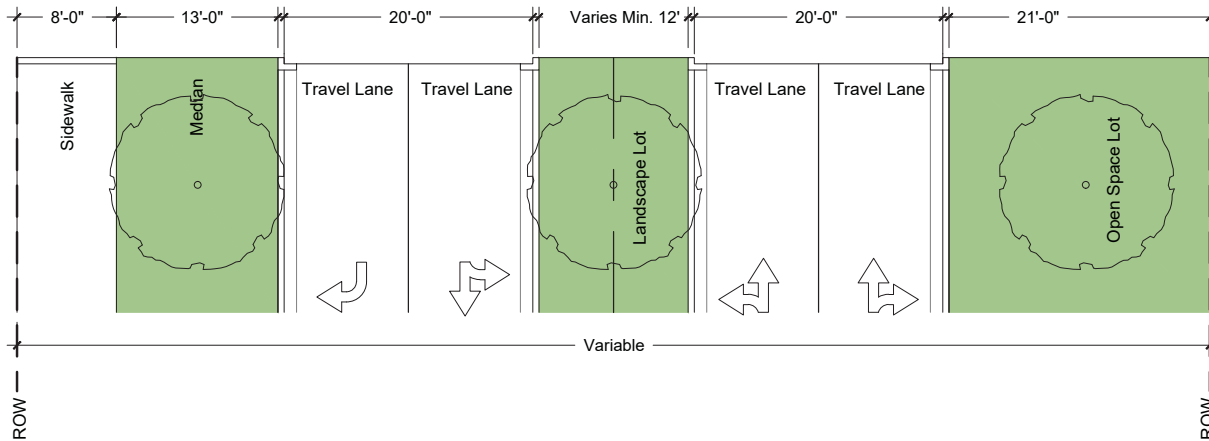
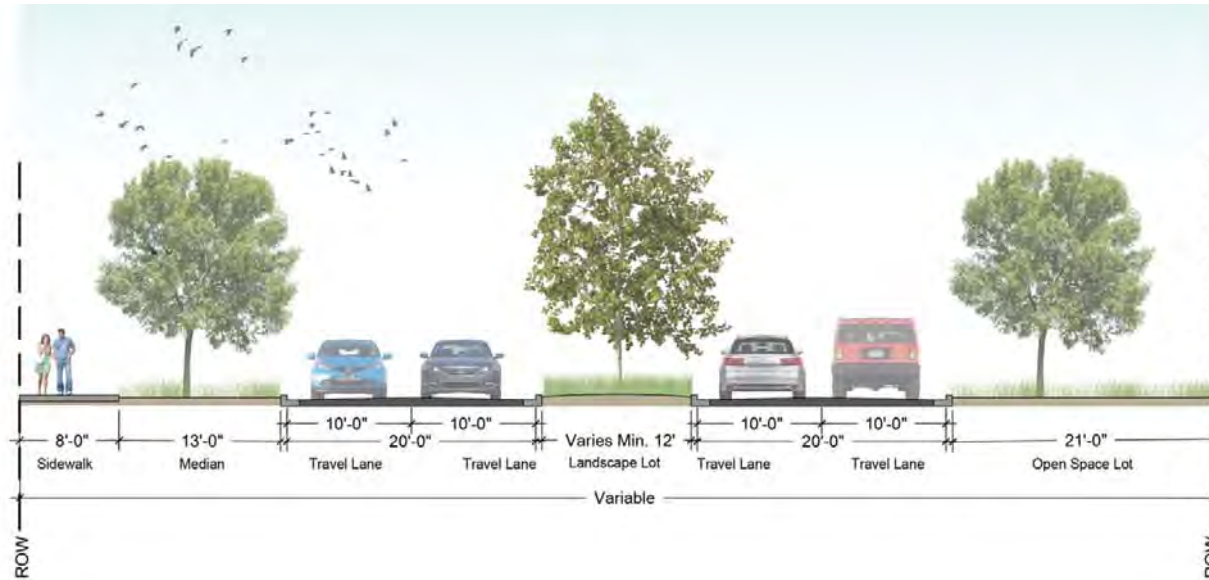
Texas Engineering Solutions  
3815 S. Capital of Texas Hwy, Suite 300  
Austin, Texas 78704  
O: 512-904-0505  
F: 512-904-0509  
TSPE No. 11206

**EXHIBIT “D”**  
**Street Design Standards – Anthem Subdivision**

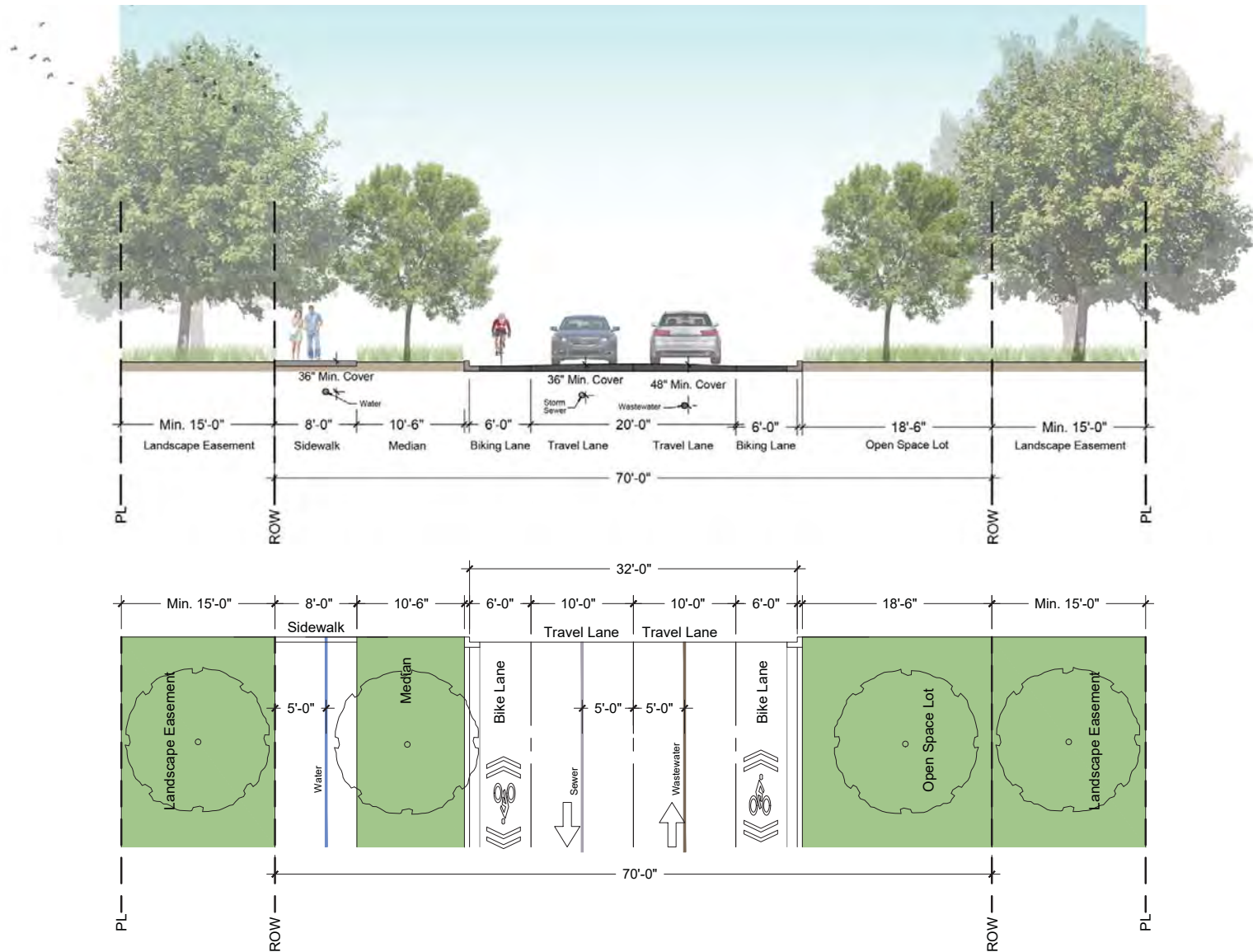
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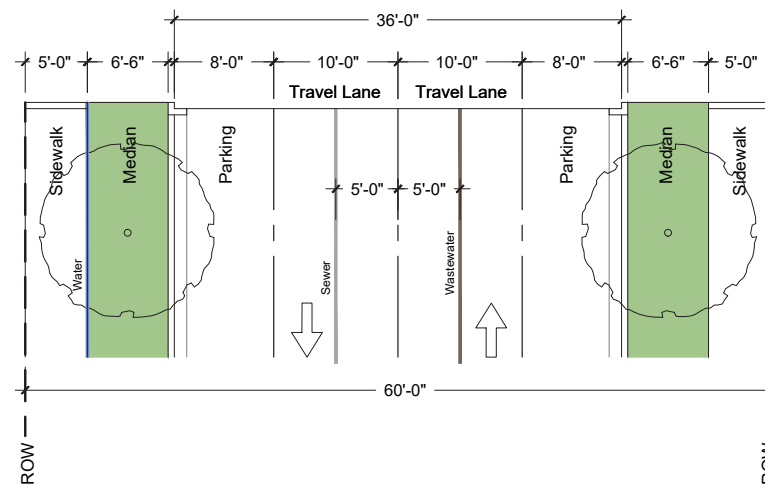
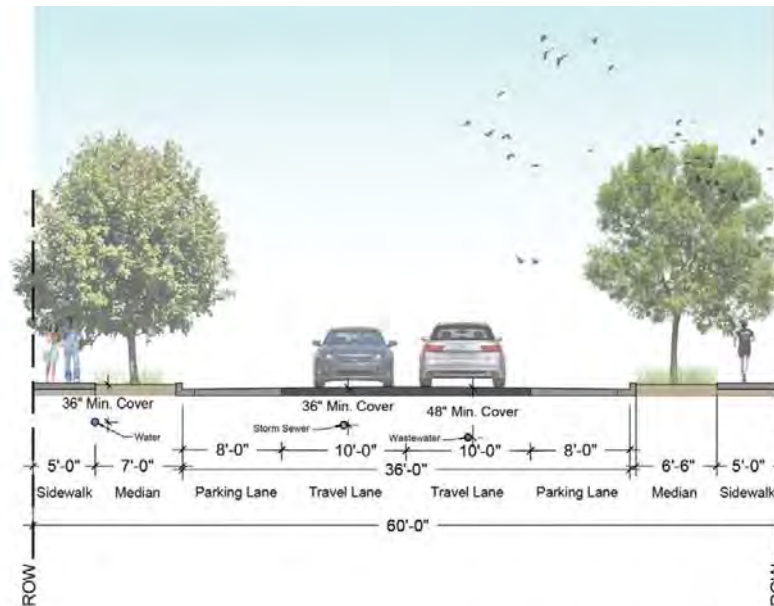


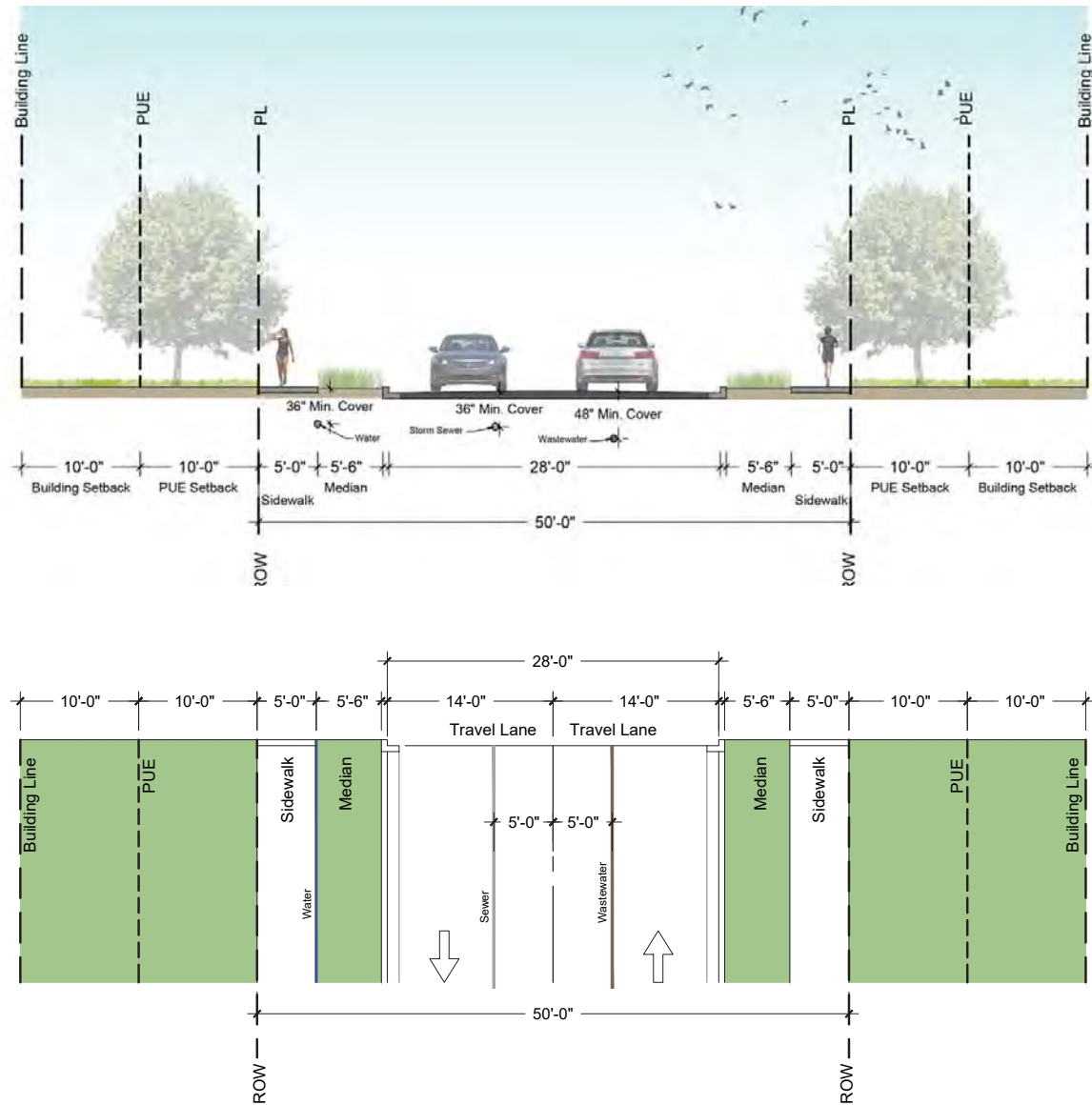












	<b>EC-1</b>	<b>EC-2</b>	<b>RC-1</b>	<b>RC-2</b>	<b>RS-1</b>
Design Speed	35 mph	35 mph	35 mph	35 mph	25 mph
Min. ROW Width (ft)	60'	60'	70'	60'	50'
Building Setback (ft)	20'	20'	20'	20'	20'
FOC-FOC (ft)	(2) 20'	(2) 18'	32'	36'	28'
Min. Centerline Radius (ft)	300'	300'	300'	300'	180
Min. Tangent Length between Reverse or Compound Curves (ft)	100'	100'	100'	100'	50'
Pavement at Intersections (ft)	25'	25'	25'	25'	15'
Min. Cul-de-sac ROW/Pavement Radius (ft)	n/a	n/a	n/a	n/a	60'/40'
Min. "Knuckle"ROW/Pavement Radius (ft)	n/a	n/a	n/a	n/a	50'/39'
Bike Lane	NO	YES	YES	NO	NO
Curb and Gutter	YES	YES	YES	YES	YES
Sidewalk width (ft)	8'	8'	8'	5'	5'
On street parking	NO	NO	NO	YES	YES

## 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 new Master Services Agreement between Hays County, Texas and Securus Technologies, Inc. related, but not limited to, the inmate telephone communication system, video visitation system, deployment of tablets, and law library services.

#### ITEM TYPE

ACTION-MISCELLANEOUS

#### MEETING DATE

December 17, 2019

#### AMOUNT REQUIRED

#### LINE ITEM NUMBER

#### AUDITOR USE ONLY

#### AUDITOR COMMENTS:

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

#### REQUESTED BY

CUTLER

#### SPONSOR

SHELL

#### CO-SPONSOR

N/A

#### SUMMARY

The County's current contract with Securus Technologies does not expire until June 2020. However, there exists additional equipment and technology upgrades needed and desired for the new jail expansion prior to the termination of the current contract. This new MSA adds that additional equipment and technology, as well as the equipment and technology currently utilized by the jail. This MSA is for a five (5) year period for services related to the inmate telephone communication system, video visitation system, deployment of tablets, and law library services.



**Master Services Agreement  
Hays County Law Enforcement Center (TX)**

This Master Services Agreement (this "Agreement") is by and between Hays County Law Enforcement Center ("you" or "Customer") and Securus Technologies, Inc., ("we," "us," or "Provider"). This Agreement supersedes any and all other agreements (oral, written, or otherwise) between the parties and is effective as of the later of the last date signed by either party (the "Effective Date").

WHEREAS, the parties agree that Provider will deploy certain products and services according to the terms and conditions herein and in the attached Schedule(s), which are incorporated by reference;

NOW THEREFORE, in consideration of the mutual promises and covenants herein, the parties agree as follows:

1. Applications. This Agreement specifies the general terms and conditions under which we will provide certain software, hardware, systems, and services (collectively, the "Application(s)") to you. Additional Application-specific terms and conditions are stated in schedules to this Agreement (the "Schedules"), which are incorporated into and subject to the terms of this Agreement. In the event of any conflict between this Agreement and a Schedule, the Schedule will govern. The Applications include any incremental upgrades, modifications, updates, and additions to existing features that we may implement in our discretion (the "Updates"), but do not include additional features or significant enhancements to existing features. If Applications are provided by subsidiaries of Provider, the terms of this Agreement apply with equal effect to those subsidiaries.
2. Term. The Agreement begins on the Effective Date and ends 60 months thereafter, with a modified end date of June 16, 2025 (the "Initial Term"). The terms and conditions of this Agreement will continue to apply for so long as we continue to provide the Applications to you after the expiration or earlier termination of this Agreement.
3. Compensation and Cost. The compensation and cost for each Application, if any, is stated in the Schedules. For Applications paid for via commission deductions, in any given month, if commissions earned are less than the Application's monthly cost, then Customer may be sent an invoice for the remaining amount. Unless stated otherwise in a Schedule, all invoices will be due and payable within 30 days after the invoice date. Provider reserves the right to charge interest on overdue invoices at the lower of (a) 15% per annum or (b) the maximum rate allowed by law, and to deduct any unpaid invoice balance plus any accrued interest from any amounts owed to Customer by Provider until Provider is paid in full.
4. Ownership of Applications and Grant of License to Customer. Other than as specifically set forth in the Agreement, Provider does not grant or otherwise convey any license or other ownership right in or to the Applications or any technology or intellectual property rights associated with the Applications. Provider grants Customer a personal, limited, non-exclusive, non-transferable license (without the right to sublicense) to access and use the Applications solely as contemplated by the Agreement (the "Customer License").
5. Additional Terms of Customer License. In connection with the Customer License, Customer agrees that (a) it will not resell, assign, or otherwise transfer the Applications or any portions thereof; (b) it will only use the Applications for lawful purposes and will not transmit, retransmit, or store material associated with the Applications in violation of any federal or state laws or regulation; (c) it will not provide access to the Applications to third parties; (d) it will not connect the Applications to any products that Provider did not furnish or approve in writing; (e) it will not create derivative works based on the Applications; (f) it will not disassemble, reverse engineer, decompile, or otherwise attempt to reveal the code, trade secrets, or know-how underlying the Applications or allow any third party to do so; (g) it will not remove, obscure, or alter any intellectual property right or confidentiality notices or legends appearing in or on any aspect of any Applications; (h) it will be responsible for distributing and assigning licenses to its end users; and (i) it will monitor and ensure that its licensed end users comply with these terms.
6. Ownership and Use of Certain Data Associated With the Applications. Customer will own recorded inmate communications associated with the Applications (the "Customer Data"). During this Agreement and for a reasonable period of time thereafter, we will provide you with access to the Customer Data. Customer grants Securus a perpetual, worldwide, non-exclusive, non-transferable right to use the Customer Data (the "Securus License").



7. Grant of License from Customer to Provider. You grant us the exclusive right and license to install, maintain, and derive revenue from the Applications at all correctional facilities under your authority now and in the future during the term of this Agreement. Subject to the remaining terms and conditions of this Agreement, Provider will be the sole and exclusive provider of inmate-related communications, whether fixed, mobile or otherwise, including but not limited to voice, video, and data (e.g., phone calls, video calls, messaging, prepaid calling cards, debit calling, and e-mail) and inmate software applications (e.g., automated grievance filing system, law library, etc.) at all correctional facilities now or in the future under the authority of Customer and to the exclusion of any other third party providing such inmate communications and software, including without limitation, Customer's employees, agents, or subcontractors.

8. Third-Party Software. You are the license holder of any third-party software products we obtain on your behalf in connection with the Applications. You authorize us to provide the third-party software and agree that we may agree to the third-party End User License Agreements ("EULAs") on your behalf. Your rights to use any such third-party software product will be limited by the terms of the applicable EULA. The deployment of certain features and functionalities within Provider's Applications which utilize third-party content or services may require a direct agreement between you and the third party as a condition which must be fulfilled prior to deployment.

9. Express Warranties. Unless a Schedule states otherwise, Provider offers the following express warranties in connection with the Applications:

- a. Express Warranty for Hardware and Software Deployed By Provider. For hardware and software deployed by Provider, we agree to repair and maintain such hardware and software in good operating condition (ordinary wear and tear excepted), including, without limitation, furnishing all parts and labor during the term of the Agreement. All such maintenance will be provided at our sole cost and expense except as noted below in this section. You agree to promptly notify us in writing after discovering any misuse of or destruction, damage, or vandalism to the equipment. We will have no obligation to repair or maintain such hardware or software, if the Applications are, without our knowledge and approval, interfaced with other devices or software owned or used by your or a third party, or if the Applications are otherwise damaged as a result of your actions.
- b. Express Warranty for Hardware Purchased By Customer. If Customer purchases from Provider any hardware components in connection with the services hereunder ("Hardware Components"), Provider warrants such components to be free from material defects under normal use, maintenance, and service for a period of 12 months from the date of sale. Provider makes no warranty with respect to low performance, damages, or defects in any Hardware Component caused by misuse, misapplication, neglect, or accident, nor does Provider make any warranty as to any Hardware Component that Customer has repaired or altered in any way. When applicable, Provider will replace the required parts or components at no cost.
- c. Express Warranty for Services Provided. Provider warrants that the services it provides will be performed in a good and workmanlike manner consistent with industry standards and practices. Provider warrants that its agent(s) and/or employee(s) used by it in the performance of its obligations will be qualified to perform the contracted services. Should any errors or omissions arise in the rendering of the services under this Agreement, Provider will undertake to correct such errors or omissions within a reasonable time period.

10. Disclaimer of Warranties. EXCEPT AS SPECIFICALLY SET FORTH IN SECTION 9 OF THIS AGREEMENT OR A SCHEDULE OF THIS AGREEMENT, THE APPLICATIONS ARE PROVIDED "AS IS" AND WE DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ANY IMPLIED WARRANTY ARISING FROM A COURSE OF DEALING OR USAGE OF TRADE, AND NONINFRINGEMENT.

11. Service Level Agreement. Provider will provide service for the Applications as specified at <https://securustechnologies.tech/servicelevelagreement/>.

12. Customer's Compliance With Applicable Laws. For Applications that allow you to monitor, record, investigate, or analyze inmate communications, you represent and warrant that you will operate such Applications in compliance with all applicable laws, and Provider makes no representation or warranty as to the legality of such actions. To the fullest extent allowed by law, you agree to be responsible for any loss, cost, claim, liability, damage, and expense (including, without limitation, reasonable attorney's fees and expenses) arising out your non-compliance with applicable laws. You may designate certain communications (for example, attorney or clergy communications) as "Private" within certain of the Applications. You acknowledge and agree that you have the sole discretion, authority, and responsibility to designate certain communications as Private, and that we have no discretion, authority, or responsibility to make such designations, unless done so at your

instruction. Further, to the fullest extent allowed by applicable law, you agree to be responsible for any loss, cost, claim, liability, damage, and expense (including, without limitation, reasonable attorney's fees and expenses) arising out of the recording or monitoring of communications that you should have but failed to designate as Private.

13. Confidentiality. The Applications and related records and information (the "Confidential Information") will remain confidential to Provider. Customer understands and acknowledges that Provider is required by Section 222 of the Communications Act of 1934, as amended, 47 U.S.C. Section 222, to maintain the confidentiality of "Customer Proprietary Network Information", or "CPNI", which protects from disclosure consumers' sensitive personal information (including phone numbers called by a consumer; the frequency, duration, and timing of such calls; and any services purchased by the consumer). Customer will not disclose CPNI or Confidential Information to any third party without Provider's prior written consent. If you receive a request for disclosure of Confidential Information or CPNI pursuant to FOIA or its state equivalent, you agree to notify Provider in writing so we may assert any rights to non-disclosure under the applicable law.

14. Defense of Claim. Customer agrees to provide prompt written notice of any claim, demand, or cause of action made or brought against Customer arising out of or related to operation of the Applications (a "Claim"). We have the right, in our sole and exclusive discretion, to defend any such Claim at our sole cost, expense, and discretion. You agree not to compromise or settle any such Claim without our prior written consent. You acknowledge and agree to assist us with our defense of any such Claim.

15. Indemnity. TO THE EXTENT LEGALLY PERMISSIBLE, EACH PARTY (THE "INDEMNIFYING PARTY") WILL INDEMNIFY THE OTHER PARTY AND ITS OFFICERS, DIRECTORS, AGENTS, AND EMPLOYEES (COLLECTIVELY, THE "INDEMNIFIED PARTY") AND HOLD THE INDEMNIFIED PARTY HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, LIABILITIES, LOSSES, COSTS AND DAMAGES (INCLUDING WITHOUT LIMITATION COURT COSTS AND REASONABLE ATTORNEYS' FEES), WHICH THE INDEMNIFIED PARTY OR ANY OF ITS OFFICERS, DIRECTORS, AGENTS, EMPLOYEES MAY INCUR OR SUFFER THAT ARE CAUSED BY THE INDEMNIFYING PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

16. Default and Termination. If either party defaults in the performance of any obligation under this Agreement, the non-defaulting party will give the defaulting party written notice detailing the nature of the default. If the defaulting party fails to cure its default within 30 days after receipt of such notice, the non-defaulting party will have the right to terminate this Agreement upon 30 days' written notice and to pursue all other remedies available, either at law or in equity. Notwithstanding the foregoing, the 30 day cure period will be extended to 90 days if the default is not reasonably amenable to cure within such 30 day period, but only if the defaulting party diligently pursues to cure the default in good faith during the 30 day period. Notwithstanding the foregoing, if Customer breaches its obligations in Sections 4, 5, 7, 12, 13, or 14, Provider will have the right to terminate this Agreement immediately.

17. Limitation of Liability. NEITHER PARTY WILL HAVE ANY LIABILITY FOR INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES, LOSS OF PROFITS OR INCOME, LOST OR CORRUPTED DATA, OR LOSS OF USE OR OTHER BENEFITS, HOWSOEVER CAUSED, EVEN IF DUE TO THE PARTY'S NEGLIGENCE, BREACH OF CONTRACT, OR OTHER FAULT, AND EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. OUR AGGREGATE LIABILITY TO YOU RELATING TO OR ARISING OUT OF THIS AGREEMENT, WHETHER IN CONTRACT, TORT, OR OTHERWISE, WILL NOT EXCEED THE AMOUNT WE PAID YOU DURING THE 12 MONTH PERIOD BEFORE THE DATE THE CLAIM AROSE.

18. Uncontrollable Circumstance. We reserve the right to renegotiate or terminate this Agreement without penalty upon 60 days' written notice if circumstances outside our control (including, without limitation, changes in rates, regulations, or operations mandated by law; material reduction in inmate population or capacity; material changes in jail policy or economic conditions; actions you take for security reasons (e.g., Lockdowns); or acts of God) negatively impact our business; however, we will not unreasonably exercise such right. Further, Customer acknowledges that Provider's provision of the services is subject to certain federal, state, or local regulatory requirements and restrictions that are subject to change from time-to-time and that Provider may take any steps necessary to perform in compliance therewith.

19. Injunctive Relief. Both parties agree that a breach of any of the obligations set forth in Sections 4, 5, 7, 12, 13, or 14 would irreparably damage and create undue hardships for the other party. Therefore, the non-breaching party will be entitled to immediate court ordered injunctive relief to stop any apparent breach of such sections, such remedy being in addition to any other remedies available to such non-breaching party.

20. Force Majeure. Either party may be excused from performance under this Agreement to the extent that performance is prevented by any act of God, war, civil disturbance, terrorism, strikes, supply or market, failure of a third party's performance, failure, fluctuation or non-availability of electrical power, heat, light, air conditioning or telecommunications equipment, other

equipment failure or similar event beyond its reasonable control; provided, however that the affected party will use reasonable efforts to remove such causes of non-performance.

21. Notices. Any notice or demand made by either party under the terms of this Agreement or under any statute will be in writing and will be given by personal delivery; registered or certified U.S. mail, postage prepaid; or commercial courier delivery service, to the address below the party's signature below, or to such other address as a party may designate by written notice in compliance with this section. Notices will be deemed delivered as follows: personal delivery – upon receipt; U.S. mail – 5 days after deposit; and courier – when delivered as shown by courier records.

22. Miscellaneous.

- a. Choice of Law. This Agreement will be governed by and construed in accordance with the laws of the state where the Facility is located.
- b. No Waiver. No waiver by either party of any event of default under this Agreement will operate as a waiver of any subsequent default under the terms of this Agreement.
- c. Severability. If any provision of this Agreement is held to be invalid or unenforceable, the validity or enforceability of the other provisions will remain unaffected.
- d. Successors and Assigns. This Agreement will be binding upon and inure to the benefit of Provider and Customer and their respective successors and permitted assigns. Except for assignments to our affiliates or to any entity that succeeds to our business in connection with a merger or acquisition, neither party may assign this Agreement without the prior written consent of the other party.
- e. No Third-party Beneficiary Rights. The parties do not intend to create in any other individual or entity the status of a third-party beneficiary, and this Agreement will not be construed so as to create such status. The rights, duties, and obligations contained herein will operate only between the parties and will inure solely to their benefit. The provisions of this Agreement are intended to assist only the parties in determining and performing their obligations hereunder, and the parties intend and expressly agree that they alone will have any legal or equitable right to seek to enforce this Agreement, to seek any remedy arising out of a party's performance or failure to perform any term or condition of this Agreement, or to bring an action for the breach of this Agreement.
- f. Parties' Relationship. Nothing in this Agreement will be deemed or construed by the parties or any other entity to create an agency, partnership, or joint venture between Customer and Provider.
- g. Prevailing Party. In the event of any dispute, contest, or litigation between the parties hereto (a "Dispute"), the prevailing party in such Dispute shall be fully reimbursed by the other party for all costs, including reasonable attorneys' fees, court costs, expert or consultant's fees and reasonable travel and lodging expenses, incurred by the prevailing party in its successful prosecution or defense thereof, including any appellate proceedings. As used herein, "prevailing party" includes without limitation, a party who dismisses the Dispute in exchange for payment of the sums allegedly due, performance of covenants allegedly breached, or consideration substantially equal to the relief sought in the Dispute.
- h. Survival of Obligations. The parties' rights and obligations, which by their nature would extend beyond the termination, cancellation, or expiration of this Agreement, will survive such termination, cancellation, or expiration (including, without limitation, any payment obligations for services or equipment received before such termination, cancellation, or expiration).
- i. Execution Mechanics. Each signatory to this Agreement warrants and represents that he or she has the unrestricted right and requisite authority to enter into and execute this Agreement, to bind his or her respective party, and to authorize the installation and operation of the Applications. This Agreement may be executed in counterparts, each of which will be fully effective as an original, and all of which together will constitute one and the same instrument. Each party agrees that delivery of an executed copy of this Agreement by facsimile transmission or by PDF e-mail attachment will have the same force and effect as hand delivery with original signatures. Each party may use facsimile or PDF signatures as evidence of the execution and delivery of this Agreement to the same extent that original signatures can be used.

- j. Entire Agreement / Merger Clause. This Agreement, together with the Schedules, constitutes the entire agreement of the parties regarding the subject matter set forth herein and supersedes any prior or contemporaneous oral or written agreements or guarantees regarding the subject matter set forth herein.

**EXECUTED as of the Effective Date.**

<p><u>CUSTOMER:</u></p> <p>Hays County Law Enforcement Center</p> <p>By: _____</p> <p>Name: _____</p> <p>Title: _____</p> <p>Date: _____</p> <p><u>Customer's Notice Address:</u></p> <p>1307 Old Uhland Rd San Marcos, TX 78666</p>	<p><u>PROVIDER:</u></p> <p>Securus Technologies, Inc.</p> <p>By: _____</p> <p>Name: Robert E. Pickens</p> <p>Title: Chief Executive Officer</p> <p>Date: _____</p> <p><u>Provider's Notice Address:</u></p> <p>4000 International Parkway Carrollton, Texas 75007 Attention: General Counsel</p> <p><u>Provider's Payment Address:</u> Same Address as Above, Attention: Accounts Receivable</p> <p><b><u>Please return signed contracts to the same address as above, Attention: Contracts Administrator</u></b></p>
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**Hays County Law Enforcement Center (TX)**

This **Product Schedule** is made part of and governed by the Master Services Agreement (the "Agreement") executed between Securus Technologies, Inc. ("we" or "Provider" or "Securus") and Hays County Law Enforcement Center ("you" or "Customer"). The terms and conditions of the Agreement are incorporated herein by reference. Customer's use of certain products pursuant to this schedule is also governed by the terms and conditions at <https://securustechnologies.tech/producttermsofuse/>, which are incorporated herein by reference. This Schedule will be coterminous with the Agreement ("Schedule Effective Date"). In the event of a conflict between the terms of the Agreement and the terms of this Schedule, the terms of this Schedule will apply.

**CALL MANAGEMENT SYSTEM**

Secure Call Platform: Secure Call Platform ("SCP") allows inmates to place calls through its centralized system without the need for conventional live operator services. SCP allows Customers to (a) monitor and record inmate calls; (b) prevent monitoring and recording of private calls; (c) limit the duration of calls; (d) maintain call detail records; (e) shut the System on or off; and (f) allow free calls. Provider will be responsible for all billing and collections of inmate calling charges but may contract with third parties to perform such functions. Provider will store call recordings for a period of 90 days from the date of recording. Customer may download and store call recordings during that period. Customer is solely responsible for preserving any call recordings beyond that storage period by downloading them to a separate storage medium.

Provider will provide the equipment needed to support the required number and type of phones and other components in connection with SCP. Additional equipment or applications will be installed only upon mutual agreement by the parties, and may incur additional charges.

Provider will charge rates that are in compliance with state and federal regulatory requirements. International rates, if applicable, will vary by country.

Inmate Debit Option. SCP also includes the option to integrate Inmate Debit accounts. An Inmate Debit account is a prepaid, inmate-owned account utilized to pay for certain of Provider's services, and is funded either through a transfer from an inmate's trust/commissary account or through deposits from an inmate's friends and family. Once deposited in the Inmate Debit account, funds become property of the inmate. Inmate Debit accounts are associated with an inmate's personal identification number ("PIN"), and inmates are required to input their PIN at beginning of every Inmate Debit call.

**INVOICING AND COMPENSATION:**

Commission. Provider will pay commission (the "Commission") based on the Gross Revenues earned through the completion of calls, excluding interstate calls, placed from the Facilities identified below. "Gross Revenues" means all gross billed revenues relating to completed collect and inmate Debit calls from your Facility(s), less service costs. Regulatory charges; taxes and fees; federal, state, and/or local charges; transaction, funding, or cost-recovery fees; credits; charges billed by third parties; and promotional programs are excluded from revenue to the Provider. For inmate Debit calls, Provider reserves the right to deduct call credits from Gross Revenue. Provider will invoice Customer on a weekly basis for all funding amounts transferred from inmates' facility trust/commissary accounts to Inmate Debit accounts. The invoice will be due and payable upon receipt.

Provider will remit the Commission for a calendar month on or before the 30th day after the end of the calendar month in which the calls were made (the "Payment Date"). Your payment address is as set forth in the chart below, and Customer will notify Provider in writing at least 60 days before a Payment Date of any change in Customer's payment address.

**FACILITIES AND RELATED SPECIFICATIONS:**

Facility Name and Address	Commission Percentage	Commission Payment Address
Hays County Law Enforcement Center 1307 Old Uhland Rd San Marcos, TX 78666	50%*	--SAME--

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**\*ITS Commission will remain at 50% through June 16, 2023. From June 17, 2023 – June 16, 2024, ITS Commissions will increase to 51.5%. From June 17, 2024-June 16, 2025, ITS Commissions will increase to 53%. No commissions will be paid on interstate calls. No commission will be paid on revenues earned through the completion of interstate calls of any type placed from the Facility(s).**

Customer acknowledges and agrees that we are paying the Commission for the exclusive right to provide inmate telephone services to inmates in Customer's Facility(s), and that any taxes assessed on Commission payments are the sole responsibility of Customer.

Customer Options for Alternative Compensation Structures. Notwithstanding anything to the contrary in the Agreement, at Customer's option, Customer may request that compensation and rates under the Agreement be amended to either a no commission or taxpayer-funded and no commission option at any time during the Term. If requested by Customer, the parties will negotiate in good faith regarding an appropriate reduction to the applicable call rates if Customer agrees to no longer receive any commission or other type of financial compensation under the Agreement. For such compensation structures, Provider can also accommodate a Customer request to transition from inmate and friend and family funding of inmate telephone services to a model where those services are taxpayer-funded / paid for by Customer.

#### **ADVANCECONNECT SINGLE CALL**

AdvanceConnect Single Call allows friends and family to pre-pay for a call from an inmate. Using AdvanceConnect Single Call, consumers can fund the minimum required to complete the applicable call. Based on the actual duration of the call, AdvanceConnect Single Call transactions are rated at the per-minute rate (plus any applicable federal, state, and local taxes and a transaction fee). AdvanceConnect Single Call calls are commissioned in the same manner as collect calls.

#### **INVESTIGATOR PRO**

Investigator Pro uses continuous voice identification technology to identify the inmate(s) speaking on a call, detect certain three-way call violations, and help investigators find correlations among calls. Inmates must participate in a supervised voice model enrollment process. This inmate voice model enrollment process is the responsibility of Customer. Customer's use of Investigator Pro is governed by the JLG Technologies, LLC End User Software License Agreement located at <https://securustechnologies.tech/ipro-terms-and-conditions/>, incorporated herein by reference.

In exchange for receipt of Investigator Pro, Customer will pay Provider a licensing fee equal to \$0.02 per all completed call minutes, which will be non-commissionable.

#### **VIDEO VISITATION / CONNECTUS**

Securus Video Visitation ("SVV") is a web-based visitation system that allows individuals to schedule and participate in video visitation sessions with inmates. SVV runs on the ConnectUs Inmate Service Platform ("ConnectUs"). ConnectUs is a secure, comprehensive inmate communications and services platform that allows for the consolidation of assorted inmate activities in a single, unified interface with a customized mix of applications ("ConnectUs Applications"). The configuration of SVV and ConnectUs ordered by Customer, its retail cost, and the length of time video visitation sessions are stored is specified in the Securus Inmate Services Platform – Price List below:

## Securus Inmate Services Platform - Price List

Type	Description	One Time / Recurring	Price/Unit	QTY	Total
Hardware	Video Visitation Terminals - Single Handset (Inmate)	One Time	\$ 4,000	28	\$ 112,000
	Video Visitation Terminals - Single Handset (Visitor)	One Time	\$ 4,000	0	\$ -
	Video Visitation Terminals - Dual Handset (Visitor)	One Time	\$ 4,250	0	\$ -
	Mobile Cart, Including UPS Battery Backup	One Time	\$ 1,440	0	\$ -
Installation and Implementation (Software Application is one time per App, per contract)	Networking Wiring	One Time	\$ 500	28	\$ 14,000
	Electrical Wiring*	One Time	\$ 1,500	0	\$ -
	Hardware Installation	One Time	\$ 500	28	\$ 14,000
	JMS and 3rd Party Vendor Integration**	One Time	\$ -	0	\$ -
	Software Application Setup:	One Time			
	- Securus Video Visitation Application	One Time	\$ -	1	\$ -
	- Phone Call Application	One Time	\$ -	1	\$ -
	- Inmate Forms Application (Grievance)	One Time	\$ -	0	\$ -
	- Inmate Handbook Application (.PDF)	One Time	\$ -	0	\$ -
	- Third Party Vendor Commissary Application	One Time	\$ -	0	\$ -
	- Website Education Application (URL)	One Time	\$ -	0	\$ -
	- Inmate Videos Application (.MP4)	One Time	\$ -	0	\$ -
	- Self-Op Commissary Ordering Application	One Time	\$ -	0	\$ -
	- Emergency Visitation Application	One Time	\$ -	0	\$ -
	- Video Relay Service	One Time	\$ -	1	\$ -
	Job Search Application	Recurring	\$ -	0	\$ -
	Law Library Application	Recurring	\$ -	0	\$ -
Annual Subscription and Hosting Fee (per App, per Terminal, per year)	Securus Video Visitation Application	Recurring	\$ -	28	\$ -
	Phone Call Application	Recurring	\$ -	1	\$ -
	Inmate Forms Application (Grievance)	Recurring	\$ -	0	\$ -
	Inmate Handbook Application (.PDF)	Recurring	\$ -	0	\$ -
	Third Party Vendor Commissary Application	Recurring	\$ -	0	\$ -
	Website Education Application (URL)	Recurring	\$ -	0	\$ -
	Inmate Videos Application (.MP4)	Recurring	\$ -	0	\$ -
	Self-Op Commissary Ordering Application	Recurring	\$ -	0	\$ -
	Emergency Visitation Application	Recurring	\$ -	0	\$ -
	Video Relay Service	Recurring	\$ 2,000	1	\$ 2,000
	Job Search Application	Recurring	\$ -	0	\$ -
	Law Library Application	Recurring	\$ -	0	\$ -
Misc.	Annual Terminal Extended Hardware Maintenance	Recurring	\$ 500	28	\$ 14,000
	Recurring Telecom	Recurring	\$ -	1	\$ -
	Recording Retention (30 days)	One Time	\$ 100	28	\$ 2,800
	Training (per day)	One Time	\$ 2,000	2	\$ 4,000
				Term:	6
				One-Time Cost	146,800
				Annual License & Maintenance Cost (per year)	16,000
				<b>Total Cost:</b>	<b>\$ 242,800</b>

\* Customer responsible for electrical wiring

\*\* Customer responsible for JMS/Commissary Integration Fees, if applicable

SVV and ConnectUs System Costs. Provider will cover the Total Costs set forth in the chart above. If the Agreement is terminated for any reason other than Provider's default before the end of the Term, Customer will refund the prorated amount of the Total Cost set forth in the chart above.

Customer also agrees to implement the following additional requirements:

1. Customer agrees that Video Visitation must be available for paid remote sessions seven days a week for a minimum of 80 hours per Video Visitation terminal per week.
2. Customer will allow inmates to conduct remote visits without quantity limits other than for punishment for individual inmate misbehavior.
3. All on-site Video Visitation sessions will be required to be scheduled at least 24 hours in advance, where practicable.

If the number of remote paid visits averages less than one per inmate per month, Provider and Customer agree to negotiate in good faith regarding additional compensation for Provider.

Provider will charge SVV session charges that are in compliance with state and federal regulatory requirements plus applicable taxes/fees/surcharges. If Customer wishes to offer free SVV sessions, a session charge equal to the then-current session rate,

plus applicable taxes/fees/surcharges, will apply and will be invoiced to Customer or deducted from Commissions. It is Customer's sole responsibility to (i) establish and communicate its policies regarding monitoring and/or recording of private visits (i.e., attorney/client visits, clergy visits or other visits approved and implemented by Customer), and (ii) provide appropriate accommodations for non-recorded visits, as necessary. Provider is not responsible and hereby disclaims any liability for any and all content of the third party Applications and any documents, videos or forms published by Customer or from outside sources. Customer and Provider acknowledge and agree that Customer's visitation policy with respect to in-person visits is solely within Customer's discretion.

### **VIDEO RELAY SERVICE**

#### **DESCRIPTION:**

Securus' Video Relay Service application ("VRS") provides a fully integrated video relay service offering into the Secure Call Platform (SCP) allowing critical call controls to be maintained. This service allows deaf and hard-of-hearing inmates the ability to communicate with friends and family via a videoconferencing service.

Customer is solely responsible for (a) determining which inmates are eligible to use VRS; (b) configuring SCP to allow eligible inmates access to the VRS application on ConnectUs-enabled terminals; and (c) designating which VRS numbers for which calls are not to be recorded, by marking those numbers as "private" within SCP. Provider's third-party vendors shall have the right, in their discretion, to terminate VRS sessions for policy violations or disruptive behavior, including, without limitation, verbal or other abuse of the VRS interpreter.

#### **COMPENSATION:**

We will provide VRS at no cost to you.

### **AUTOMATED INFORMATION SERVICES**

#### **DESCRIPTION:**

Provider will deploy Automated Information Services ("AIS") as described herein. Once Facility staff has uploaded the required information, AIS automates the distribution of certain information through a telephone IVR system without staff intervention. AIS is configurable to meet Customer's specific needs. The standard AIS options include automation of inmate and Facility information to (1) people who call Customer's main telephone number; and (2) inmates at Customer's Facility using the inmate telephone system. The following additional options (the "Additional AIS Options"), which are required in order to be eligible for the No Cost Option, defined below, are currently available for AIS:

- ✓ Ability to open or fund a Securus pre-paid telephone account (AdvanceConnect)
- ✓ Ability to fund an inmate phone account (Inmate Debit where available)
- ✓ Ability to supplement inmate deposit services by funding an inmate trust account
- ✓ Ability to leave a voice mail (AIS Jail Voicemail)

The AIS Jail Voicemail feature is a one-way communication product that allows friends and family members calling a facility to leave a 45-second voicemail for an inmate providing a quick way for friends and family to initiate communication or deliver timely information to an inmate prior to a scheduled phone call or visitation.

Regardless of whether Customer chooses the No Cost Option or Cost Option below, Customer understands and agrees that Provider may, upon future release, expand AIS to include additional constituent notification services or Additional AIS Options upon 30 days advance written notice. Provider also offers customized AIS development options based on the terms at <https://www.securustechnologies.com/ais-terms-and-conditions>, which are incorporated herein by reference.

Provider will not charge integration fees, but if a vendor charges integration fees, Customer is responsible for their payment.

AIS Jail Voicemail – If deployed, friends and family will pay up to a \$1.99 usage fee for each voicemail they leave, 20% of which Provider will pay to Customer each month. AIS Jail Voicemail is not subject to any other compensation.

#### **FEES PAYABLE BY DEPOSITOR FOR TRUST FUNDING:**



The following fees apply to trust funding transactions through AIS:

<b><u>Deposit Amount</u></b>	<b><u>Fees JPay.com / JPay App</u></b>	<b><u>Fees Call Center / AIS IVR</u></b>
\$0.01 - \$20.00	\$3.95	\$4.95
\$20.01 - \$100.00	\$6.95	\$7.95
\$100.01 - \$200.00	\$8.95	\$9.95
\$200.01 - \$300.00	\$10.95	\$11.95

### **TABLETS**

Provider will deploy free basic community tablets to Facility. In addition to the free basic community tablets, Provider will offer personal rental tablets with premium content. Customer may purchase tablet earbuds at \$5.66 per set, which may be invoiced or deducted from commissions. Customer is responsible for any applicable taxes and third-party expenses associated with the earbud purchase. Each earbud order must be for at least 25 units and be made in 25 unit increments. Provider may, at its option, decline to fulfill any order that does not conform to these requirements. Customer will not allow the resale of the earbuds for more than \$5.66 per set unless approved by Provider.

Premium content may include, but is not limited to, songs, games, movies, and television episodes. Customer understands and acknowledges that premium content is subject to availability and may change at Provider's discretion. Premium content also may be subject to third-party licensing agreements with content providers.

For the 12-month period following the Effective Date, Provider will offer personal rental tablets at a promotional rate of \$5.00 per tablet per month plus applicable taxes/fees/surcharges. Provider will pay Customer 10% commission on the revenue earned through the rental of personal tablets and the purchase of premium content on those tablets; such commission is net of licensing and network costs and excludes applicable taxes/fees/surcharges. The subscription fee and premium content fees can be paid by using either Inmate Debit or a Tablet user account. The parties reserve the right to renegotiate the \$5.00 promotional rental rate and/or commissions earned if, after the initial 12-month period, Provider's Tablet-related costs exceed the revenue generated.

In the event Provider subsequently develops and generally releases to the market the ability to conduct video visitation sessions on the deployed tablets during the Term of this Agreement, Provider will deploy that capability at Customer's Facility during the Term of this Agreement.

### **EMESSAGING**

**DESCRIPTION:** Securus' eMessaging Application ("eMessaging") allows for two-way electronic communication between friends and family and an inmate. Users purchase eMessaging "stamps," which are used to fund the transmission of an electronic message according to the following chart:

<b><u>Type of Message</u></b> <b><u>(When Available)</u></b>	<b><u>Number of Stamps</u></b>	<b><u>Notes</u></b>
Text Message	1 stamp per message	
Photo	1 stamp per photo	Limit of 5 photos per eMessage; 3 MB / photo limit
eCard	1 stamp per eCard	Limit of 5 eCards per eMessage
VideoGram	3 stamps per VideoGram	

Different types of attachments can also be combined in a single transmission.

The facility can access a web-based portal that enables message review, and can approve and reject a message or attachment based on the facility's policies and criteria. Friends and family must send and receive messages using either the Securus mobile app or their inbox at [www.securustech.net](http://www.securustech.net) and must have a free Securus Online account to access. Approved messages and attachments are accessible by inmates through certain of Provider's technologies as agreed by Customer and Provider.

With Customer's agreement, Provider may (a) issue future releases of eMessaging which contain additional features and functionalities; or (b) modify the pricing contained herein.

**COMPENSATION:** Provider will provide eMessaging at no cost to Customer. Friends and family members can purchase a book of stamps in the following quantities:

<u>Number of Stamps in Book</u>	<u>Stamp Book Price (Plus \$3.00 transaction fee and all applicable taxes)</u>
5	\$2.50
10	\$5.00
20	\$10.00
50	\$25.00

Where available, using funds in an Inmate Debit account, inmates can purchase a book of stamps in the following quantities:

<u>Number of Stamps in Book</u>	<u>Stamp Book Price (Plus applicable taxes)</u>
1	\$0.50
2	\$1.00
5	\$2.50
10	\$5.00

Provider will pay Customer a commission of 20% on each redeemed stamp based on the Stamp Book Price (excluding any applicable taxes/fees/surcharges), which may differ from facility to facility. A stamp is considered "redeemed" when it is used to send messages. Provider will remit the payment for a calendar month to Customer on or before the 30<sup>th</sup> day after end of the calendar month in which the eMessaging stamps were redeemed (the "Payment Date"). All payments will be final and binding unless Provider receives written objection within 60 days after the Payment Date.

#### **CALLING RATES**

The calling rates will be as follows:

- In state: \$0.32 per minute, flat rated no surcharge
- Out of State: \$0.21/\$0.25 flat rated no surcharge

#### **PAYMENT SERVICES**

Provider will provide the payment services as described in the attached Payment Services Rider to Contract.

## Hays County Law Enforcement Center (TX)

### PAYMENT SERVICES RIDER TO CONTRACT

This **PAYMENT SERVICES RIDER TO CONTRACT** ("Rider") is effective as of the last date signed by any party ("Rider Effective Date") and is part of the Master Services Agreement by and between Securus Technologies, Inc. ("we," "us," or "Provider") and Hays County Law Enforcement Center ("you," or "Customer") (the "Agreement").

**WHEREAS** Customer and Provider are parties to the Agreement and desire to add to the Agreement the terms as stated herein;

**NOW, THEREFORE**, as of the Rider Effective Date and in consideration of the mutual promises and covenants contained herein, the parties agree as follows:

1. **Term.** This Rider shall commence on the Rider Effective Date and shall remain in effect through the duration of the Agreement. Notwithstanding anything herein to the contrary, the terms and conditions of the Agreement shall continue to apply for so long as we continue to provide services to you after the expiration or earlier termination of this Rider.
2. **Services.** Provider will implement and provide certain services to Customer to make available to individuals and organizations posting funds or satisfying obligations to Customer (each singularly, a "Payer" or collectively, "Payers") for the duration of the Agreement, as more fully set forth in the attached Payment Services Schedule incorporated within and made a part of this Rider by this reference.
3. **General.** Except as expressly modified by this Rider, all of the terms, conditions and provisions of the Agreement shall remain in full force and effect. This Rider may be executed simultaneously in multiple counterparts, each of which is deemed an original, but all of which taken together constitute one and the same instrument. All signed fax or electronically imaged counterparts to this Rider shall be deemed as valid as originals

EXECUTED on the dates written below.

<b>CUSTOMER:</b> Hays County Law Enforcement Center  By: _____ Name: _____ Title: _____ Date: _____	<b>PROVIDER:</b> Securus Technologies, Inc.  By: _____ Name: Robert E. Pickens Title: Chief Executive Officer Date: _____
<b>FOR COMPLIANCE PURPOSES:</b> JPay Inc.  By: _____ Name: Robert E. Pickens Title: President Date: _____	<b>FOR COMPLIANCE PURPOSES:</b> AllPaid, Inc. dba GovPayNet  By: _____ Name: Robert E. Pickens Title: President and Chief Executive Officer Date: _____

**PAYMENT SERVICES SCHEDULE**

**1. Payment Services.** Provider hereby delegates any and all of the services to be provided or obligations to be performed under this Payment Services Schedule ("Payment Services") to its affiliate, AllPaid, Inc. dba GovPayNet ("GovPayNet") and/or its affiliate, JPay Inc. ("JPAY"; separately, each an "Affiliate" and collectively the "Affiliates") and Customer accepts the Affiliates as approved subcontractors. Customer understands and agrees that while Provider shall be responsible for the performance of its Affiliates, each of the Affiliates will provide the Payment Services. Each Affiliate shall as applicable (i) provide Customer with training, implementation, documentation, and electronic and telephonic support at such Affiliate's expense; (ii) cause funds paid to be forwarded electronically to such account as Customer designates within two banking days after transaction authorization; and (iii) provide such other Payment Services as described herein. In the event of a conflict between the terms of this Payment Services Schedule and the terms of the Agreement, the terms of this Payment Services Schedule shall control.

**2. Fees.** GovPayNet or JPay, as applicable, shall collect the fees ("Service Fees") shown in Exhibit A to this Payment Services Schedule, based on the type of payment processed. Service Fees include all costs of providing the Payment Services. **ALL SERVICE FEES ARE NON-REFUNDABLE.** Customer may select any or all of the payment types available as follows:

- For criminal justice-related payments made by credit, debit, or prepaid debit card, such as fees for probation management, electronic monitoring, work release, or other payments associated with reducing or avoiding a term of incarceration, **"Service Fee Schedule for Criminal Justice-Related Payments"** applies (provided by GovPayNet).
- For cash bail/bond payments made by credit, debit, or prepaid debit card, **"Service Fee Schedule for Cash Bail Payments"** applies (provided by GovPayNet).
- For administrative and civil payments made by credit, debit, or prepaid debit card, meaning all payments to Customer not categorized as cash bail/bond or criminal justice-related payments, **"Service Fee Schedule for Civil Fines & Payments"** applies (provided by GovPayNet).
- For eCheck payments (not available for cash bail/bond or e-Trust payments), **"Service Fee Schedule for eCheck Payments"** applies (provided by GovPayNet).
- For commissary and inmate trust-related payments ("eTrust"), **"Service Fee Schedule for eTrust Payments"** applies (provided by JPay).

Service Fees for GovPayNet-originating services only may be the responsibility of Payer, Customer, or shared by Payer and Customer. Unless Customer advises GovPayNet otherwise, Customer will be presumed to have chosen that Payers shall be responsible for all Service Fees. If Customer elects to pay all or any portion of the Service Fee, Customer must so advise GovPayNet **in writing** (for these purposes, the term "in writing" includes via email from an official email address). For any Service Fees Customer elects to pay, GovPayNet will debit Customer's account for Customer's share of the Service Fee in accordance with the terms of a debit authorization form Customer will be required to complete. Customer must allow GovPayNet 30 days to make any changes Customer requests to Service Fee responsibility.

**3. Terms and Conditions Applicable to Criminal Justice-Related, Cash Bail/Bond, and Administrative & Civil Payments.**

- 3.1 Service Requests. Customer is responsible for advising the indicated Affiliate as to the types of payments Customer desires to include in its Payment Services and shall coordinate directly with the appropriate affiliate for service implementation or discontinuation. **CUSTOMER IS NOT OBLIGATED TO USE ANY OF THE PAYMENT SERVICES.** Payment Services for Criminal Justice-Related Payments, Cash Bail/Bond Payments, and Administrative & Civil Payments will be provided through the service and equipment modes available for each payment type or category from time-to-time. Customer may at any time (i) authorize GovPayNet to accept additional categories or specific types of payments within the above categories; (ii) cancel the processing of any types of payments; (iii) modify the service or equipment modes (from among Internet, telephone, Internet and telephone, Gov\$wipe®, etc.); (iv) modify the account(s) to which the Affiliate shall direct payments to Customer or specify settlement by mailed check; or (v) add other agencies, departments or sub-agencies ("Additional Agencies") to, or delete Additional Agencies from Customer's use of any Payment Services and equipment (provided, however, that the Payment Services for any Additional Agency are within the scope of this Rider) by specifying all such changes to the Affiliate in writing. Any such changes will be subject to the Affiliate's acknowledgment and acceptance in writing. For purposes of this subsection only, "in writing" shall mean via letter, facsimile, or email (if by Affiliate, to the most recent Customer email address given; if by Customer, to [accountservices@govpaynet.com](mailto:accountservices@govpaynet.com)).

- 3.2 Use of GOV\$WIPE. If Customer requests Gov\$wipe, GovPayNet will provide Customer with card readers and peripheral equipment (cables, etc.), which are and will remain the property of GovPayNet. Customer understands that card readers are embedded with proprietary technology ("Firmware"). GovPayNet grants Customer a license to use such card readers and Firmware for the duration of the services provided under this Payment Services Schedule. Customer's use of card readers and Firmware shall be limited to the purposes of this Payment Services Schedule. Acceptance and use of card readers does not convey to Customer any title, patent, copyright or other proprietary right in or to the Firmware. At all times, GovPayNet or its suppliers retain all rights to the Firmware, including but not limited to updates, enhancements, and additions. Customer shall not attempt to access or disclose the Firmware to any party, or transfer, copy, license, sub-license, modify, translate, reverse engineer, decompile, disassemble, tamper with, or create any derivative work based on Firmware.

Customer will use reasonable care to protect card readers from loss, theft, damage or any legal encumbrance. GovPayNet shall provide card readers and installation instructions at service implementation and when providing any replacement or additional card readers by shipment to a location Customer designates or, at GovPayNet's option, Customer will allow GovPayNet and its designated representatives reasonable access to Customer's premises for training purposes and device installation, repair, removal, modification, upgrades, and relocation.

Card readers for use with Gov\$wipe are designed to communicate cardholder data to GovPayNet through Customer's computing equipment to which they are cable-attached via USB port. Internet access to GovPayNet is required for transaction processing via Gov\$wipe and is enabled solely by Customer's computers and networks. Customer is responsible to use standard safeguards and practices to keep its computers and networks secure and free from malicious software or hardware. Neither GovPayNet nor Provider shall be held liable to Customer for exposure of Customer's computers or networks to malicious software or hardware of any kind. GovPayNet is solely responsible for the maintenance of any card readers and shall supply Customer with replacement card readers on Customer's request and as GovPayNet deems appropriate. Upon termination of the Agreement or the services provided under this Payment Services Schedule, GovPayNet may require Customer to return card readers at GovPayNet's expense and by such method as GovPayNet specifies.

**4. Terms and Conditions Applicable to eCheck Payments.** GovPayNet obtains eCheck processing, settlement, and other support ("eCheck Services") from the entity designated below as "Processor." GovPayNet will make available eCheck Services to Payers subject to the following additional terms.

- 4.1 Processor. Worldpay, LLC is the Processor of eCheck payments under a Payment Facilitator Customer Agreement between and among GovPayNet, Worldpay, and Fifth Third Bank, an Ohio banking corporation ("Member Bank") effective September 28, 2016. The identity of the Member Bank may change from time-to-time. Member Bank's function is to provide GovPayNet with sponsorship services in connection with the Payment Facilitator Customer Agreement and the Payment Services obtained thereunder. GovPayNet shall not be obligated to provide the eCheck Services if Processor ceases to provide such services to GovPayNet for any reason.
- 4.2 Specifications. eCheck Services will include the following:
- I. Presentment of Payer eCheck transaction request via the GovPayNet payment website to Processor for authorization and, if authorized, debiting of funds from the Payer's indicated account
  - II. Electronic settlement of funds debited from Payer's account by Processor to Customer's indicated account via GovPayNet's standard settlement process
  - III. Payers may place eCheck transaction requests via toll-free call to GovPayNet for entry to the GovPayNet website by a GovPayNet customer service representative
  - IV. Real-time updates of payment status and notification to Customer of payments processed
  - V. Email notice to Customer of eCheck payments denied within 48 hours of bank denial
  - VI. Pre-notification (non-monetary) transactions to confirm Payer information accuracy
  - VII. Verification of information for U.S. accounts through a third-party service

- VIII. Payer account information update in response to change notifications
- IX. Customer to accept or reject each eCheck payment
- X. Processing for returned eCheck items
- XI. Transaction reporting and analytics
- XII. Training and support

- 4.3 **Effect of Payment.** Receipt by GovPayNet or Processor of a Payer's funds by eCheck shall constitute receipt of payment by Customer and will satisfy the obligation Payer authorized through GovPayNet to pay to Customer as of the day upon which GovPayNet or Processor receives Payer's funds, subject to the conditions stated in section 4.4. If GovPayNet fails to make a payment to Customer corresponding to a Payer's eCheck payment, Customer's sole recourse shall be to GovPayNet, not Payer. GovPayNet will make a statement available to Payers at the time of the transaction that will indicate the GovPayNet system has issued the payment request to Processor and providing details of such transaction, including a reference number specific to that Payer's payment.
- 4.4 **Reversal or Rejection.** Notwithstanding section 4.3, if an ACH transfer funding a Payer's eCheck payment is (i) reversed by Payer; or (ii) rejected by Payer's bank due to lack of sufficient funds ("NSF"), such obligation shall be deemed unpaid and due or owing to Customer solely and exclusively by Payer in addition to any other costs and penalties Customer imposes or seeks to impose upon Payer.
- 4.5 **DISCLAIMER. PROVIDER AND GOVPAYNET DO NOT GUARANTEE ECHECK PAYMENTS AGAINST PAYER STOPS, REVERSALS, OR NSF STATUS. GOVPAYNET WILL NOT REINITIATE AN ECHECK TRANSACTION THAT HAS BEEN DENIED DUE TO A "PAYMENT STOPPED" OR NSF NOTICE. GOVPAYNET HAS NO OBLIGATION TO NOTIFY PAYERS OR LIABILITY OF ANY KIND TO CUSTOMER IF CUSTOMER REJECTS PAYER'S ECHECK PAYMENT.**

**5. Terms and Conditions Related to Electronic Inmate Trust and Commissary Payments.** GovPayNet obtains Electronic Inmate Trust and Commissary Payment services ("eTrust Services") from JPay. All eTrust Services are provided under the JPay brand name. GovPayNet will make eTrust Services available to Payers subject to the following additional terms.

- 5.1 **Reimbursement.** In case of any duplicate, inaccurate, or erroneous payment by JPay to Customer, and upon notification by JPay to Customer of such duplicate, inaccurate, or erroneous payment, verification of which is provided to Customer, Customer shall promptly reimburse JPay for the payment.
- 5.2 **Integration.** JPay shall integrate with Customer's Case Management System software provider at no charge to Customer; provided, however, that if Customer's software provider charges a fee in connection with such integration, Customer shall be responsible for such fee.
- 5.3 **Banking.** Customer authorizes JPay to credit/debit Customer's bank account via ACH for all credit/debit card payments. JPay shall assume full liability for delivery of all funds indicated in the daily payment report provided to Customer.
- 5.4 **Enrollment.** Customer shall complete the JPay Sign-Up Form, included as Exhibit B hereto, and provide such other information as JPay may require in order to establish the eTrust Services.
- 5.5 **Confidentiality.** JPay agrees to keep all information about inmates confidential and to make no disclosure thereof to any third party, except as may otherwise be required as follows: (a) to comply with relevant laws or to respond to subpoenas or warrants served on Provider, GovPayNet, or JPay; (b) in connection with any legal investigation; (c) to protect or defend the rights or property of Provide, GovPayNet, JPay, or Payers; (d) to investigate or assist in preventing any violation or potential violation of law, GovPayNet or JPay's Privacy Policy, or GovPayNet's or JPay's Terms of Use; and/or (e) if GovPayNet or JPay believes that an emergency involving the danger of death or serious physical injury to any person requires or justifies disclosure of such information.

**6. Compliance.** Each Affiliate shall be responsible for complying with all laws, regulations, or industry rules applicable to its services including money transmission laws and regulations found by government officials to be applicable. Customer shall only use the Payment Services for legal purposes and shall not use the Payment Services in any way that violates laws, ordinances, or regulations applicable to

Customer. Customer will reasonably cooperate with the Affiliates in good faith to minimize potential illegal use of the Payment Services and shall cooperate with reasonable Affiliate requests for information related to potential fraud or abuse.

**7. Limited Agency.** Customer hereby appoints each Affiliate as its agent for the purpose of receiving credit, debit, and prepaid debit card payments and eCheck payments, as the case may be, on its behalf from Payers directly or through Processor. Each Affiliate accepts such appointment subject to any applicable conditions and limitations in this Rider and the Agreement.

**8. Disputes and Chargebacks.** Each Affiliate shall be responsible, per the transaction type, for handling all transaction disputes raised by Payers associated with the use of the Payment Services. Such Affiliate shall further be responsible for all chargebacks initiated not more than 180 days after the completion of a transaction. If such Affiliate determines that a chargeback may be inappropriate, Affiliate expects Customer to provide reasonable assistance in any challenge Affiliate makes to the chargeback. Affiliate reserves the right to adjust service and security levels as Affiliate reasonably deems necessary to maintain payment security and integrity.

**9. Implementation and Documentation.** Availability of Payment Services is further conditioned on Customer's completion of forms and authorizations either or both Affiliate(s) provide(s) to Customer that are required for establishing and operating the Payment Services. Customer use of the Payment Services shall be subject to any user manuals and documentation an Affiliate provides.

**10. Promotion.** Customer agrees to work with each Affiliate, as appropriate, to promote and inform Payers about the Payment Services through posters, flyers, and Customer's website.

**11. Indemnification and Disclaimers.** With respect to the Payment Services, the indicated Affiliate shall indemnify and save harmless Customer, its agents, officers, and employees from responsibility or liability for all damages, costs, expenses, (including reasonable attorney fees and defense costs) relating to death or bodily injury or damages to physical property directly resulting from providing such Payment Services. **NEITHER PROVIDER NOR AFFILIATES ACCEPT RESPONSIBILITY FOR SECURITY OF DATA ON SYSTEMS OTHER THAN THOSE CONTROLLED BY PROVIDER OR AN AFFILIATE. PROVIDER AND AFFILIATE LIABILITY WITH RESPECT TO PAYMENTS PROCESSED HEREUNDER IS LIMITED TO MAKING PAYMENTS IN THE AMOUNTS AUTHORIZED. NEITHER PROVIDER NOR AFFILIATE IS A SURETY AND PROCESSING A PAYMENT THROUGH AN AFFILIATE DOES NOT GUARANTEE ANY PARTICULAR OUTCOME INCLUDING, BUT NOT LIMITED TO, A DEFENDANT'S COURT APPEARANCE OR FULL SATISFACTION OF A FINANCIAL OBLIGATION. OTHER THAN WARRANTIES EXPLICITLY MADE IN THIS PAYMENT SERVICES SCHEDULE, PROVIDER AND AFFILIATES DISCLAIM ALL WARRANTIES OR REPRESENTATIONS OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO THE PAYMENT SERVICES. NO PARTY SHALL BE LIABLE FOR INCIDENTAL, INDIRECT, PUNITIVE, OR CONSEQUENTIAL DAMAGES EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. CUSTOMER BEARS RESPONSIBILITY FOR ANY ADMINISTRATIVE ACTIONS IT MAY TAKE IN CONNECTION WITH SERVICES PROVIDED UNDER THIS PAYMENT SERVICES SCHEDULE. NEITHER PROVIDER NOR THE AFFILIATES GUARANTEE THAT SERVICES SHALL BE PROVIDED ERROR-FREE OR UNINTERRUPTED. EXTENSION OF PAYMENT SERVICES FOR ANY PARTICULAR CATEGORY OR TYPE OF PAYMENT IS SOLELY WITHIN THE DISCRETION OF THE INDICATED AFFILIATE.**

**12. Miscellaneous.** There are no third-party beneficiaries to this Payment Services Schedule. Either party is excused from performance under this Payment Services Schedule and shall not be liable for any delay in performance or non-performance, in whole or in part, caused by the occurrence of any contingency beyond the control of the non-performing party including, but not limited to, work stoppages, fires, civil disobedience, riots, rebellions, terrorism, loss of power or telecommunications, flood, storm, Acts of God, and similar occurrences. A waiver of any portion of this Payment Services Schedule must be in writing and signed by the party to be charged and shall not be deemed a waiver or renunciation of any other portions. Rights and obligations under this Payment Services Schedule which by their nature should survive will remain in effect after termination or expiration of the Agreement or termination of the Payment Services. In the event that any provision of this Payment Services Schedule is adjudicated by any court of competent jurisdiction to be invalid, illegal, void, or unenforceable, all other provisions of this Payment Services Schedule shall remain in full force and effect.

**13. Completeness.** This Payment Services Schedule is the entire agreement between the parties and expresses the complete understanding of the parties, superseding all prior or contemporaneous agreements with regard to the subject matter herein. This Payment Services Schedule may not be altered, amended or modified except in a writing incorporated hereto and signed by the parties, provided, however, that an Affiliate may revise the terms of this Payment Services Schedule if required to comply with law, regulation, or industry rules and the Affiliate provides prompt notice to Customer of such change(s).

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**EXHIBIT A:  
SERVICE FEES (1 of 2)**

Service Fee Schedule for Criminal Justice-Related Payments	
Service Fee for Payments via Web/Gov\$wipe®	Service Fee for Payments via Call Center/Live Agent
<b>3.75%</b> <i>Minimum Fee = \$3.50</i>	<b>5.25%</b> <i>Minimum Fee = \$5.00</i>

Service Fee Schedule for Cash Bail Payments
<b>5.0%</b>
<p><i>Payers posting cash bail may attempt transactions of up to \$50,000.</i></p> <p><i>There is no additional charge for Call Center/Live Agent assistance for cash bail postings.</i></p>

Service Fee Schedule for Civil Fines and Payments							
Transaction Range			Service Fee	Transaction Range			Service Fee
\$0.01	>	\$50.00	\$1.75	\$100.01	>	\$150.00	\$5.75
\$50.01	>	\$75.00	\$2.00	\$150.01	>	\$200.00	\$7.25
\$75.01	>	\$100.00	\$3.75	For each additional increment of \$50.00, or portion thereof, add \$2.00			
Add \$2.50 to each fee amount for use of operator assistance or \$1.50 for use of Integrated Voice Response to process a payment.							

**ALL SERVICE FEES ARE NON-REFUNDABLE**

**EXHIBIT B:**

**SERVICE FEES (2 of 2)**

Service Fee Schedule for eCheck Payments		
\$2.95 per item		
<i>eCheck Services are not available for cash bail postings or eTrust.</i>		

Service Fee for eTrust Deposits via Card		
Amount	Online Deposit	Phone Deposit
\$0.01 - \$19.99	\$3.95	\$4.95
\$20.00 - \$99.99	\$6.95	\$7.95
\$100.00 - \$199.99	\$8.95	\$9.95
\$200.00 - \$300.00	\$10.95	\$11.95

Service Fee for eTrust Deposits via MoneyGram (\$0.01 - \$3,000)	
\$6.95	

***ALL SERVICE FEES ARE NON-REFUNDABLE***

## JPAY CUSTOMER SIGN-UP FORM

Customer must complete this form and return it per instructions GovPayNet or JPay provides. Customer must promptly inform JPay, through such method as JPay specifies, of changes to the information provided below, including but not limited to changes to Customer's contact information and bank account information.

### Customer Information

Customer Name: \_\_\_\_\_

Physical Address: \_\_\_\_\_

Contact Name: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_

### Customer Bank Information

Bank Name: \_\_\_\_\_

Bank Account Name: \_\_\_\_\_

Bank Account Number: \_\_\_\_\_

Bank Routing Number: \_\_\_\_\_

Bank Address: \_\_\_\_\_

\_\_\_\_\_

## 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 the Tyler Technologies, Inc. Proposal related to Mobile CAD software licenses for Law Enforcement, Fire and EMS and amend the budget accordingly.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
ACTION-MISCELLANEOUS	December 17, 2019	\$15,282

#### LINE ITEM NUMBER

001-680-00.5718\_700

#### AUDITOR USE ONLY

##### AUDITOR COMMENTS:

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

REQUESTED BY	SPONSOR	CO-SPONSOR
Sheriff Cutler/Jeff McGill	SHELL	N/A

#### SUMMARY

The Sheriff's Office would like to accept a proposal with Tyler Technology, New World Public Safety Division for unlimited Mobile CAD site licensing for Law Enforcement, Fire and EMS. Tyler is authorizing discounted pricing for previous licenses purchased in order to move to an unlimited license agreement. This amendment will alleviate any future software costs related to Mobile CAD when new officers are hired. Savings within the IT capital equipment budget are available due to vendor negotiations on other budgeted equipment. No additional county funds are required.

Attachment: Tyler Technology Proposal  
Sourcewell Contract #110515-TTI

Budget Amendment:  
Increase Software\_Capital - .5718\_700  
Decrease Computer Eqpt Capital - .5712\_700



Date: 12/11/2019  
 Quote Expiration: 12/26/2019  
 Quote Name: Hays County- ShieldForce and CrewForce YE Site License Promo\*  
 Quote Number: 2019-29819-2  
 Quote Description: Mobile Site Licensing

### Sales Quotation For

Hays County  
 1307 Uhland Rd  
 San Marcos , TX 78666-8217  
 Phone: +1 (512) 393-7878

### Tyler Software and Related Services

Description	License	Impl Hours	Impl Cost	Module Total	Year One Maintenance
<b>Mobile</b>					
Law Enforcement Mobile Site License	\$146,396	0	\$0	\$146,396	\$18,446
- ShieldForce LE Dispatch with Advanced Mapping	\$0	0	\$0	\$0	\$0
- LE Dispatch/Messaging/State/NCIC	\$0	0	\$0	\$0	\$0
- Drivers License Mag Stripe Reader/Barcode Reader Interface	\$0	0	\$0	\$0	\$0
- Mugshot Image Download	\$0	0	\$0	\$0	\$0
- State Photo Download	\$0	0	\$0	\$0	\$0
- In-Car Mapping / AVL	\$0	0	\$0	\$0	\$0
- In-Car Routing	\$0	0	\$0	\$0	\$0
Fire/EMS Mobile Site License	\$122,906	0	\$0	\$122,906	\$15,486
- CrewForce - Fire Dispatch	\$0	0	\$0	\$0	\$0
- Fire Dispatch/Messaging	\$0	0	\$0	\$0	\$0
- Fire In-Car Mapping / AVL	\$0	0	\$0	\$0	\$0
- Fire In-Car Routing	\$0	0	\$0	\$0	\$0
<b>Other Software</b>					
	<i>Sub-Total:</i>				
	\$269,302		\$0	\$269,302	\$33,932
	<i>Less Discount:</i>				
	\$107,720		\$0	\$107,720	\$0
	<i>Additional Discount</i>				
	\$146,300		\$0	\$146,300	\$0
	<b>TOTAL:</b>	<b>0</b>	<b>\$0</b>	<b>\$15,282</b>	<b>\$33,932</b>

Summary	One Time Fees	Recurring Fees
Total Tyler Software	\$15,282	\$33,932
Total Annual Fees		\$0
Total Tyler Services	\$0	
Total Other Costs	\$0	
Total Third Party Hardware, Software and Services	\$0	\$0
Travel and Living Expenses	\$0	
<b>Summary Total</b>	<b>\$15,282</b>	<b>\$33,932</b>

#### Tyler Discount Detail

Description	License	License Discount	License Net	Maintenance
<b>Mobile</b>				
Law Enforcement Mobile Site License	\$146,396	\$58,558	\$87,838	\$18,446
- ShieldForce LE Dispatch with Advanced Mapping	\$0	\$0	\$0	\$0
- LE Dispatch/Messaging/State/NCIC	\$0	\$0	\$0	\$0
- Drivers License Mag Stripe Reader/Barcode Reader Interface	\$0	\$0	\$0	\$0
- Mugshot Image Download	\$0	\$0	\$0	\$0
- State Photo Download	\$0	\$0	\$0	\$0
- In-Car Mapping / AVL	\$0	\$0	\$0	\$0
- In-Car Routing	\$0	\$0	\$0	\$0
Fire/EMS Mobile Site License	\$122,906	\$49,162	\$73,744	\$15,486
- CrewForce - Fire Dispatch	\$0	\$0	\$0	\$0
- Fire Dispatch/Messaging	\$0	\$0	\$0	\$0
- Fire In-Car Mapping / AVL	\$0	\$0	\$0	\$0
- Fire In-Car Routing	\$0	\$0	\$0	\$0
<b>Other Software</b>				
	<i>Sub-Total:</i>	\$269,302	\$107,720	\$161,582
	<i>Additional Discount:</i>	\$0	\$146,300	-\$146,300
	<b>Total:</b>	<b>\$269,302</b>	<b>\$254,020</b>	<b>\$15,282</b>
			<b>\$15,282</b>	<b>\$33,932</b>

The Software, Maintenance, Services, and Third-Party Products, as applicable, that are itemized above, are hereby added to your existing agreement with Tyler. Fees for Software, if applicable, will be invoiced to you in full upon receipt of your signed quote. Unless otherwise stated in the Assumptions, associated maintenance and support fees, if applicable, will be invoiced on a pro rata basis beginning on the first day of the month following the date of your signature below, and thereafter in a lump sum amount together with your then-current maintenance and support fees for previously licensed software. Fees for Services, Third-Party Products and/or travel, as applicable, will be invoiced as rendered or delivered. The terms and conditions of your agreement will otherwise control.

Client Approval: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name: \_\_\_\_\_ P.O.#: \_\_\_\_\_

## Assumptions

Personal Computers must meet the minimum hardware requirements for New World products. Microsoft Windows 7/8.1/10 32/64 bit or later is required for all client machines. Windows Server 2012/2016 and SQL Server 2012/2014/2016 are required for the Application and Database Server(s).

New World product requires Microsoft Windows Server 2012/2016 and SQL Server 2012/2016, including required Client Access Licenses (CALs) for applicable Microsoft products. Servers must meet minimum hardware requirements provided by Tyler. The supported Microsoft operating system and SQL versions are specific to Tyler's release versions.

New World product requires Microsoft Excel or Windows Search 4.0 for document searching functionality; Microsoft Word is required on the application server for report formatting.

Tyler recommends a 100/1000MB (GB) Ethernet network for the local area network. Wide area network requirements vary based on system configuration, Tyler will provide further consultation for this environment.

Does not include servers, workstations, or any required third-party hardware or software unless specified in this Investment Summary. Client is responsible for any third-party support.

Licensed Software, and third-party software embedded therein, if any, will be delivered in a machine readable form to Client via an agreed upon network connection. Any taxes or fees imposed are the responsibility of the purchaser and will be remitted when imposed.

Tyler's GIS implementation services are to assist the Client in preparing the required GIS data for use with the Licensed New World Software. Depending upon the Licensed Software the Client at a minimum will be required to provide an accurate street centerline layer and the appropriate polygon layers needed for Unit Recommendations and Run Cards in an industry standard Esri file format (Personal Geodatabase, File Geodatabase, Shape Files). Client is responsible for having clearly defined boundaries for Police Beats, EMS Districts and Fire Quadrants. If necessary Tyler will assist Client in creating the necessary polygon layers (Police Beats, EMS Districts and Fire Quadrants) for Unit Recommendations and Run Cards. Tyler is not responsible for the accuracy of or any ongoing maintenance of the GIS data used within the Licensed New World Software.

Client is responsible for any ongoing annual maintenance on third-party products, and is advised to contact the third-party vendor to ensure understanding of and compliance with all maintenance requirements

All Tyler Clients are required to use Esri's ArcGIS Suite to maintain GIS data. All maintenance, training and ongoing support of this product will be contracted with and conducted by Esri. Maintenance for Esri's ArcGIS suite of products that are used for maintaining Client's GIS data will be contracted by Client separately with Esri.

When Custom interface is included, Custom interface will be operational with existing third-party software. Any subsequent changes to third-party applications may require additional services.

When State/NCIC is included, Client is responsible for obtaining the necessary State approval and any non-Tyler hardware and software. Includes state-specific standard forms developed by Tyler. Additional forms can be provided for an additional fee.

Additional Training, Third Party Software and Hardware may be required depending on modules and units deployed.



## 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 a grant budget adjustment for the FY20 Texas Indigent Defense Commission (TIDC) Hays County Indigent Defense Coordinator (IDC) Program grant in the amount of \$6,105 and amend the budget accordingly.

#### ITEM TYPE

ACTION-MISCELLANEOUS

#### MEETING DATE

December 17, 2019

#### AMOUNT REQUIRED

None

#### LINE ITEM NUMBER

001-899-99-125]

#### AUDITOR USE ONLY

#### AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A

AUDITOR REVIEW: MARISOL VILLARREAL-ALONZO

#### REQUESTED BY

Tammy Crumley

#### SPONSOR

SHELL

#### CO-SPONSOR

N/A

#### SUMMARY

Commissioners' Court authorized the acceptance of this grant on October 1, 2019. These funds will provide support to the Indigent Defense Coordinator (IDC) who improves the appointment process and provides documentation that Hays County is in compliance with the Fair Defense Act. Grant funds total \$67,446 and a \$16,862 cash match for a total of \$84,308. Matching funds were budgeted during the FY20 budget process.

Grant Number: 212-20-D09

Grant Period: 10/1/2019 - 09/30/2020

#### Budget Amendment:

Increase .4301 Intergovernmental Revenue (\$6,105)

Increase .5101\_300 Retirement \$261

Increase .5160\_600 Insurance Benefits Life \$1

Increase .5211 Office Supplies \$1,450

Increase .5426 Software Licenses \$200

Increase .5489 Telephone and Data Lines \$1,200

Increase .5501 Travel \$500

Increase .5551 Continuing Education \$300

Increase .5711\_400 Office Equipment Operating \$1,219

Increase .5712\_400 Computer Equipment Operating \$2,524

Decrease .5101\_100 FICA (\$3,096)

Decrease .5202 Data Processing Supplies (\$22)

#### Attachment:

Grant Budget Adjustment Request Hays County FY2020 Indigent Defense Coordinator Grant

## Grant Budget Adjustment Request

### Hays County

#### FY2020 Indigent Defense Coordinator Grant

TIDC approved a grant request to Hays County for a new Indigent Defense Coordinator program in August 2019. After receiving the statement of grant award, the county notified TIDC that the approved budget submitted with the original request omitted some program costs they intended to include.

	Approved FY20	Proposed FY20	Difference	Recommended
Personnel - Salaries (Total number of FTEs:1)	<b>\$49,913</b>	<b>\$49,913</b>	--	<b>\$49,913</b>
Fringe Benefits	<b>\$10,217</b>	<b>\$22,279</b>	<b>\$12,062</b>	<b>\$22,279</b>
Travel and Training	\$1700	\$2,000	\$300	\$2000
Equipment and Start-Up	\$11,846	\$7,556	(\$4,290)	\$7,016
Supplies	\$3000	\$ 10,300	\$7,300	\$3,100
Total Budget	<b>\$76,676</b>	<b>\$92,048</b>	<b>\$15,372</b>	<b>\$84,308</b>
Less County Match	\$15,335	\$18,410	\$3,075	\$16,862
Total Amount Funded by Commission	<b>\$61,341</b>	<b>\$73,638</b>	<b>\$12,297</b>	<b>\$67,446</b>

The main difference in figures owes to the county omitting the cost of insurance in the original requested fringe amount.

**Staff Recommendation** Approve a budget adjustment to increase the FY2020 Improvement Grant Award to Hays County by \$6,105, from \$61,341 to **\$67,446**. Some ineligible costs were excluded from the recommendation, including a \$3200 annual copier lease, \$2000 in postage costs, and \$2000 for forms printing. The need for copier, postage, and forms is routine and exists independent of the IDC program. A desktop computer that was requested in addition to a laptop/docking station/double monitor setup was also excluded from the recommendation.

## 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 or value of real property regarding Parks and Open Space within Hays County. Possible action may follow in Open Court.

#### ITEM TYPE

EXECUTIVE SESSION

#### MEETING DATE

December 17, 2019

#### AMOUNT REQUIRED

#### 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

Information will 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 551.071 of the Texas Government Code: consultation with counsel regarding pending and/or contemplated litigation involving Hays County. Possible action may follow in open court.

#### ITEM TYPE

EXECUTIVE SESSION

#### MEETING DATE

December 17, 2019

#### AMOUNT REQUIRED

#### LINE ITEM NUMBER

#### AUDITOR USE ONLY

#### AUDITOR COMMENTS:

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

#### REQUESTED BY

KENNEDY

#### SPONSOR

BECERRA

#### CO-SPONSOR

N/A

#### SUMMARY

Litigation update 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 551.074 of the Texas Government Code: consultation with counsel and deliberation regarding all individual positions in the Hays County Office of Emergency Services. Possible discussion and/or action may follow in open Court.

#### ITEM TYPE

EXECUTIVE SESSION

#### MEETING DATE

December 17, 2019

#### AMOUNT REQUIRED

#### 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

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/or deliberation regarding the purchase, exchange, lease, use, or value of real property owned by Hays County located at 712 S. Stagecoach Trail, San Marcos, TX. Possible action to follow in open court.

#### ITEM TYPE

EXECUTIVE SESSION

#### MEETING DATE

December 17, 2019

#### AMOUNT REQUIRED

#### 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

Summary to be provided in Executive Session.