

Commissioners Court -October 20, 2009
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 **20TH day of October, 2009**, in the Hays County Courthouse, Room 301, San Marcos, Texas. An Open Meeting will be held concerning the following subjects:

INVOCATION:

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

PRESENTATIONS & PROCLAMATIONS

1	3-4	Adopt a Proclamation declaring October 25, 2009 as LiveSTRONG Challenge Day in Hays County. FORD
---	-----	---

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.

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

2	5	Approve payments of county invoices. HERZOG
3	6-12	Approve Commissioner Court Minutes of October 13, 2009. SUMTER/FRITSCHKE
4	13-14	Approve renewal of Bid #2008-B15 Annual Dumpsters for Hays County with Texas Disposal Services for one (1) additional year as provided in the original bid. SUMTER/HERZOG/MAIORKA

ACTION ITEMS

SUBDIVISIONS

5	15-22	09-3-33 Mustang Valley Subdivision Section 4 (24 lots); Consider approval of Final Plat and accept Construction Fiscal Surety in the amount of \$393,406.34 for street and drainage improvements. CONLEY/GARZA
---	-------	---

MISCELLANEOUS

6	23-31	Hold a public hearing regarding approval of the plan for the preservation and restoration of the district court records archive, pursuant to Chapter 51 of the Texas Government Code. Possible action to follow. SUMTER/ADAIK
7	32-34	Discussion and possible action to accept a grant award from the Bureau of Justice Assistance (BJA) for the Bulletproof Vest Partnership (BVP) in the amount of \$6,137.00 CONLEY/HAUFF
8	35-53	Discussion and possible action to authorize the County Judge to accept and execute a sub-grant award contract from the Governor's Division of Emergency Management, Homeland Security Grant Program for \$2,575.00. SUMTER/TURNER/HAUFF
9	54-64	Discussion and possible action to authorize the County Judge to execute the new Customer Agreement between the Texas Department of Information Resources (DIR), Texas NICUSA, LLC (Vendor), and Hays County. SUMTER/ADAIK
10	65	Discussion and possible action to appoint Commissioner Will Conley as the Commissioners' Court representative of the Emergency Services Committee to address 911 issues. CONLEY
11	66-68	Discussion and possible action to authorize the County Judge to execute an Additional Services Agreement with Land Design Partners to prepare a water pollution abatement plan for the Spring Lake Preserve project, in the amount of \$3,575.00. CONLEY

12	69-70	Discussion and possible action to request Civil Division of Hays County District Attorney's Office to prepare an official response from the Commissioners Court in relation to Request for Attorney General's Opinion #RQ-0822-GA relating to the ability of Type A General Law municipalities to impose and enforce nonpoint source pollution (NPS) ordinances within the ETJ. FORD
13	71-72	Discussion and possible action to waive the fees for the Rotary Club of San Marcos event that will be held in the Hays County Civic Center on October 22, 2009. CONLEY

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.

14	73	Executive Session pursuant to Section 551.087 of the Texas Government Code, related to a possible offer of economic development incentives to Grifols, Inc. for the development of a biomedical facility in Hays County. Possible Action to follow in open court. INGALSBE
15	74	10:30AM Executive Session pursuant to Section 551.074, Texas Government Code to discuss employment, evaluation and/or duties of all individual department heads. SUMTER

STANDING AGENDA ITEM

16		Discussion of issues related to proposed capital construction projects in Hays County, including but not limited to the government center; precinct offices; Resources Protection Transportation and Planning Department; and space needs projections for the Hays County Jail and related criminal justice analysis. Possible action may follow. INGALSBE
17		Discussion of issues related to the road bond projects, including updates from Mike Weaver, Prime Strategies and Jeff Curren, HDR. Possible action may follow. SUMTER
18		Discussion and possible action to execute a Resolution declaring a Burn Ban in Hays County effective immediately. SUMTER

ADJOURNMENT

Posted by 5:00 o'clock P.M. on the 16TH day of October, 2009.

COMMISSIONERS COURT, HAYS COUNTY, TEXAS

CLERK OF THE COURT

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

Agenda Item Request Form

Hays County Commissioners' Court

9:00 a.m. Every Tuesday

Request forms are due in the County Judge's Office

no later than **2:00 p.m.** on **WEDNESDAY.**

Phone (512) 393-2205 Fax (512) 393-2282

AGENDA ITEM: Adopt a Proclamation declaring October 25, 2009 as LiveSTRONG Challenge Day in Hays County.

TYPE OF ITEM: CONSENT-ACTION-PROCLAMATION-EXECUTIVE SESSION-WORKSHOP

PREFERRED MEETING DATE REQUESTED: October 20, 2009

AMOUNT REQUIRED: na

LINE ITEM NUMBER OF FUNDS REQUIRED: na

REQUESTED BY:

SPONSORED BY: Ford

SUMMARY: Proclamation attached. Chris Brewer from the Lance Armstrong Foundation will attend CC to receive the proclamation and share information about the upcoming event.



**PROCLAMATION OF THE HAYS COUNTY COMMISSIONERS' COURT
DECLARING OCTOBER 25, 2009 AS
"LIVESTRONG CHALLENGE DAY" IN HAYS COUNTY**

WHEREAS, there are more than 10.5 million cancer survivors living in the United States today with 1.4 million Americans expected to be diagnosed with cancer this year;

WHEREAS, cancer may replace heart disease in the next decade as the leading cause of death in adults below the age of 85;

WHEREAS, in Hays County approximately 600 new cancer cases will be reported in 2009;

WHEREAS, many cancers can be cured if detected and treated early, and others may be controlled for many years with appropriate treatment;

WHEREAS, the Lance Armstrong Foundation is dedicated to uniting people in the fight against cancer and further committed to inspire and empower people affected by the disease;

WHEREAS, the Lance Armstrong Foundation will return to Hays County for the third consecutive year to stage one of its signature fundraising events, the **LIVESTRONG** Challenge bicycle ride, on October 25, 2009;

WHEREAS, Hays County citizens have a unique opportunity to join the fight against cancer by participating in the **LIVESTRONG** Challenge and by welcoming the event organizers and riders to our community;

NOW THEREFORE BE IT RESOLVED that the Commissioners' Court of Hays County, duly convened and acting in its capacity as the governing body of Hays County, does hereby proclaim October 25, 2009 as "**LIVESTRONG CHALLENGE DAY** in HAYS COUNTY."

PROCLAIMED THIS THE 20th DAY OF October 2009.

Elizabeth Sumter, Hays County Judge

Agenda Item Request Form

Hays County Commissioners' Court

2:00 p.m. Every Wednesday

Request forms are due in the County Judge's Office

no later than **2:00 p.m.** on **WEDNESDAY.**

Phone (512) 393-2205 Fax (512) 393-2282

AGENDA ITEM: Approve payment of county invoices.

CHECK ONE: ☒ **CONSENT** ☐ **ACTION** ☐ **EXECUTIVE SESSION**
 ☐ **WORKSHOP** ☐ **PROCLAMATION** ☐ **PRESENTATION**

PREFERRED MEETING DATE REQUESTED: 10/20/09

AMOUNT REQUIRED: None

LINE ITEM NUMBER OF FUNDS REQUIRED: As attached.

REQUESTED BY: Auditor's Office

SPONSORED BY: Bill Herzog 

SUMMARY:

Agenda Item Request Form

Hays County Commissioners' Court

9:00 a.m. Every Tuesday

Request forms are due in the County Judge's Office

no later than 2:00 p.m. on WEDNESDAY.

Phone (512) 393-2205 Fax (512) 393-2282

AGENDA ITEM: APPROVE COMMISSIONERS COURT MINUTES OF OCTOBER 13, 2009

CHECK ONE: **X CONSENT** ☐ **ACTION** ☐ **EXECUTIVE SESSION**
 ☐ **WORKSHOP** ☐ **PROCLAMATION** ☐ **PRESENTATION**

PREFERRED MEETING DATE REQUESTED: OCTOBER 20, 2009

AMOUNT REQUIRED:

LINE ITEM NUMBER OF FUNDS REQUIRED:

REQUESTED BY: FRITSCHÉ

SPONSORED BY: SUMTER

SUMMARY:



OCTOBER 13, 2009

VOLUME U PAGE 219

STATE OF TEXAS *
COUNTY OF HAYS *

ON THIS THE 13TH DAY OF OCTOBER A.D., 2009, THE COMMISSIONERS' COURT OF HAYS COUNTY, TEXAS, MET IN REGULAR MEETING. THE FOLLOWING MEMBERS WERE PRESENT, TO-WIT:

ELIZABETH "LIZ" SUMTER	COUNTY JUDGE
DEBBIE GONZALES INGALSBE	COMMISSIONER, PCT. 1
JEFFERSON W. BARTON	COMMISSIONER, PCT. 2
WILL CONLEY	COMMISSIONER, PCT. 3
KAREN FORD	COMMISSIONER, PCT. 4
LINDA C. FRITSCHKE	COUNTY CLERK

AND THE FOLLOWING PROCEEDINGS WERE HAD, THAT IS:

Commissioner Barton gave the invocation and Commissioner Ford led the court in the Pledge of Allegiance to the flags. Judge Sumter called the meeting to order. New employees were introduced

26532 ADOPT A PROCLAMATION DECLARING THE WEEK OF OCTOBER 17 - 23, 2009 AS "RED RIBBON WEEK" IN HAYS COUNTY [T40]

Sarah Cohen invited the court and public to various events being held to celebrate Red Ribbon Week. A motion was made by Commissioner Ingalsbe, seconded by Commissioner Barton to adopt a Proclamation declaring the week of October 17-23, 2009 as "Red Ribbon Week" in Hays County. All voting "Aye". MOTION PASSED

26533 APPROVE PAYMENTS OF COUNTY INVOICES

County Auditor Bill Herzog requested addition of two invoices: \$2,236.85 payable to The Majors Law Firm for work related to the Hays County Bail Bond Board and \$217,800 payable to Independence Title for additional property on Wonderland Drive. A motion was made by Commissioner Barton, seconded by Commissioner Ingalsbe to approve payments of county invoices in the amount of \$1,840,870.08 as submitted by the County Auditor with addition of \$220,036.85 as requested. All voting "Aye". MOTION PASSED

26534 APPROVE COMMISSIONER COURT MINUTES OF OCTOBER 2ND & 6TH, 2009

A motion was made by Commissioner Barton, seconded by Commissioner Ingalsbe to approve Commissioner Court Minutes of October 2nd & 6th, 2009 as presented by the County Clerk. All voting "Aye". MOTION PASSED

26535 RATIFY COUNTY JUDGE'S AUTHORITY TO EXECUTE THE CONTRACT BETWEEN THE PERSONAL HEALTH DEPARTMENT (PHD) AND THE TEXAS DEPARTMENT OF STATE HEALTH SERVICES (DSHS) FOR FUNDING FOR PHASE 1 AND 2 OF H1N1 RESPONSE. THE FUNDING AMOUNT WILL BE UP TO \$145,449.00

A motion was made by Commissioner Barton, seconded by Commissioner Ingalsbe to ratify County Judge's Authority to execute the Contract between the Personal Health Department (PHD) and the Texas Department of State Health Services (DSHS) for funding for Phase 1 and 2 of H1N1 Response. The funding amount will be up to \$145,449.00. All voting "Aye". MOTION PASSED

26536 APPROVE UTILITY PERMITS

A motion was made by Commissioner Barton, seconded by Commissioner Ingalsbe to approve utility permit #02035 issued to PEC on Turnerville Road; permit #02036 issued to PEC on Oak Wood Loop; permit #02037 issued to LCRA on Sawyer Ranch Road; permit #02038 issued to LCRA on Dardin Hill Road; permit #02039 issued to Time Warner Cable on Sunny Ridge as presented by the County Road Department. All voting "Aye". MOTION PASSED

26537 ACCEPT REPORT FROM RPTP IDENTIFYING ADMINISTRATIVE APPROVALS FOR OSSFS ISSUED DURING THE MONTH OF SEPTEMBER, 2009

A motion was made by Commissioner Barton, seconded by Commissioner Ingalsbe to accept report from RPTP identifying administrative approvals for OSSF's issued during the month of September 2009. All voting "Aye". MOTION PASSED



26538 HOLD A PUBLIC HEARING AND ESTABLISH TRAFFIC REGULATIONS (SCHOOL ZONE) ON CENTER POINT ROAD [T1-163]

Judge Sumter declared the public hearing open. No public input was received and the public hearing was closed. RPTP Director Jerry Borcharding gave staff recommendation for approval. A motion was made by Commissioner Ingalsbe, seconded by Commissioner Ford to establish traffic regulations (School Zone) of 20 MPH speed limit and restricted cell phone use on Center Point Road at the Master's School. All voting "Aye". MOTION PASSED

26539 CALL FOR A PUBLIC HEARING ON NOVEMBER 10, 2009 TO CONSIDER THE PROPOSED IMPROVEMENT TO OWL HOLLOW ROAD [T1-179]

A motion was made by Commissioner Ford, seconded by Commissioner Conley to call for a public hearing on November 10, 2009 to consider the proposed improvement to Owl Hollow Road. All voting "Aye". MOTION PASSED

26540 RE-SUBDIVISION OF LOT 6, LEGEND OAKS, SECTION 2 [09-4-24 - 3 LOTS] APPROVE FINAL PLAT [T-184]

Donald Broussard and Robert Parks made public comment. Subdivision Coordinator Clint Garza spoke of additional plat notes and he gave staff recommendation for final plat approval. A motion was made by Commissioner Ford, seconded by Commissioner Conley to approve final plat of resubdivision of Lot 6 Legend Oaks Section 2. All voting "Aye". MOTION PASSED

26541 APPROVE THE PURCHASE OF TWO TRAFFIC COUNT/TRAFFIC STUDY DEVICES FOR THE ROAD & BRIDGE DEPT. FROM TIMEMARK, INC. INSTEAD OF TWO BUDGETED RADAR SIGNS WITH AN AMOUNT NOT TO EXCEED \$1,831.00 [T1-309]

RPTP Director Jerry Borcharding spoke of savings of \$5,743 by purchasing the traffic county/traffic study devices versus radar signs. A motion was made by Commissioner Ingalsbe, seconded by Commissioner Conley to approve the purchase of two traffic county/traffic study devices for the Road & Bridge Dept. from Timemark, Inc. instead of two budgeted radar signs with an amount not to exceed \$1,831.00. All voting "Aye". MOTION PASSED

26542 APPROVE THE AGREEMENT BETWEEN HAYS COUNTY PERSONAL HEALTH DEPARTMENT (HCPHD) AND CENTRAL TEXAS MEDICAL CENTER (CTMC) [T1-348]

HCPHD Director Priscilla Hargraves spoke of this agreement allowing the HCPHD to refer clients from the TB control program to CTMC for diagnostic chest X-rays. A motion was made by Commissioner Ingalsbe, seconded by Commissioner Ford to approve the Agreement between Hays County Personal Health Department (HCPHD) and Central Texas Medical Center (CTMC). All voting "Aye". MOTION PASSED

26543 ADOPT THE FY2010 HOLIDAY CALENDAR [T1-931]

Judge Sumter spoke of proposed holidays for calendar year 2010. Commissioner Ingalsbe spoke of adding Columbus Day. Discussed adding Monday December 27th to Christmas holiday. A motion was made by Judge Sumter, seconded by Commissioner Ingalsbe to adopt the FY2010 Holiday Calendar with addition of Monday December 27, 2010. All voting "Aye". MOTION PASSED

26544 AUTHORIZE HAYS COUNTY JUSTICE OF THE PEACE COURTS TO USE THE TEXAS ONLINE EFILING SYSTEM THROUGH THE COUNTY'S EXISTING CONTRACT WITH BEARINGPOINT [T1-446]

J.P. Pct. 2 Beth Smith spoke of justices of the peace wanting to use Texas Online system for electronic filing. The District Clerk's office has had a contract with Bearing Point to use this system. Special Counsel Mark Kennedy spoke of a new contract that will be considered next week for the District Clerk. A motion was made by Commissioner Barton, seconded by Commissioner Conley to authorize Hays County Justice of the Peace Courts to use the Texas On-Line EFiling System through the County's existing Contract with BearingPoint effective immediately. All voting "Aye". MOTION PASSED



OCTOBER 13, 2009

VOLUME U PAGE 221

26545 SELECT A DESIGN/BUILD FIRM FOR THE CONSTRUCTION OF THE NEW HAYS COUNTY GOVERNMENT CENTER [T1-991]

Brenda Jenkins (Broadus & Associates) spoke of three scenarios: #1 = 233,600 sq ft @ \$89.5m #2 = 181,300 sq ft @ \$73.8m #3 = 141,000sf @ \$59.6m. She discussed the program management timeline. Commissioner Ingalsbe spoke of projected savings from existing facility cost. District Attorney Sheri Tibbe (member of the Building Committee) explained the problems with the current facility and spoke in support of the new government center. County Auditor Bill Herzog (member of the Building Committee) spoke of this being the best time to move forward on this facility financially. RPTP Director Jerry Borcharding (member of the Building Committee) spoke of time spent by the committee and he urged the court to proceed. Bill Herzog gave figures for funding – budgeted funds are sufficient to make payments. Constable Pct. 1 David Peterson spoke in support of the government center. Special Counsel Mark Kennedy (member of the Building Committee) spoke of feeling confident about the funding costs. A motion was made by Commissioner Ingalsbe, seconded by Commissioner Conley to select Balfour Beatty as the design/build firm for the construction of the new Hays County Government Center and to authorize Commissioner Ingalsbe and Broadus & Associates to negotiate a contract to be brought back to the court for consideration. All voting "Aye". MOTION PASSED

26546 AUTHORIZE UP TO \$1500.00 TO REPAIR THE INTERCOM SYSTEM IN THE HOLDING CELLS LOCATED IN THE JUSTICE CENTER [T1-559]

A motion was made by Commissioner Conley, seconded by Commissioner Ingalsbe to authorize up to \$1,500.00 to repair the intercom system in the holding cells located in the Justice Center to be funded out of contingencies. All voting "Aye". MOTION PASSED

Clerk's Note: Agenda Item #16 RE: AUTHORIZE CIVIL DIVISION OF HAYS COUNTY DISTRICT ATTORNEY'S OFFICE TO FILE AN OFFICIAL RESPONSE IN RELATION TO REQUEST FOR ATTORNEY GENERAL'S OPINION #RQ-0822-GA RELATING TO THE ABILITY OF TYPE A GENERAL LAW MUNICIPALITIES TO IMPOSE AND ENFORCE NONPOINT SOURCE POLLUTION (NPS) ORDINANCES WITHIN THE ETJ was PULLED [T3-37]

26547 TO AUTHORIZE THE COUNTY JUDGE TO REQUEST THAT HAYS COUNTY BE INCLUDED WITHIN THE SERVICE AREA OF THE FOREIGN-TRADE ZONE NUMBER 183 [T1-608]

A motion was made by Judge Sumter, seconded by Commissioner Conley to authorize the County Judge to request that Hays County be included within the service area of the Foreign-Trade Zone Number 183. All voting "Aye". MOTION PASSED

26548 AUTHORIZE COMMISSIONER FORD AND JERRY BORCHERDING TO NEGOTIATE A PROFESSIONAL SERVICES AGREEMENT WITH FREESE & NICHOLS THAT WILL ADDRESS THE IMPROVEMENT OF A CHRONIC DRAINAGE PROBLEM ON NUTTY BROWN ROAD [T1-630 & T3-46]

Jimmy Skipton made public comment. Commissioner Ford spoke of scope of work to be performed to determine source of flooding. A motion was made by Commissioner Ford, seconded by Judge Sumter to authorize Commissioner Ford and Jerry Borcharding to finalize and negotiate a Professional Services Agreement with Freese & Nichols that will address the improvement of a chronic drainage problem on Nutty Brown Road and furthermore authorize the County Judge to execute the agreement, subject to approval by Special Counsel, not to exceed \$10,000; and approve budget amendment to move \$10,000 from R&B Dept. materials line item into consultants line item. Commissioner Ingalsbe, Commissioner Barton, Commissioner Ford, and Judge Sumter voting "Aye". Commissioner Conley voting "No". MOTION PASSED

26549 AUTHORIZE MARK KENNEDY TO ENGAGE OUTSIDE COUNSEL TO ASSIST IN COMPLETION OF REAL ESTATE TRANSACTIONS IN ASSOCIATION WITH THE MCGREGOR ROAD BRIDGE PROJECT [T1-742]

Special Counsel Mark Kennedy spoke in support of engaging outside counsel from Dripping Springs - Nelson Davidson, attorney and closing agent for Independent Title, has agreed to work with the county. To be paid out of R&B Right-of-Way legal funds. A motion was made by Commissioner Ford, seconded by Judge Sumter to authorize Mark Kennedy to engage outside Counsel to assist in completion of Real Estate Transactions in association with McGregor Road Bridge Project. All voting "Aye". MOTION PASSED



- 26550 APPROVE RESOLUTION AND AUTHORIZE THE COUNTY JUDGE TO SUBMIT A GRANT APPLICATION TO THE CAPITAL AREA COUNCIL OF GOVERNMENTS, REGIONAL SOLID WASTE GRANTS PROGRAM FOR UP TO \$30,000 FOR A HOUSEHOLD HAZARDOUS WASTE COLLECTION EVENT IN PRECINCT 4 [T1-831]**

Grants Administrator Jeff Hauff explained the grant. This grant would fund a one-day event at the Driftwood citizens collection center for the collection of residential household hazardous waste items. A motion was made by Commissioner Ford, seconded by Judge Sumter to approve Resolution and authorize the County Judge to submit a Grant Application to the Capital Area Council of Governments, Regional Solid Waste Grants Program for up to \$30,000 for a Household Hazardous Waste Collection Event in Precinct 4. All voting "Aye". MOTION PASSED

- 26551 AUTHORIZE THE COUNTY JUDGE TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH HUITT-ZOLLARS, INC. FOR ENGINEERING SERVICES ON THE OLD BASTROP HIGHWAY/CR 266 ROAD BOND PROJECT [T3-16]**

A motion was made by Commissioner Ingalsbe, seconded by Commissioner Barton to authorize the County Judge to execute a Professional Services Agreement with Huitt-Zollars, Inc. for engineering services on the Old Bastrop Highway/CR 266 Road Bond Project. All voting "Aye". MOTION PASSED

- 26552 AMEND THE FEE SCHEDULE FOR PRIVATE PAY CLIENTS OF THE HAYS COUNTY PERSONAL HEALTH DEPARTMENT WOMEN'S HEALTH CLINIC [T1-372]**

Priscilla Hargraves spoke of serving a number of private pay clients in the Women's Health Clinic and need to increase charges because of increase for lab work and changes in recommendations for "best practices" for maternity and family planning care. A motion was made by Judge Sumter, seconded by Commissioner Ingalsbe to approve an amended fee schedule for private pay clients of the Hays County Personal Health Department Women's Health Clinic as presented. All voting "Aye". MOTION PASSED

- 26553 ROOF REPAIR TO HAYS COUNTY CORRECTIONS BUILDING INCLUDING BUT NOT LIMITED TO REVIEW OF SPECIFICATION FOR PHENOLIC REMEDIATION AND ROOF REPAIR [T2-315]**

Six Contractors submitted bids for roof repair at the Hays County Corrections Building (Law Enforcement Center). Phil Buterbaugh, Sr. Project Manager for Broaddus & Associates, explained the bid results. Special Counsel Mark Kennedy spoke of the bid results. County Auditor Bill Herzog spoke of funds that were budgeted. Sheriff's Department Col. Brad Robinson spoke. [T2-1215] A motion was made by Judge Sumter, seconded by Commissioner Ingalsbe to authorize Broaddus & Associates to move forward with a short-term plan in the amount of \$1,455,388, then come back with all gaps filled with all the roofing contractors by next week and move forward with a long-term plan in the amount of \$246,400, and bring back numbers of amount to be paid with the understanding that these numbers are flexible and apt to change because of plumbing/catering and money to be paid out of the building fund and to include Broaddus be authorized to make the decision of the \$7,000 and ask Tyler Technologies to work with Bill Herzog before making a commitment. All voting "Aye". MOTION PASSED

PRESENTATION OF CAPTAIN JACK - THE STORY OF JOHN C HAYS DOCUMENTARY BY KATE JOHNSON, CHAIR, HISTORICAL COMMISSION [T1-1997]

Hays County Historical Commission Chair Kate Johnson provided a showing of the documentary of the Story of John C. Hays and presented each member of the court with a photo of Jack C. Hays and a copy of the documentary film.

PRESENTATION BY THE BARTON SPRINGS EDWARDS AQUIFER CONSERVATION DISTRICT ON THE STATUS OF THE BARTON SPRINGS AQUIFER [T1-2844]

Robin Gary, Public Information and Education Coordinator for the Barton Spring Edwards Aquifer Conservation District, gave a powerpoint presentation regarding groundwater management areas, groundwater conservation districts, and an overview of the Barton Springs Edwards Aquifer Conservation District. Their mission is to preserve and protect the aquifers. Robin Gary spoke of governance of the district and the aquifer dynamics. She advised that up to 85% of the recharge occurs within the creeks and rivers and management is very important. The largest recharge features are along Onion Creek. We are in critical stage drought at this time. The districts regulate 100 permittees. They are asking people to use less than 3,000 per gallon per person per month. The Barton Springs Edwards Aquifer Conservation District website at www.bseacd.org. John Dupnik, Hays Trinity Groundwater Conservation District, spoke. Brenda Jenkins, Broaddus & Associates, spoke.



OCTOBER 13, 2009

VOLUME U PAGE 223

2008 ROAD BOND WORKSHOP WITH POSSIBLE ACTION [T2-1470]

Diane Wassenich made public comment regarding Sink Creek and Lime Kiln Road – urged the court to do something that does not widen the roadway – increasing development over the recharge zone will damage the environment. [T2-2250] Jeff Curren (HDR) gave a powerpoint presentation regarding the 2008 Priority Road Program. Project 1 – US 290 from RM12 to McGregor Lane (continuous left turn lane and improve shoulders) Project 2 – RM 12 @ Sports Park Drive (left turn lane on RM12 and other intersection improvements) Project 3A – RM1826 @ Nutty Brown Road (left turn lane on RM1826 and other intersection improvements) Project 3B – RM1826 @ Crystal Hills Drive (left turn lane on RM1826 and improvement to roadway approach and low water crossing on Crystal Hills Drive) Project 3C – RM1826 @ Darden Hill Road (left turn lane on RM1826 and other intersection improvements) Project 3D – RM 1826 @ RM 967 (left turn lane on RM967 and other intersection improvements) Project 4 – RM2325 from Fischer Store Road/CR181 to Carney Lane (safety improvements) Project 5 – RM12 @ Old Kyle Road/Wimberley Square (turn lanes, planters, and drainage improvements) Project 6 – RM12 @ RM32 (realignment to improve intersection geometry, dedicated right and left turn lanes) Project 7 – RM12 Parkway Development (preservation of r-o-w along RM12 corridor from San Marcos to Wimberley for the development of a divided parkway roadway section) Project 8 – RM12 @ Hugo Road/CR214 (left turn lane on RM12 and other intersection improvements) Project 9 – RM12 @ Sink Creek (replacement of box culvert with a bridge) Project 10 – RM12 @ Wonderland Drive/FM3407 (left turn lane on RM12 and right turn lane on FM3407) Project 11 – Old Bastrop Hwy/CR266 from Centerpoint to Francis Harris Road (widen lanes and add shoulders, preserve ROW for future upgrades) Project 12A – SH21 @ High Road/CR127 (left turn lane and widen shoulders on SH21 and improvements to High Road/CR127 approaching pavement) Project 12b – SH21 @ FM2001 (left turn lane and widen shoulders on SH21 and other intersection improvements) Project 12c – SH21 @ Rohde Road/CR126 (reconstruct Rohde Road/CR126 approach to improve geometry and channelization) Project 13 – Dacy Lane/CR205 from Bebee Road/CR122 to Windy Hill Road/CR131 (engineering, environmental studies and ROW preservation) Project 14 – Lime Kiln Road @ Sink Creek (feasibility analysis and environmental studies for replacement of low water crossing over Sink Creek) Project 15 – Post Road/CR140 @ Blanco River (replacement of low water crossing over the Blanco River) Project 16 – Lakewood Drive @ FM1626 (improvement low water crossing on Lakewood Drive) Project 17 – RM 967 @ Ruby Ranch Road (left turn lane on RM967 and other intersection improvements. Discussed Scope of Work with some flexibility (within 10% over total project cost or 20% under project cost). Dan Wegmiller, Bond Counsel, spoke of funding.

DISCUSSION OF ISSUES RELATED TO PROPOSED CAPITAL CONSTRUCTION PROJECTS IN HAYS COUNTY, INCLUDING BUT NOT LIMITED TO THE GOVERNMENT CENTER; PRECINCT OFFICES; RESOURCES PROTECTION TRANSPORTATION AND PLANNING DEPARTMENT; AND SPACE NEEDS PROJECTIONS FOR THE HAYS COUNTY JAIL AND RELATED CRIMINAL JUSTICE ANALYSIS [T2-1325]

[See resolutions #26545 & #26553 for action regarding the Government Center and County Jail] Brenda Jenkins, Broadus & Associates, spoke of progress regarding the RPTP/Resources Protection Transportation & Planning Department facility. Total project cost is \$3 million with additional 12,400 sq ft of space - \$1.691 million was budgeted.

DISCUSSION OF ISSUES RELATED TO THE ROAD BOND PROJECTS, INCLUDING UPDATES FROM MIKE WEAVER, PRIME STRATEGIES AND JEFF CURREN, HDR [T2-1600]

Mike Weaver (Prime Strategies) spoke of Pass Through Finance Program. US 290 West (Trautwein Road to Nutty Brown Road) program estimate is \$8,230,040 with anticipated substantial completion by December 2009. IH-35 Phase 1 (northbound frontage road between Kyle Crossing/CR210 and Kyle Parkway/FM1626) program estimate is \$8,872,609 with anticipated completion by December 2010 (groundbreaking Oct. 21, 2009). IH-35 at FM 2001 (IH35 northbound frontage road to existing FM2001) program estimate is \$1,028,755 with project letting in October 2009. He spoke of potential project savings on all these programs. IH-35 Phase 2A – RM 150 (IH35 northbound frontage road at RM150 crossing to existing RM150) program estimate = \$8,220,820. IH-35 Phase 2B program estimate = \$15,289,447. FM110 (McCarty Lane to SH123 – 1 mile) program estimate = \$19,834,396. FM1626 A (Brodie Lane to FM 967) program estimate = \$43,248,414. FM 1626 B (FM 967 to FM 2770) program estimate = \$39,806,315. Total Pass Through Financing Program estimated budget summary = \$167,030,796 with potential program savings of \$10,109,353 based on 2009 project lettings only and additional funding sources contribution of \$23,600,000.

Clerk's Note: Agenda Item #29 RE: DISCUSSION AND POSSIBLE ACTION TO EXECUTE A RESOLUTION DECLARING A BURN BAN IN HAYS COUNTY EFFECTIVE IMMEDIATELY was PULLED



Court was adjourned.

I, LINDA C. FRITSCHKE, 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 OCTOBER 13, 2009.



LINDA C. FRITSCHKE, COUNTY CLERK AND EXOFFICIO
CLERK OF THE COMMISSIONERS' COURT OF
HAYS COUNTY, TEXAS



Agenda Item Request Form

Hays County Commissioners' Court

9:00 a.m. Every Tuesday

Request forms are due in the County Judge's Office

No later than 2:00 p.m. on WEDNESDAY.

Phone (512) 393-2205 Fax (512) 393-2282

AGENDA ITEM: Approve renewal of Bid#2008-B15 Annual Dumpsters for Hays County with Texas Disposal Services for one (1) additional year as provided in the original bid.

CHECK ONE: ☒ **CONSENT** ☐ **ACTION** ☐ **EXECUTIVE SESSION**
☐ **WORKSHOP** ☐ **PROCLAMATION** ☐ **PRESENTATION**

PREFERRED MEETING DATE REQUESTED: October 20, 2009

AMOUNT REQUIRED:

LINE ITEM NUMBER OF FUNDS REQUIRED:

REQUESTED BY: Herzog/Maiorka

SPONSORED BY:

SUMMARY: One condition that has changed from the original bid is that the vendor is now charging a street usage fee of 5%. However this pertains only to the local San Marcos area.



OFFICE OF THE COUNTY AUDITOR

Hays County Purchasing
111 E. San Antonio Street, Suite 101
San Marcos, Texas 78666
512-393-2273
Fax: 512-393-2276
www.co.hays.tx.us

Bill Herzog, CPA
County Auditor
bherzog@co.hays.tx.us

Cindy Malorka, CPPB
Purchasing Manager
cindym@co.hays.tx.us

Texas Disposal Services
P O Box 17126
Austin, Texas 78760

July 16, 2009

The bid for "Annual Dumpsters for Hays County" will expire soon. This letter will serve as notice that Hays County would like to renew your existing bid for one (1) additional year, provided all terms and conditions remain unchanged and in full force and effect as provided in original bid. If you are in agreement with this, please sign below and mail back to Hays County Purchasing Office, 111 E. San Antonio Street, Suite 101, San Marcos, Texas 78666

If you have any questions please feel free to contact me at 512-393-2273.

Please find enclosed the tabulation sheet.

Sincerely,
Cindy Malorka
Cindy Malorka, CPPB
Purchasing Manager

Signature *Jay Howard* Date 10/13/09
Printed Name Jay Howard
Company Name Texas Disposal Systems

Agenda Item Request Form

Hays County Commissioners' Court

9:00 a.m. Every Tuesday

Request forms are due in the County Judge's Office

no later than **2:00 p.m.** on **WEDNESDAY.**

Phone (512) 393-2205 Fax (512) 393-2282

AGENDA ITEM:

09-3-33 Mustang Valley Subdivision Section 4 (24 Lots); Consider approval of Final Plat and Accept Construction Fiscal Surety in the amount of \$393,406.34, for street and drainage improvements.

TYPE OF ITEM: ACTION

PREFERRED MEETING DATE REQUESTED: October 20, 2009

AMOUNT REQUIRED: N/A

LINE ITEM NUMBER OF FUNDS REQUIRED: N/A

REQUESTED BY: Garza

SPONSORED BY: Conley

SUMMARY:

Mustang Valley consists of Seventy-Nine lots located between Fischer Store Rd. and FM 2325 in Wimberley. The developer has decided to continue the subdivision in phases. Section 4 consists of 24 lots just after Section 2 on Mustang Valley Trail. The total acreage of this section is 187.61 with an average lot size of 7.81 acres. All lots will be served by individual water wells and individual OSSF's. No portion lies within the boundaries of any ETJ. Preliminary Plan was approved on July 22, 2008.

Plot Notes:

BEING A PORTION OF THAT 463.620 ACRE TRACT RECORDED IN VOLUME 3279, PAGE 462 OF THE

VICINITY MAP

Plat. Notes continued:

25. All medians located within the right-of-way of streets and highways shall be made of collapsible materials, as defined in the Hays County Ordinance.

26. Erection/Installation controls are required for construction on each lot, including single family & duplex construction.

27. Reference Benchmarks: $1/2^{\text{nd}}$ Ivan Pén et al M1321264.2100 and E2227618.3150.

23. A Affian (15) foot wide Protection and Equestrian Easement is hereby dedicated along the front of all lots in this subdivision.

SEWAGE DISPOSAL / INDIVIDUAL WATER SUPPLY CERTIFICATION, WITH:
No structure in this subdivision shall be occupied until connected to an individual water supply or 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 water concerning ground water availability.

No structure in this subdivision shall be occupied until connected to a public sewer system or to an

on-site wastewater system which had been approved and permitted by Wayne County, Texas.

© 2000 by John Wiley & Sons, Inc. All rights reserved. Printed in the United States of America. This book is registered at the Copyright Clearance Center, Inc., 222 Rosewood Drive, Danvers, MA 01923.

Foto Posa. CFM

STATE OF TEXAS

I hereby certify that recognized engineering practices and standards were used in the preparation of this final plan and in the design of the improvement structures and were accomplished under my direct supervision to conform to all requirements of the Hays County Development Rules and Regulations.

Matt McCormick

MATKINHOVER
ENGINEERING
& SURVEYING
P.O. BOX 54
STANCER ROAD SUITE 100
SCURRY, TEXAS 75080

CIVIL ENGINEERS SURVEYORS LAND PLANNERS CONSTRUCTION MANAGERS CONSULTANTS

FINAL PLAT

**FOR
MUSTANG VALLEY - SECTION FOUR
HAYS COUNTY, TEXAS**

DB NO. 2286

正

CONCLUSIONS

3/2/21

[illegible]

Driftwood Surveying

P.O. Box 376
Wesley, TX 76076
PH. (817) 847-7222
FAX (817) 847-7372

STATE OF TEXAS
COUNTY OF HAYS

[illegible]

WITNESS MY HAND, this the ____ day of _____ A.D., 2008.

Panelists: **Wanda, President**
Wilson Group Managers LLC, General Partner for
Wilson Group, LP
12400 St Hwy 71 W, Suite 350-245
Austin, TX 78738

STATE OF TEXAS
COUNTY OF HAYS

BEFORE ME, the undersigned authority on this day personally appeared, Russell Hinde, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he has executed the same for the purposes and consideration therein stated.

GRIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____ A.D., 2008.

NOTARY PUBLIC in and for Hays County, Texas

I, Linda Pittman, County Clerk of Hays County, Texas, do hereby certify that on the _____ day of _____, A.D. 2008, the Commissioners' Court of Hays County, Texas passed an order authorizing the filing for record of this plat and said order has been duly entered in the minutes of said Court in Book _____ Page(s) _____.

WITNESS MY HAND AND SEAL OF OFFICE this ____ day of _____, A.D., 2009.

Elizabeth Sumter, County Judge, Hale County, Texas

Udala Fitzhugh, County Clerk, Hays County, Texas

CERTIFICATE OF RECORDING

I, Linda Pittman, County Clerk of Hays County, Texas, do hereby certify that the foregoing instrument of writing with its certificate of authentication was filed for record in my office on the _____ day of _____, A.D., 2008, of _____ o'clock _____ M., and duly recorded on the _____ day of _____, A.D., 2008, at _____ o'clock _____ M. in the Plat Records of _____ Block(s) _____

_____ County, Texas

WITNESS MY HAND AND SEAL OF OFFICE FOR THE day of _____, A.D. 2008.

1. **John Ballou** **Country Clerk** **Massachusetts** **Town**

STATE OF TEXAS
COUNTY OF HAYS

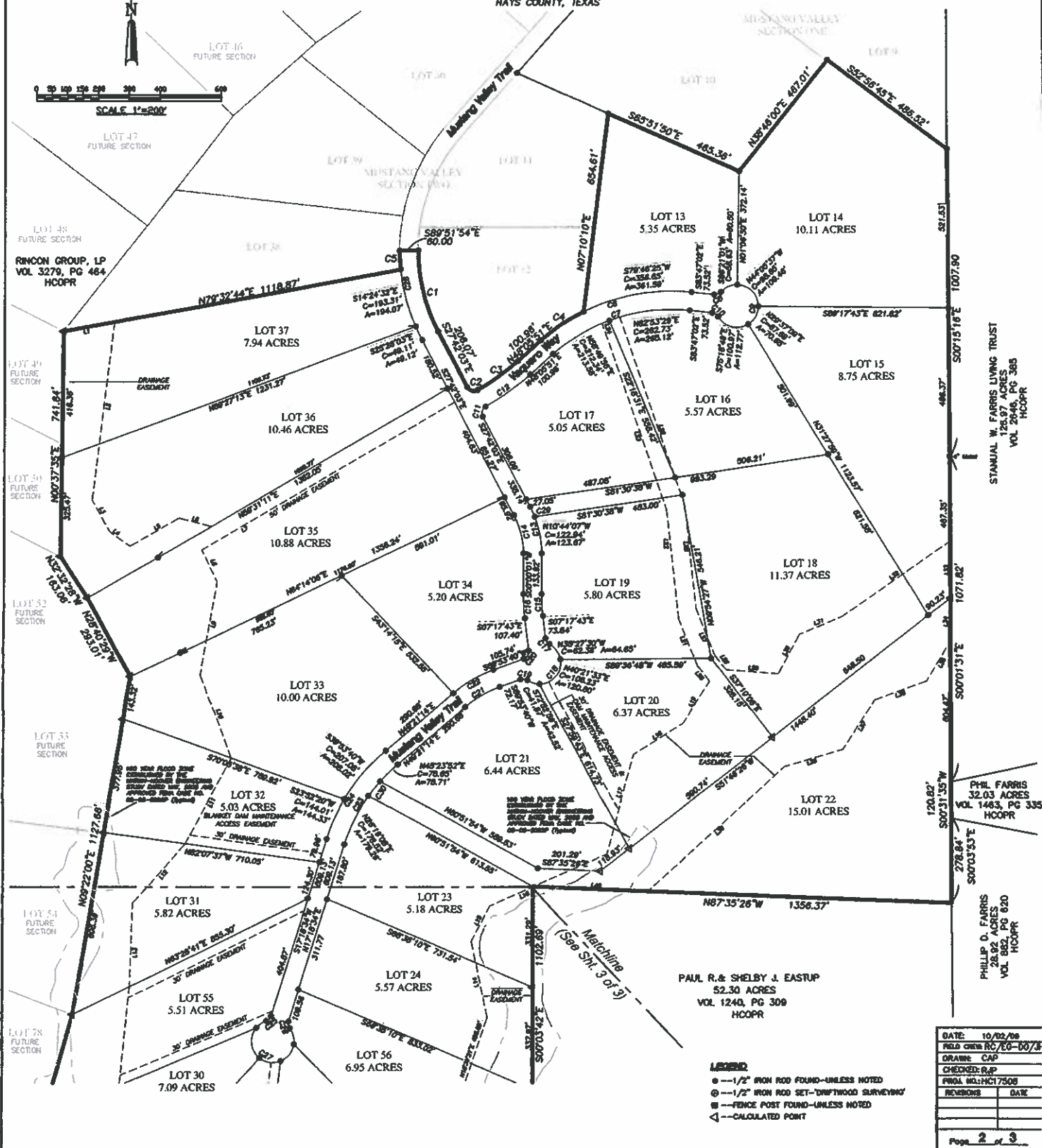
KNOW ALL MEN BY THESE PRESENTS, That I, Rudolf J. Peto, Jr., a Registered Professional Land Surveyor in the State of Texas, do hereby certify that this plat is true and correctly made and is prepared from an actual survey of the property made under my supervision on the ground and the same monuments were found or correctly placed under my observation.

Rudolf J. Poto, Jr.
Registered Professional Land Surveyor No. 5326
State of Texas



MUSTANG VALLEY - SECTION FOUR

A SUBDIVISION OF 167.61 ACRES OF LAND OUT OF THE JOHN INGRAM SURVEY No. 323, ABSTRACT No. 256, BEING A PORTION OF THAT 465.820 ACRE TRACT RECORDED IN VOLUME 3279, PAGE 462 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS (O.P.R.H.C.T.), SITUATED IN HAYS COUNTY, TEXAS



LEGEND
 • 1/2" IRON ROD FOUND-UNLESS NOTED
 @ 1/2" IRON ROD SET-DRAFTWOOD SURVEYING
 ■ FENCE POST FOUND-UNLESS NOTED
 ◁ CALCULATED POINT

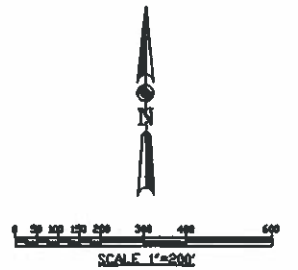
DATE:	10/02/08
FIELD CHECK:	RC/EO-DO/JS
DRAWN:	CAP
CHECKED:	RJP
FIELD NO.:	HCI7508
REVISIONS:	
DATE:	

MATKIN HOOVER
 ENGINEERING & SURVEYING
 P.O. BOX 34
 1500 SPENCER ROAD SUITE 100
 BOZALING, TEXAS 78006
 OFFICE: 830.249.0600 FAX: 830.249.0079
 CIVIL ENGINEERS SURVEYORS LAND PLANNERS CONSTRUCTION MANAGERS CONSULTANTS

FINAL PLAT
 FOR
MUSTANG VALLEY - SECTION FOUR
 HAYS COUNTY, TEXAS

Driftwood Surveying
 Professional Land Surveyors - Surveying the Hill Country
 P.O. Box 379
 Wimberley, TX 78876
 PH. (812) 847-7222 FAX (812) 847-7372

A SUBDIVISION OF 187.61 ACRES OF LAND OUT OF THE JOHN INGRAM SURVEY No. 323, ABSTRACT No. 256,
BEING A PORTION OF THAT 465.620 ACRE TRACT RECORDED IN VOLUME 3279, PAGE 462 OF THE
OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS (D.P.R.H.C.T.), SITUATED IN
HAYS COUNTY, TEXAS

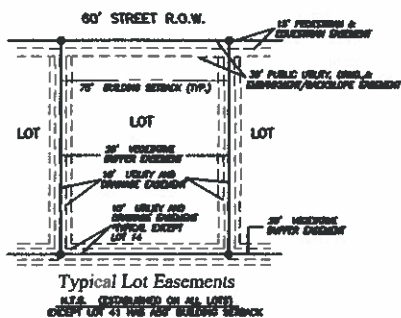


LEGEND

- — 1/2" IRON ROD FOUND—UNLESS NOTED
- ⊙ — 1/2" IRON ROD SET—"DRIFTWOOD SURVEYING"
- — FENCE POST FOUND—UNLESS NOTED
- ◁ — CALCULATED POINT

LOT SIZE CATEGORIES	
10 ACRES OR LARGER	6 LOTS
LARGER THAN 5.0 ACRES AND SMALLER THAN 10 ACRES	18 LOTS
2.0 ACRES OR LARGER UP TO 5.00 ACRES	0 LOTS
LARGER THAN 1.00 ACRE AND SMALLER THAN 2.0 ACRES	0 LOTS
SMALLER THAN 1.00 ACRE	0 LOTS

CURVE TABLE						
CURVE	RADIUS	DELTA	TANGENT	LENGTH	CHORD	BEARING
C1	875.00	27°30'00"	141.50	126.82	22.41	S174°48'W
C2	35.00	90°00'00"	25.00	40.14	32.91	S20°30'W
C3	775.00	18°15'00"	62.29	163.86	163.86	N85°11'30"E
C4	630.00	18°14'01"	62.95	167.87	167.01	N86°42'11"E
C5	630.00	06°54'00"	20.47	82.85	72.85	N85°54'00"E
C6	570.00	48°00'00"	20.47	82.86	81.33	S72°00'24"W
C7	570.00	49°00'00"	25.48	67.78	64.78	S72°00'24"W
C8	35.00	54°37'24"	12.91	21.63	22.94	N85°18'11"E
C9	30.00	28°14'48"	9.89	38.13	37.03	N86°12'58"E
C10	35.00	54°37'24"	12.91	21.63	22.94	N85°18'11"E
C11	35.00	89°15'21"	24.85	38.34	34.94	N10°25'30"W
C12	630.00	18°14'01"	62.95	167.87	168.11	N86°42'11"E
C13	330.00	27°45'04"	81.57	180.95	158.00	S175°11'01"E
C14	270.00	27°42'34"	66.57	130.34	128.27	N15°18'11"E
C15	870.00	7°17'45"	36.34	72.28	72.83	S83°38'11"E
C16	630.00	27°16'45"	40.18	60.22	68.17	N83°38'11"E
C17	35.00	54°37'24"	12.91	22.93	23.94	S84°38'21"E
C18	35.00	89°15'21"	24.85	38.34	34.94	N10°25'30"W
C19	35.00	54°37'24"	12.91	22.93	23.94	N84°38'21"E
C20	35.00	77°11'24"	19.95	33.68	31.19	N81°17'58"E
C21	330.00	27°45'04"	81.57	182.65	151.84	S83°37'27"E
C22	430.00	30°32'28"	77.81	176.14	183.33	N83°37'27"E
C23	330.00	30°32'28"	163.89	184.74	134.86	S83°18'54"E
C24	330.00	30°32'28"	163.89	184.74	134.86	N83°18'54"E
C25	330.00	30°32'28"	163.89	184.74	134.86	N83°18'54"E
C26	330.00	30°32'28"	163.89	184.74	134.86	N83°18'54"E
C27	30.00	28°14'48"	9.89	38.13	37.03	N86°12'58"E
C28	330.00	27°45'04"	154.12	300.07	300.07	N17°42'30"W
C29	330.00	08°13'48"	17.95	35.88	35.88	N85°30'00"E
C30	330.00	08°13'48"	17.95	35.88	35.88	N85°30'00"E
C31	1130.00	33°45'36"	235.33	468.27	468.27	N83°17'27"E



LINE TABLE--DRAINAGE EASEMENT		
LINE	LENGTH	BEARING
C1	167.41	N79°23'24"E
C2	890.87	N09°51'17"E
C3	118.72	S88°42'30"E
C4	80.72	S88°30'20"E
C5	183.57	S69°31'11"E
C6	110.46	N52°51'11"E
C7	890.33	N09°51'11"E
C8	118.65	S35°26'35"E
C9	310.08	S09°54'31"E
C10	282.95	S03°53'43"E
C11	77.43	S03°53'43"E
C12	258.03	S42°02'11"E
C13	728.03	N07°54'53"E
C14	238.65	N11°45'36"E
C15	130.08	N87°20'28"E
C16	417.37	N65°26'20"E
C17	338.46	N14°53'37"E
C18	190.23	N07°43'56"E
C19	153.32	S33°58'21"E
C20	31.31	S37°10'00"E

LINE TABLE-DRAINAGE EASEMENT		
LINE	LENGTH	BEARING
L21	167.16	N21°29'00"E
L22	361.20	N00°02'31"E
L23	842.80	N16°36'24"E
L24	344.00	N00°11'11"E
L25	656.67	N16°36'24"E
L26	341.16	N00°02'31"E
L27	167.16	N21°29'00"E
L28	57.22	S77°10'06"E
L29	171.16	N00°36'32"E
L30	142.26	N00°22'00"E
L31	150.63	N07°26'56"E
L32	167.26	N07°26'56"E
L33	187.65	N00°01'31"E
L34	143.81	N00°01'31"E
L35	161.44	N00°26'16"E
L36	178.06	N00°07'23"E
L37	102.67	S34°26'42"E
L38	200.61	S72°32'00"E
L39	653.40	S41°14'03"E
L40	321.16	S00°00'00"E

DATE: 10/02/08	
FIELD CODE: RC/EG-00/3	
DRAWN: CAP	
CHECKED: RJP	
PROJ. NO.: HC17508	
REVISIONS	DATE
Page 3 of 3	

BOND NO. 1022500

PRINCIPAL: RINCON GROUP LP
SURETY: Lexon Insurance Company
BENEFICIARY: Hays County Judge
Hays County, Texas
SUBDIVISION: Mustang Valley
SUM: \$393,406.34
DATE: October 12, 2009
EXPIRATION DATE: October 12, 2010 construction
October 12, 2012 maintenance

The PRINCIPAL and SURETY, a Corporation authorized to write bonds in the State of Texas, are jointly and severally held and bound unto the BENEFICIARY in the above-stated sum in U.S. currency, an amount fixed by the BENEFICIARY pursuant to Chapter 232 of the Texas Local Government Code.

This Bond is conditioned on the performance of the duties of the PRINCIPAL prior to the Expiration Date to provide for the construction and completion of the street and drainage improvements in the SUBDIVISION, as further described below, to current Hays County Subdivision and Development Regulations (the "Standards") so that the Improvements are performing to the Standards upon the approval of the construction of the Improvements and the acceptance of the public improvements by the Commissioners Court and the end of the two-year public improvement construction performance period, which commences upon the acceptance.

Partial reductions are not allowed. Upon the acceptance of the Improvements, the Bond will be reduced to ten percent of the cost of the public Improvements. If this Bond is unenforceable as a statutory Bond, the PRINCIPAL and SURETY shall be bound by this contract as a common law obligation.

In lieu of drawing on this BOND, BENEFICIARY, in its sole discretion, may accept a Substitute Bond in the then current amount of the estimated cost of constructing the Improvements in the SUBDIVISION.

DESCRIPTION: Road and drainage improvements for approximately 4,208 lineal feet of a Local Road, per Hays County road specifications, and per Hays County approved engineering plans from Matkin Hoover Engineering for Section 4.

PRINCIPAL

BY: _____

Russell Hinds
Partner
Rincon Group LP
12400 State Hwy 71 W
Ste 350-245
Austin, TX 78738

SURETY

BY: _____

Robert J. DeLaFontaine
Lexon Insurance Company
Robert J. DeLaFontaine, Attorney-In-Fact
256 Jackson Meadows Drive
Suite 201
Hermitage, TN 37076

- A certified copy of the Bylaws of the Surety or a Power of Attorney evidencing the authority of the representative to sign this Bond obligation must be provided to the County.

{Notary Public information and seal/signature}



[Signature]
October 13, 2009

POWER OF ATTORNEY

LX - 017877

Lexon Insurance Company

KNOW ALL MEN BY THESE PRESENTS, that LEXON INSURANCE COMPANY, a Texas Corporation, with its principal office in Louisville, Kentucky, does hereby constitute and appoint:

David E. Campbell, Cynthia L. Raftery, Gregory E. Semrow, Lynne K. Hupka, *****

Christopher L. Dobbs, Jalene Brown, Robert J. DeLaFontaine, Mary F. Nau (as employees of Lexon Insurance Company)****

its true and lawful Attorney(s)-In-Fact to make, execute, seal and deliver for, and on its behalf as surety, any and all bonds, undertakings or other writings obligatory in nature of a bond.

This authority is made under and by the authority of a resolution which was passed by the Board of Directors of LEXON INSURANCE COMPANY on the 1st day of July, 2003 as follows:

Resolved, that the President of the Company is hereby authorized to appoint and empower any representative of the Company or other person or persons as Attorney-In-Fact to execute on behalf of the Company any bonds, undertakings, policies, contracts of indemnity or other writings obligatory in nature of a bond not to exceed \$ 7,100,000.00 Seven million one hundred thousand dollars dollars, which the Company might execute through its duly elected officers, and affix the seal of the Company thereto. Any said execution of such documents by an Attorney-In-Fact shall be as binding upon the Company as if they had been duly executed and acknowledged by the regularly elected officers of the Company. Any Attorney-In-Fact, so appointed, may be removed for good cause and the authority so granted may be revoked as specified in the Power of Attorney.

Resolved, that the signature of the President and the seal of the Company may be affixed by facsimile on any power of attorney granted, and the signature of the Vice President, and the seal of the Company may be affixed by facsimile to any certificate of any such power and any such power or certificate bearing such facsimile signature and seal shall be valid and binding on the Company. Any such power so executed and sealed and certificate so executed and sealed shall, with respect to any bond of undertaking to which it is attached, continue to be valid and binding on the Company.

IN WITNESS THEREOF, LEXON INSURANCE COMPANY has caused this instrument to be signed by its President, and its Corporate Seal to be affixed this 2nd day of July, 2003.



LEXON INSURANCE COMPANY

BY

David E. Campbell
President

ACKNOWLEDGEMENT

On this 2nd day of July, 2003, before me, personally came David E. Campbell to me known, who being duly sworn, did depose and say that he is the President of LEXON INSURANCE COMPANY, the corporation described in and which executed the above instrument; that he executed said instrument on behalf of the corporation by authority of his office under the By-laws of said corporation.

"OFFICIAL SEAL"
MAUREEN K. AYE
Notary Public, State of Illinois
My Commission Expires 09/21/09

Maureen K. Aye
Notary Public

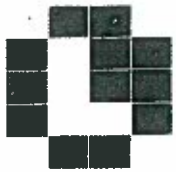
CERTIFICATE

I, the undersigned, Secretary of LEXON INSURANCE COMPANY, A Texas Insurance Company, DO HEREBY CERTIFY that the original Power of Attorney of which the foregoing is a true and correct copy, is in full force and effect and has not been revoked and the resolutions as set forth are now in force.

Signed and Sealed at Lombard, Illinois this 12th Day of Oct., 2009.



Donald D. Buchanan
Secretary



LEXON
INSURANCE
COMPANY

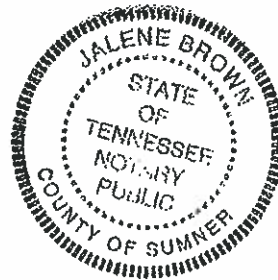
256 Jackson Meadows Drive • Suite 201
Hermitage, TN 37076
phone (615) 250-3040
fax (615) 250-3044

State of Tennessee
County of Davidson

On this 12th Day of October, 2009, before me a Notary Public of the State and County aforesaid, personally appeared **Robert J. DeLaFontaine, Attorney-in-Fact of Lexon Insurance Company**, who acknowledged that being so authorized, he executed the Performance Bond for Rincon Group LP.


Jalene Brown

County of Residence: Sumner
My Commission Expires: 05/21/2012



Agenda Item Request Form

Hays County Commissioners' Court

9:00 a.m. Every Tuesday

Request forms are due in the County Judge's Office

no later than 2:00 p.m. on WEDNESDAY.

Phone (512) 393-2205 Fax (512) 393-2282

AGENDA ITEM: Hold a public hearing regarding approval of the plan for the preservation and restoration of the district court records archive, pursuant to Chapter 51 of the Texas Government Code. Possible action to follow.

TYPE OF ITEM: ACTION

PREFERRED MEETING DATE REQUESTED: October 20, 2009

AMOUNT REQUIRED: n/a

LINE ITEM NUMBER OF FUNDS REQUIRED: n/a

REQUESTED BY: SUMTER, ADAIR

SPONSORED BY: SUMTER

SUMMARY: Chapter 51 of the Texas Government Code requires that the Commissioners Court approve the District Clerk's preservation plan prior to expenditure of any fees collected for that purpose. The District Clerk's preservation plan may be found in the back-up material to this item.

Proposed New Fee
SB1685
For Preservation and Restoration
Of Archived Records

Presented By
Cecelia Adair, District Clerk

August 2009

	Page
Summary and Steps to implement	2
Notice of Public Hearing	3
Notice to Post	4
Archive Plan	5
Projected Revenue	6
SB 1685	7
Additional fee information	8

Background

The purpose of this document is to define the restoration and preservation, digital capture, storage, retention and management of archived records within the District Clerk's office..

Many offices are moving records to a digital format and/or microfilm to relieve storage problems. In order to comply with retention and preservation statutes and State Library rules (see Bulletin B at <http://www.tsl.state.tx.us/slrn/recordspubs/lgbullb.html>), the film and digital images must be maintained permanently and a plan in place to store the film and secure the future transition of digitized records to new media that allows access to these records.

The State Library suggests that a department head make a plan for future retention of the court records and have the appropriate person/body sign off on a guarantee that the funding will be in place to upgrade the ability to retrieve permanent records. However, a commissioner's court is powerless to obligate a future court to any expenditure. Therefore, this dedicated fund will insure the funds are available to do the necessary preservation and conversion work to preserve and restore archived records and this new legislation was designed to target archived records.

Purpose

S.B. 1685 creates a dedicated district court **records technology fund** and authorizes district clerks to collect an additional filing fee not to exceed \$5 per filing. The bill provides that these funds be used only for the preservation and restoration of the district court records archive. The bill authorizes the district courts to effectively preserve and efficiently retrieve the large amount of legal documents that are required to be preserved.

This bill authorizes the commissioner's court to adopt a records archive fee for deposit in the District Court Records Technology Fund as part of the county's annual budget. If the provisions of SB 1865 are implemented, the county will experience a revenue gain. This additional revenue will be dedicated to helping the district clerk focus on preserving older records.

The effective date of this Act was June 19, 2009 and expires upon completion of the projects necessary to preserve and digitize the district court records

Steps to Implement

- Prepare Archive Plan

- Commissioner's Court Approval

- Public Hearing

- Post Notice of Fee in a conspicuous place as follows:

NOTICE
SPECIAL MEETING
OF THE COMMISSIONERS COURT
OF HAYS COUNTY, TEXAS

.....

Notice is hereby given that a SPECIAL meeting of the Hays County Commissioner's Court will be held on the ____ day of August, 2009, at ____ A.M. in the Commissioners Courtroom, third floor, Hays County Courthouse, 111 East San Antonio Street, San Marcos, Texas at which time the following subjects will be discussed.

1. PUBLIC HEARING - re: SB1685, District Court Technology Fund
2. Adjourned

Dated this the ____ day August, 2009

____ County Judge, Hays County
Liz Sumter

ATTEST:

____ District Clerk, Hays County
Cecelia Adair

NOTICE OF ADDITIONAL FEE

THE COMMISSIONERS COURT OF HAYS COUNTY
PURSUANT TO SB1685 AND GOVERNMENT CODE,
Section 51.305 HAS DETERMINED THAT A RECORDS
ARCHIVE FEE OF \$ 5.00. IS NEEDED TO
RESERVE AND RESTORE DISTRICT COURT
RECORDS

EFFECTIVE DATE _____ 2009

CECELIA ADAIR, DISTRICT CLERK, HAYS COUNTY

ARCHIVE PLAN

Introduction

Currently, this office has records dating back to the mid 1800s. We are transferring records that were initially only on microfilm to digital format for faster and easier retrieval. The Odyssey system installed in 2006, has a better imaging system which allows us to create digital images. The ultimate goal is for the judiciary to use computers in the courtroom in order to move to a paperless system.

Designation of Court Documents subject to the plan:

All civil and criminal case files, pending and final or closed.

The Process

To accomplish our goals, we have purchased and installed a software system by CASO which is also supported by them.

Active case documents are scanned into Odyssey Case Management System for Record Storage and retrieval convenience.

After the case is final, all case records are prepared and picked up by CASO for digitizing and the creation of microfilm. The Microfilm is archived and stored by CASO in the proper facility in San Antonio. The microfilm is not used for search purposes.

Digital images are also stored on an easy searchable CASO program available to anyone and may be photo copied for a fee.

Upon the District Clerk's request and after approval has been obtained from the State Library the documents are eventually destroyed by CASO.. The exception per State Library and Archive Rules are criminal judgments or docket sheets upon which defendant's finger prints have been placed. The criminal files are returned and they remain as a permanent paper document.

The goal

The goal is to reproduce and archive all documents, regardless of type, as efficiently as possible. The District Clerk's office is also in the process of determining the restoration requirements of very old hand-written records, suspending their deterioration, improving public access. This is a continuing process as new cases are filed daily. All closed cases have been scanned and preserved.

To complete our efforts toward electronic storage of all case files, we envision maintaining closed cases on our shelves for a short period of time and using computers to access all records with a view to the future of using the computers entirely for court activity.

With less cost to the County, we may continue this ongoing process by using the archive fee to cover the cost of scanning paper based documents. In addition to preserving the documents, the images will be added to our existing imaging system and improve customer service. Additionally, significant space savings will be realized once paper documents are destroyed.

The approximate annual cost of continuing this project is estimated to be \$40 to \$60 thousand. Additional funds are available in the county records preservation fund which is being increased monthly from fees collected by all fee officers on court cases.

Expenditures, including but not limited to:

- Computer hardware, including any and all peripherals necessary
- Computer software
- Service provider and other outsourcing services
- Relevant staff salary
- Data storage supplies
- Travel expenses to and from a service provider to deliver and pickup case documents, if necessary

Projected Annual Revenue (SB1685)

Document Type	Documents Subject to Fee	Revenue at \$5.00	Revenue at \$4.00	Revenue at \$3.00	Revenue at \$2.00
Filing new suit, including appeal from lower court	2600	\$ 13,000	\$10,400	\$ 7,800	\$ 5,200
Filing cross-action, counterclaim, intervention, contempt action, motion for new trial, 3 rd party petition	950	\$ 4,750	\$ 3,800	\$ 2,850	\$ 1,900
Total	3550	\$ 17,750	\$ 14,200	\$ 10,650	\$ 7,100

AN ACT

relating to the creation of a district court records technology fund.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter D, Chapter 51, Government Code, is amended by adding Section 51.305 to read as follows:

Sec. 51.305. DISTRICT COURT RECORDS TECHNOLOGY FUND. (a) In this section:

(1) "Court document" means any instrument, document, paper, or other record that the district clerk is authorized to accept for filing or maintenance.

(2) "Deterioration" means any naturally occurring process or a natural disaster that results in the destruction or partial destruction of a court document.

(3) "Preservation" means any process that:

(A) suspends or reduces the deterioration of a court document; or

(B) provides public access to a court document in a manner that reduces the risk of deterioration.

(4) "Restoration" means any process that permits the visual enhancement of a court document, including making the document more legible.

(b) The commissioners court of a county may adopt a district court records archive fee of not more than \$5 for the filing of a suit, including an appeal from an inferior court, or a cross-action, counterclaim, intervention, contempt action, motion for new trial, or third-party petition, in a district court in the county as part of the county's annual budget. The fee must be set and itemized in the county's budget as part of the budget preparation process and must be approved in a public meeting. The fee is for preservation and restoration services performed in connection with maintaining a district court records archive.

(c) The county treasurer, or the official who discharges the duties commonly delegated to the county treasurer, in a county that adopts a fee under Subsection (b) shall establish a district court records technology fund in the general fund of the county for deposit of fees paid under Section 51.317(f).

(d) Subject to Subsection (f), money generated from the fee imposed under this section may be expended only for the preservation and restoration of the district court records archive.

(e) The district clerk shall designate the court documents that are part of the records archive for purposes of this section. The designation of court documents by the district clerk under this subsection is subject to approval by the commissioners court in a public meeting.

(f) The district clerk in a county that adopts a fee under this section shall prepare an annual written plan for the preservation and restoration of the district court records archive. The plan may include a proposal for entering into a contract with another person for preservation and restoration services. The commissioners court shall publish notice of a public hearing on the plan in a newspaper of general circulation in the county not later than the 15th day before the date of the hearing. After the public hearing, the plan shall be considered for approval by the commissioners court. Money in the district court records technology fund may be expended only as provided by the plan. All expenditures from the records technology fund must comply with Subchapter C, Chapter 262, Local Government Code.

(g) If a county imposes a fee under this section, a notice shall be posted in a conspicuous place in the district clerk's office. The notice must state the amount of the fee in the following form: "THE COMMISSIONERS COURT OF

(Insert name of county) COUNTY HAS DETERMINED THAT A RECORDS ARCHIVE FEE OF \$ (Insert amount adopted by commissioners court) IS NEEDED TO PRESERVE AND RESTORE DISTRICT COURT RECORDS."

(h) Money remaining from the collection of fees imposed under this section after completion of a district court records archive preservation and restoration project may be expended for records management and preservation purposes in the manner provided by Section 51.317(d). The commissioners court of a county may not impose a fee under this section after the district court records archive preservation and restoration project is complete.

SECTION 2. Section 51.317, Government Code, is amended by amending Subsection (b) and adding Subsections (b-2) and (f) to read as follows:

(b) The fees are:

(1) except as provided by Subsection (b-1), for filing a suit, including an appeal from an inferior court, \$50;

(2) for filing a cross-action, counterclaim, intervention, contempt action, motion for new trial, or third-party petition, \$15;

(3) for issuing a citation or other writ or process not otherwise provided for, including one copy, when requested at the time a suit or action is filed, \$8;

(4) for records management and preservation, \$10; and

(5) in addition to the other fees imposed under this section, for filing a suit, including an appeal from an inferior court, or a cross-action, counterclaim, intervention, contempt action, motion for new trial, or third-party petition, the amount adopted by the county commissioners court, not to exceed \$5, for court records archiving.

(b-2). The fee imposed under Subsection (b)(5) does not apply to a filing by a state agency.
(f) The district clerk, after collecting a fee under Subsection (b)(5), shall pay the fee to the county treasurer, or to an official who discharges the duties commonly delegated to the county treasurer, for deposit to the district court records technology fund established under Section 51.305.

SECTION 3. Subchapter D, Chapter 101, Government Code, is amended by adding Section 101.06116 to read as follows:

Sec. 101.06116. ADDITIONAL DISTRICT COURT FEES: GOVERNMENT CODE. The clerk of a district court shall collect a district court records archive fee of not more than \$5 under Section 51.317(b)(5), if adopted by the county commissioners court.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009**

****Passed each house by more than a two-thirds majority and signed by the governor June 19, 2009 (effective date).**

Additional New Fee Information: not relevant to this plan

HB3637 (effective 1-1-2010) requires a \$4 fee to be assessed on criminal conviction and creates another new fund: "County & District Court Technology Fund"

Projected District Court revenue – **\$2,700**

This bill also assesses an additional fee not to exceed \$10 in each civil case to be deposited into a "Court Records preservation fund".

Projected District Court Revenue = **\$35,500.**

Existing related fees:

Records preservation Fee of \$10.00 assessed on all civil cases except "Fraudulent Filing" cases. \$5 goes to the District Clerk's Records Preservation Fund and \$5 to County Records Preservation Fund.

Records preservation fee of \$25.00 assessed on any conviction of an offense in county court at law or district court. - \$22.50 applied to the county Records Preservation Fund and \$2.50 to District Clerk's Records Preservation Fund.

Related funds:

County Records Preservation Fund.....GC 51.319 & CCP 102.005(f),	09-341-3412
County Clerk Records Management and Preservation Fund.....LGC Sec. 118.0216	- - -
District Clerk Records Pres. Fund.....GC 51.317 & CCP 102.005	09-341-3412
Co & Dist Clerk Technology Fund.....HB3637, CCP 102.0169	new GL code
Court Records Preservation Fund.....HB3637 GC 51.708	new GL code
District Court Technology Fund.....SB1685 GC 51.305	new GL code

Agenda Item Request Form

Hays County Commissioners' Court

9:00 a.m. Every Tuesday

Request forms are due in the County Judge's Office

no later than **2:00 p.m.** on **WEDNESDAY.**

Phone (512) 393-2205 Fax (512) 393-2282

AGENDA ITEM: Discussion and possible action to accept a grant award from the Bureau of Justice Assistance (BJA) for the Bulletproof Vest Partnership (BVP) in the amount of \$6,137.00.

CHECK ONE: **CONSENT** ☒ **ACTION** ☐ **EXECUTIVE SESSION**

 ☐ **WORKSHOP** ☐ **PROCLAMATION** ☐ **PRESENTATION**

PREFERRED MEETING DATE REQUESTED: October 20, 2009

AMOUNT REQUIRED: \$12,274 -50% (County's portion -\$6,137 FY 2010 Budget)

LINE ITEM NUMBER OF FUNDS REQUIRED:

REQUESTED BY: Hauff

SPONSORED BY: Conley

SUMMARY:

On June 23, 2009 the Commissioners Court authorized submission of a grant application to the Bureau of Justice Assistance (BJA) in the amount of \$21,660 for 30 bulletproof vests, and the matching funds requested was \$10,830 (the Bulletproof Vest Partnership program reimburses one-half (50%) of the cost of the vests). After submitting the application on-line, the maximum allowable request from BVP was \$12,274.00 for 17 vests or \$6,137 in available grant matching funds.

Notice of award was received via e-mail (attached), and acceptance is done electronically.

Agenda Item Routing Form

DESCRIPTION OF Item: Grant Award from Bureau of Justice Assistance for Bulletproof Vest Partnership

PREFERRED MEETING DATE REQUESTED: October 20, 2009

COUNTY AUDITOR

Typically Requires 1 Business Day Review

AMOUNT AND FUND LINE ITEM NUMBER: \$6137.00 – County's portion of 50% match

COUNTY PURCHASING GUIDELINES FOLLOWED: _____ N/A _____

PAYMENT TERMS ACCEPTABLE: _____ N/A _____

COMMENTS:

Bill Herzog

SPECIAL COUNSEL

Typically Requires 9 Business Day Review

CONTRACT TERMS ACCEPTABLE: _____

COMMENTS:

COMMISSIONERS' COURT

APPROVED/DISAPPROVED AND DATE: _____

COUNTY JUDGE

Signature Required if Approved

DATE CONTRACT SIGNED: _____

Jeff Hauff

From: owner-bvp-list@ojp.usdoj.gov on behalf of BVP [bvp@usdoj.gov]
Sent: Tuesday, October 06, 2009 10:15 AM
To: BVP-list
Subject: Bulletproof Vest Partnership FY 2009 Awards

The Bureau of Justice Assistance (BJA) is pleased to inform you that your agency will receive an award under the Fiscal Year (FY) 2009 Bulletproof Vest Partnership (BVP) solicitation. These funds have been posted to your account in the BVP system. For questions regarding the BVP Program or your award, please do not hesitate to contact the BVP Help Desk at vests@ojp.gov.

A complete list of FY 2009 BVP awards is available at <http://www.ojp.usdoj.gov/bvpbasi/>

The FY 2009 award funds may be used for National Institute of Justice (NIJ) compliant armored vests which were ordered on or after April 1, 2009. The deadline to request payments from the FY 2009 award funds is September 30, 2011, or until all available 2009 awards funds have been requested.

Thank You.

BVP Program Support Team

Agenda Item Request Form

Hays County Commissioners' Court

9:00 a.m. Every Tuesday

Request forms are due in the County Judge's Office

no later than 2:00 p.m. on WEDNESDAY.

Phone (512) 393-2205 Fax (512) 393-2282

AGENDA ITEM: Discussion and possible action to authorize the County Judge to accept and execute a sub-grant award contract from the Governor's Division of Emergency Management, Homeland Security Grant Program for \$2,575.00.

CHECK ONE: **CONSENT** ☒ **ACTION** ☐ **EXECUTIVE SESSION**

☐ **WORKSHOP** ☐ **PROCLAMATION** ☐ **PRESENTATION**

PREFERRED MEETING DATE REQUESTED: October 20, 2009

AMOUNT REQUIRED: N/A

LINE ITEM NUMBER OF FUNDS REQUIRED:

REQUESTED BY: Turner/Hauff

SPONSORED BY: Sumter

SUMMARY:

This sub-grant has been awarded by the Governor's Division of Emergency Management, Homeland Security Grant Program to provide shelter manager vests for identification. These vests will be used to identify the assigned shelter management team easier and command staff in housing individuals during times when local sheltering is necessary. Attached is the award Notice.



Texas Division of Emergency Management

2009 Sub-Recipient Agreement for Hays County

Date of Award

September 29, 2009

1. Sub-Recipient Name and Address	2. Prepared by: Carter, Brandy	3. SAA Award Number: 09-SR 48209-01
Judge Elizabeth Sumter Hays County 111 East San Antonio Street, #300 San Marcos, TX 78666	4. Federal Grant Information	
	Federal Grant Title: Homeland Security Grant Program	
	Federal Grant Award Number: 2009-SS-T9-0064	
	Date Federal Grant Awarded to TDEM: August 1, 2009	
	Federal Granting Agency: Department of Homeland Security FEMA Grant Programs Directorate	

5. Award Amount and Grant Breakdowns						
Total Award Amount CFDA: 97.067 \$2,575.00	Note: Additional Budget Sheets (Attachment A): <input type="checkbox"/> Yes <input type="checkbox"/> No					
	SHSP 97.073	SHSP-LEAP 97.073	UASI 97.008	UASI-LEAP 97.008	CCP 97.053	MMRS 97.071
	\$2,575.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
This award supersedes all previous awards. Performance Period: Aug 1, 2009 to Apr 15, 2012						

6. Statutory Authority for Grant: This project is supported under Consolidated Security, Disaster Assistance and Continuing Appropriations Act. 2009 Public Law No. 110-329.

7. Method of Payment: Primary method is reimbursement. See the enclosed instructions for the process to follow in the submission of invoices.

8. Debarment/Suspension Certification: The Sub-Recipient certifies that the subgrantee and its' contractors/vendors are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded by any federal department or agency and do not appear in the Excluded Parties List System at <http://www.epls.gov>.

9. Agency Approval	
Approving TDEM Official: Jack Colley, Chief Texas Division of Emergency Management Department of Public Safety	Signature of TDEM Official:

10. Sub-Recipient Acceptance	
I have read and understand the attached Terms and Conditions.	
Type name and title of Authorized Sub-Recipient official: Elizabeth 'Liz' Sumter Hays County Judge	Signature of Sub-Recipient Official:

11. Enter Employer Identification Number (EIN) / Federal Tax Identification Number: 74-6002241	12. Date Signed :
--	--------------------------

13. DUE DATE: November 18, 2009

Signed award and Direct Deposit Form (if applicable) must be returned to TDEM on or before the above due date.



TEXAS DIVISION OF EMERGENCY MANAGEMENT
TEXAS DEPARTMENT OF PUBLIC SAFETY
WWW.TXDPS.STATE.TX.US/DEM

ASSISTANT DIRECTOR / CHIEF
JACK COLLEY

October 1, 2009

The Honorable Elizabeth Sumter
Judge, Hays County
111 East San Antonio Street Suite, #300
San Marcos, TX 78666

Dear Judge Sumter:

Your jurisdiction is being awarded a sub-grant for the Fiscal Year (FY) 2009 Homeland Security Grant Program (HSGP) to carry out homeland security projects that will significantly improve local and regional terrorism prevention, preparedness, response, and recover capabilities. Proposed local, regional, and urban area projects were grouped into investments that were submitted to U. S. Department of Homeland Security (DHS) for review and approval. Grant funds must be used for projects which support the investments approved by DHS, which are identified in *Enclosure 1*.

The following additional grant-related documents are enclosed:

- Notice of Sub-recipient Award (SRA) – *Enclosure 2*

The *Notice of Sub-recipient Award* for the 2009 HSGP must be signed by the chief elected official of your jurisdiction unless that authority has been delegated. Other signatures will require an accompanying statement from the chief elected official authorizing the individual to sign for the jurisdiction.

- Direct Deposit Authorization - *Enclosure 3*

A. TDEM must have a current *Direct Deposit Authorization* from your jurisdiction in order to transfer grant funds electronically to a designated bank account to reimburse you for grant-funded expenses. Additional copies are available from the Texas State Comptroller's website at: <http://www.window.state.tx.us/taxinfo/taxforms/74-158.pdf>. An appropriate local official, typically your finance officer, must sign the *Direct Deposit Authorization*.

B. If you submitted a completed *Direct Deposit Authorization* form with prior Homeland Security Grant Program awards, you do not need to submit another unless your bank account information has changed.

The deadline for returning the signed *Notice of Sub-Recipient Award, Exhibit B and C of the Terms and Conditions, and Direct Deposit Authorization (if applicable)* is **November 18, 2009**. The offer of a homeland security sub-grant will be withdrawn if the required materials are not postmarked by the due date. Extensions to this date will not be granted. Please submit above documents to the following addresses:

Mail: PO Box 4087 Austin, Texas 78773 Courier: 5805 N. Lamar Blvd. Austin, Texas 78752
Telephones: Main: 512-424-2138 * 24 hour: 512-424-2208 * Fax: 512-424-2444

Mail:

Division of Emergency Management
Attention: SAA Section
P.O. Box 4087
Austin, TX 78773-0270

Courier:

Division of Emergency Management
Attention: SAA Section
5805 N. Lamar
Austin, TX 78752

Please retain a copy of each form for your records.

If you have any program questions regarding HSGP, please contact Edwin Staples at the SAA at 512-377-0002 or 512-377-0000.

Sincerely,



Jack Colley
Assistant Director/Chief

JC:es

Enclosures:

1. *DHS Approved Investments*
2. *2009 Notice of Sub-recipient Award*
3. *Direct Deposit Authorization*

FY 2009 INVESTMENTS APPROVED BY DHS

State Investments

1. Improve Communication Interoperability
2. Intelligence and Information Sharing and Dissemination
3. Enhance State, Regional and Local Planning
4. Enhance State, Regional and Local EOCs
5. CBRNE Detection, WMD, Hazmat Response and Decon
6. Protection Critical Infrastructure
7. Community Preparedness & Emergency Public Information & Warning
8. Strengthen Medical Surge and Mass Prophylaxis
9. Enhance Border Security Program
10. Reduce Threats to Agriculture & Enhance Emergency Response
11. Search and Rescue Capability

Note: Highlighted investments are multi-regional projects

Austin Area UASI Investments

1. Tom Miller Dam Target Hardening
2. Planning and Coordination
3. Austin Regional Intelligence Center
4. TEXAS PEER-TO-PEER UASI PLANNING NETWORK

Dallas/Fort Worth/Arlington Area UASI Investments

1. All Hazards Incident Management Team Development & Enhancement
2. TEXAS PEER-TO-PEER UASI PLANNING NETWORK
3. Regional Multi-Agency Intelligence Fusion Center and Data Sharing
4. Critical Infrastructure Security Enhancement
5. Enhance Command and Control At All Levels to Include Emergency Operation Center Functions
6. Enhance Law Enforcement Capability to Respond to Terrorism Incidents and Catastrophic Events
7. Enhance CBRNE Response Capability Including HazMat and Specialized Fire Response
8. Enhance Search and Rescue Capability to Respond to Terrorism Incidents and Catastrophic Events
9. Enhance Medical Surge, Mass Prophylaxis, and Fatality Management Capability
10. Enhance Interoperable Communications

11. Public Outreach Programs, Citizen Corps, and Citizen Preparedness
12. Regional and Urban Area Planning
13. Regional and Urban Area Training and Exercise

El Paso Area UASI Investments

1. El Paso-UASI/Region-09 P25 Interoperability Communications Project
2. Purchase and Logistical Support for Regional Self Contained Breathing Apparatus Project Phase II
3. All Hazards Incident Management Team Development & Enhancement
4. Coordinated efforts to protect Critical Infrastructure and Key Resources – El Paso Water Utilities
5. Planning and Coordination
6. Urban and Regional area Hazmat, Chemical, Biological, Radiological Response Enhancement Project
7. TEXAS PEER-TO-PEER UASI PLANNING NETWORK
8. Ready El Paso Citizen Corps Campaign
9. Regional Medical Operations Center (RMOC) Enhancement
10. El Paso-UASI/Region-08 Urban Search and rescue Enhancement Program
11. Rio Grande Information & Intelligence Center

Houston Area UASI Investments

1. TEXAS PEER-TO-PEER UASI PLANNING NETWORK
2. Regional Emergency Management Improvements
3. Citizen Preparedness, Public Outreach & Communication
4. Regional Planning & Coordination
5. Interoperable Communications
6. Prevention: Fusion Center & Regional AFIS
7. Protection: Public Safety Video & Target Hardening
8. Response: Enhance CBRNE Response Capability
9. Enhance Health & Medical Capabilities

San Antonio Area UASI Investments

1. All Hazards Incident Management Team Development & Enhancement
2. Enhance IED Preparedness and Response Capabilities
3. TEXAS PEER-TO-PEER UASI PLANNING NETWORK
4. San Antonio Urban Area Fusion Center
5. Enhance Citizen Preparedness and Response Participation
6. Enhance EOC Capabilities
7. Sustain & Protect Critical Infrastructure and Key Resources
8. Enhance Medical Surge Capabilities
9. Sustain & Enhance WMD/CBRNE Response Capabilities

2009 TERMS AND CONDITIONS

Homeland Security Grant Program (HSGP)

FY 2009 HSGP is comprised of four separate grant programs:

- State Homeland Security Program (SHSP)
- Urban Areas Security Initiative (UASI)
- Metropolitan Medical Response System (MMRS)
- Citizen Corps Program (CCP)

Parties to Sub-recipient Agreement

This Sub-recipient agreement is made and entered into by and between the Texas Division of Emergency Management/State Administrative Agency, an agency of the State of Texas, hereinafter referred to as "TDEM," and the funds recipient, hereinafter referred to as the "Sub-recipient." Furthermore, TDEM and the Sub-recipient are collectively hereinafter referred to as the "Parties." By this Sub-recipient agreement's execution, the Parties have severally and collectively agreed to be bound to the mutual obligations and to the performance and accomplishment of the tasks described in this Sub-recipient agreement. The Sub-recipient Agreement is only an offer until the Sub-recipient returns the signed copy of the 2009 Sub-recipient Agreement in accordance with the date provided in the transmittal letter and in the agreement. The Sub-recipient must also certify to the statements provided in Exhibits B and C by signing and returning a copy of these documents with the Sub-recipient Agreement.

Overview, Special Conditions and Performance Standards

A. Overview.

State Homeland Security Grant (SHSP)

The State Homeland Security Program (SHSP) is a core assistance program that provides funds to build capabilities at the State and local levels and to implement the goals and objectives included in State Homeland Security Strategies and initiatives in the State Preparedness Report. SHSP supports the implementation of State Homeland Security Strategies to address the identified planning, organization, equipment, training, and exercise needs for acts of terrorism and other catastrophic events. In addition, SHSP supports the implementation of the National Preparedness Guidelines, the National Incident Management System (NIMS), and the National Response Framework (NRF).

Urban Areas Security Initiative (UASI)

Urban Areas Security Initiative (UASI) program funds address the unique planning, organization, equipment, training, and exercise needs of high-threat, high-density Urban Areas, and assist them in building an enhanced and sustainable capacity to prevent, protect against, respond to, and recover from acts of terrorism.

Metropolitan Medical Response System (MMRS)

The MMRS program supports the integration of emergency management, health, and medical systems into a coordinated response to mass casualty incidents caused by any hazard. MMRS Grantees will reduce the consequences of a mass casualty incident during the initial period of a response by having augmented existing local operational response systems before the incident occurs.

Citizen Corps Program (CCP)

The Citizen Corps mission is to bring community and government leaders together to coordinate the involvement of community members and organizations in emergency preparedness, planning, mitigation, response, and recovery.

B. Special Conditions

SHSP

Activities implemented under SHSP must support terrorism preparedness by building or enhancing capabilities that relate to the prevention of, protection from, or response to, and recovery from terrorism in order to be considered eligible. However, many capabilities which support terrorism preparedness simultaneously support preparedness for other hazards. Grantees must demonstrate this dual-use quality for any activities implemented under this program that are not explicitly focused on terrorism preparedness.

The recipient may only fund projects that were included in the FY 2009 State Investment Justifications which were submitted and approved by DHS/FEMA. Use of SHSP funds must be consistent with and supportive of implementation of the State Homeland Security Strategy and State Preparedness Report. Linkages between specific projects undertaken with SHSP funds and strategic goals and objectives will be highlighted through regular mechanisms, including the Biannual Strategy Implementation Report (BSIR).

As defined in the FY 2009 grant guidance, the FY 2009 SHSP will focus on two objectives as the highest priorities. These two objectives are:

1. National Priority: Strengthen Information Sharing and Collaboration Capabilities – Maximizing Information Sharing via the National Network of Fusion Centers;
2. National Priority: Strengthen Medical Surge and Mass Prophylaxis – Developing and Enhancing Health and Medical Readiness and Preparedness Capabilities. These two priorities are in addition to the priorities for all programs under the Homeland Security Grant Program and, if applicable, the Law Enforcement Terrorism Prevention Activities Priorities.

A personnel cap of up to 50% of total program funds may be used for personnel and personnel-related activities as directed by the Personnel Reimbursement for Intelligence Cooperation and Enhancement (PRICE) of Homeland Security Act (Public Law 110-412). In general, the use of Homeland Security Grant Program grant funding to pay for staff and/or contractor regular time or overtime/backfill is considered a personnel cost.

Since a separate LETPP grant program for Law Enforcement Terrorism Prevention Activities was not created for FY 2009, the State is required to ensure that local and state sub-grantees expend at least 25 percent of their SHSP award funds towards law enforcement terrorism prevention-oriented planning, organization, training, exercise, and equipment activities.

UASI

Allocations and use of grant funding must support and be coordinated with the goals and objectives included in the State and/or Urban Area Homeland Security Strategies. The recipient may only fund projects that were included in the FY 2009 Urban Area Investment Justifications which were submitted and approved by DHS/FEMA. The recipient agrees that funds utilized to establish or enhance designated state and Urban Area fusion centers must support the development of a statewide fusion process that corresponds with the Global Justice/Homeland Security Advisory Council (HSAC) Fusion Center Guidelines and the National Strategy for Information Sharing, and achievement of a baseline level of capability as defined by Global's Baseline Capabilities for State and Major Urban Area Fusion Centers, a supplement to the Fusion Center Guidelines, located at <http://www.it.ojp.gov/documents/baselinecapabilitiesa.pdf>. The recipient agrees to fund any multi-state or multi-urban area Investments that were included in the FY2009 Investment Justification that was submitted to GPD and received a bonus in the effectiveness analysis.

A personnel cap of up to 50% of total program funds may be used for personnel and personnel-related activities as directed by the Personnel Reimbursement for Intelligence Cooperation and Enhancement (PRICE) of Homeland Security Act (Public Law 110-412). In general, the use of Homeland Security Grant Program grant funding to pay for staff and/or contractor regular time or overtime/backfill is considered a personnel cost.

MMRS

MMRS is a local grant which will require each MMRS Jurisdiction establish a single Point of Contact (POC) who will serve as the responsible contact for MMRS implementation, activities, and procurement for the jurisdiction as lead and in coordination with a Jurisdictional MMRS Steering Committee. The POC and MMRS Steering Committee will integrate local emergency management, health and medical systems with their Federal and State counterparts through a locally established multi-agency, collaborative planning framework; promote regional coordination of mutual aid with neighboring localities; regularly validate the jurisdictions local emergency response capability to a mass casualty incident by means of an exercise or other validation means; collaborate with local, regional, and State health and medical partners, such as Medical Reserve Corps Units and Citizen Corps Councils, as well as leverage other

Federal programs, such as the U.S. Department of Health and Human Services Assistant Secretary for Preparedness and Response (DHHS-ASPR) Hospital Preparedness Program and Emergency Systems for Advance Registration of Volunteer Health Professionals (ESAR-VHP), Center for Disease Control and Prevention Cities Readiness Initiative and Strategic National Stockpile, to coordinate and support plans, processes and strategies related to, but limited to: Continuity of Government; Continuity of Operations; Equipment and Supplies Procurement; Fatality Management; Forward Movement of Patients; Hospital Evacuation; Interoperable Communications; Patient Tracking; Pharmaceutical and Medical Supply Management and Distribution; Public Education; Outreach and Information; Recruiting Volunteers; and Training; ensure the "MMRS Leadership" is fully represented on the Urban Area Working Group in cases where a MMRS grant is awarded and a UASI program exists; ensure all neighboring MMRS subgrantees actively and demonstratively collaborate to develop a regional plan that supports the MMRS mission in that region in cases where MMRS subgrantees are located adjacent to one another and implement an Investment Justification that clearly identifies the size of the populations included in the planning and operational areas supported by the MMRS grant. The Metropolitan Medical Response System (MMRS) provides funds to build capabilities at the State and local levels to implement the goals and objectives included in State Homeland Security Strategies and initiatives in the State Preparedness Report. MMRS supports the implementation of State Homeland Security Strategies to address the identified planning, organization, equipment, training, and exercise needs for acts of terrorism and other catastrophic events. In addition, MMRS supports the implementation of the National Preparedness Guidelines, the National Incident Management System (NIMS), and the National Response Framework (NRF).

Activities implemented under MMRS must support terrorism preparedness by building or enhancing capabilities that relate to the prevention of, protection from, or response to, and recovery from terrorism in order to be considered eligible. However, many capabilities which support terrorism preparedness simultaneously support preparedness for other hazards. Grantees must demonstrate this dual-use quality for any activities implemented under this program that are not explicitly focused on terrorism preparedness.

Use of MMRS funds must be consistent with and supportive of implementation of the State Homeland Security Strategy and State Preparedness Report. Linkages between specific projects undertaken with MMRS funds and strategic goals and objectives will be highlighted through regular mechanisms, including the Biannual Strategy Implementation Report (BSIR)

As defined in the FY 2009 grant guidance, the FY 2009 MMRS will focus on two objectives as the highest priorities. These two objectives are:

1. National Priority: Strengthen Information Sharing and Collaboration Capabilities – Maximizing Information Sharing via the National Network of Fusion Centers;
2. National Priority: Strengthen Medical Surge and Mass Prophylaxis – Developing and Enhancing Health and Medical Readiness and Preparedness Capabilities. These two priorities are in addition to the priorities for all programs under the Homeland Security Grant Program and, if applicable, the Law Enforcement Terrorism Prevention Activities Priorities.

CCP

The sub-recipient must register their Citizen Corps Council on the Citizen Corps website <http://www.citizencorps.gov> and manage their program and information on the site. Citizen Corps Councils must include representatives of emergency management, homeland security, law enforcement, fire service, medical services/public health or their designee, elected officials, the private sector, private non-profits, non-governmental organizations and advocacy groups for special needs populations. In addition, representatives from existing Citizen Corps programs, such as Volunteers in Police Service (VIPS), Medical Reserve Corps (MRC), Community Emergency Response Team (CERT), Neighborhood Watch, and Fire Corps should be included on the Citizen Corps Council. Where applicable, a Metropolitan Medical Response System representative should also be included on the Citizen Corps Council.

All allocations and use of funds under this grant must be in accordance with the FY 2009 HSGP Guidelines and Application Kit found at - <http://www.fema.gov/government/grant/hsgp/index.shtml>. All award Sub-recipients are required to have read, understood and accepted the FY 2009 HSGP Guidance and Application Kit as binding.

C. Standard of Performance. The Sub-recipient shall perform all activities and projects entered into the SAA web-based grants management system approved by its Council of Governments (COG) and by the State Administrative Agency (SAA). The Sub-recipient shall perform all activities in accordance with all terms, provisions and requirements set forth in this Sub-recipient agreement and the:

1. Applicable Laws and Regulations, hereinafter referred to as "Exhibit A";
2. Certifications, hereinafter referred to as "Exhibit B"; and

3. **Certification Regarding Lobbying for Sub-recipient Agreements, Grants, Loans, and Cooperative Agreements, hereinafter referred to as "Exhibit C".**

D. **Failure to Perform.** In the event the Sub-recipient fails to implement the project(s) entered into The SAA web-based grants management system, or comply with any of this Sub-recipient agreement's provisions, in addition to the remedies specified in this Sub-recipient agreement, the Sub-recipient is liable to TDEM for an amount not to exceed the award amount of this Sub-recipient agreement and may be barred from applying for or receiving additional DHS/FEMA grant program funds or any other federal program funds administered by TDEM until repayment to TDEM is made and any other compliance or audit finding is satisfactorily resolved.

TDEM Obligations

A. **Measure of Liability.** TDEM shall be liable for actual and reasonable costs incurred by the Sub-recipient during the Sub-recipient agreement period for performances rendered under this Sub-recipient agreement by the Sub-recipient, subject to the limitations set forth in this Section. TDEM shall not be liable to the Sub-recipient for any costs incurred by the Sub-recipient that are not allowable costs.

B. **Sub-recipient Agreement Funds Defined and Limit of Liability.** The term "Sub-recipient agreement funds" as used in this Sub-recipient agreement means funds provided by TDEM under the DHS/FEMA grant programs. The term "Sub-recipient's funds" or match funds as used in this Sub-recipient agreement means funds provided by the Sub-recipient.

Notwithstanding any other provision of this Sub-recipient agreement, the total of all payments and other obligations incurred by TDEM under this Sub-recipient agreement shall not exceed the Total Award Amount listed on the cover page of the Sub-recipient agreement.

C. **Excess Payments.** The Sub-recipient shall refund to TDEM any sum of Sub-recipient agreement funds that has been paid to the Sub-recipient by TDEM or that TDEM determines has resulted in overpayment to the Sub-recipient that TDEM determines has not been spent by the Sub-recipient in accordance with this Sub-recipient agreement. No refund payment(s) may be made from local, state or federal grant funds unless repayment with grant funds is specifically permitted by statute or regulation. The Sub-recipient shall make such refund to TDEM within thirty (30) days after TDEM requests such refund.

Suspension

Notwithstanding the provisions of Chapter 2251, Texas Government Code, in the event the Sub-recipient fails to comply with any of this Sub-recipient Agreement's terms, TDEM may, upon written notification to the Sub-recipient, suspend this Sub-recipient agreement in whole or in part, withhold payments to the Sub-recipient and prohibit the Sub-recipient from incurring additional obligations of Sub-recipient agreement funds.

Termination

A. **TDEM's Right to Terminate.** TDEM shall have the right to terminate this Sub-recipient agreement, in whole or in part, at any time before the end of the Performance Period, whenever TDEM determines that the Sub-recipient has failed to comply with any of this Sub-recipient agreement's terms. TDEM shall notify the Sub-recipient in writing prior to the thirtieth (30th) day preceding the termination of such determination and include:

1. the reasons for such termination;
2. the effective date of such termination; and
3. in the case of partial termination, the portion of the Sub-recipient agreement to be terminated.

B. **Parties' Right to Terminate.** In addition to TDEM's right to terminate specified in Subsection A of this section, both Parties shall have the right to terminate this Sub-recipient agreement, in whole or in part, when the Parties agree that the continuation of the activities funded under this Sub-recipient agreement would not produce beneficial results commensurate with the further expenditure of Sub-recipient agreement funds. The Parties shall agree, in writing, upon the termination conditions, including the effective date of termination and in the case of partial termination, the portion of the Sub-recipient agreement to be terminated.

Conflict of Interest

The Sub-recipient shall operate in a manner to avoid any potential conflict of interest, real or apparent, and comply with the related requirements of the Uniform Grant Management Standards (UGMS).

A. **Financial Interest Prohibited.** A conflict of interest may arise when the employee, officer or agent; any member of his or her immediate family; his or her partner; or, any organization that employs, or is about to employ any of the above, has a financial or other interest in the firm or person selected to perform a subcontract pursuant to this Sub-recipient agreement. The Sub-recipient shall ensure that no employee, officer, or agent of the Sub-recipient shall participate in the

selection, in the award or administration of a subcontract supported by Sub-recipient agreement funds pursuant to this Sub-recipient agreement and comply with Chapter 171, Texas Local Government Code.

B. Other Prohibited Interests. In all cases not governed by Subsection A of this Section and except for eligible administrative or personnel costs, no person who is an employee, agent, consultant, officer, elected official, appointed official of the Sub-recipient or of a subcontractor of the Sub-recipient who exercises or have exercised any functions or responsibilities with respect to the activities assisted under this Sub-recipient agreement or any other DHS/FEMA Sub-recipient agreement who are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity, have an interest in or benefit from the activity or have any interest in any Sub-recipient agreement, subcontract or agreement with respect to the activities or the proceeds either for themselves or those with whom they have family or business ties during their tenure or for one year thereafter.

C. Inclusion in Subcontracts. The Sub-recipient shall include the substance of this Section in all subcontracts.

Monitoring

TDEM reserves the right to perform periodic office-based and/or on-site monitoring of the Sub-recipient's compliance with this Sub-recipient agreement's terms and conditions and of the adequacy and timeliness of the Sub-recipient's performance pursuant to this Sub-recipient agreement. After each monitoring visit, TDEM shall provide the Sub-recipient with a written report of the monitor's findings. If the monitoring report notes deficiencies in the Sub-recipient's performance under this Sub-recipient agreement's terms, the monitoring report shall include requirements for the timely correction of such deficiencies by the Sub-recipient. Failure by the Sub-recipient to take action specified in the monitoring report may be cause for this Sub-recipient agreement's suspension or termination pursuant to the Suspension and/or Termination Sections above.

Audit

A. Audit of Federal and State Funds. The Sub-recipient shall arrange for the performance of an annual financial and compliance audit of Sub-recipient agreement funds received and performances rendered under this Sub-recipient agreement as required by the Single Audit Act (OMB Circular A – 133; 44 C.F.R. 13.26) and as outlined in Exhibit A. The Sub-recipient will also comply, as applicable, with Texas Government Code, Chapter 783, 1 TAC 5.141.et.seq. and the Uniform Grant Management Standards (UGMS), State Uniform Administrative Requirements for Grants and Cooperative Agreements.

B. TDEM's Right to Audit. Notwithstanding Subsection A of this Section, TDEM reserves the right to conduct a financial and compliance audit of Sub-recipient agreement funds received and performances rendered under this Sub-recipient agreement. The Sub-recipient agrees to permit TDEM or its authorized representative to audit the Sub-recipient's records and to obtain any documents, materials or information necessary to facilitate such audit.

C. Sub-recipient's Liability for Disallowed Costs. The Sub-recipient understands and agrees that it shall be liable to TDEM for any costs disallowed pursuant to financial and compliance audit(s) of Sub-recipient agreement funds. The Sub-recipient further understands and agrees that reimbursement to TDEM of such disallowed costs shall be paid by the Sub-recipient from funds that were not provided or otherwise made available to the Sub-recipient pursuant to this Sub-recipient agreement or any other federal contract.

D. Sub-recipient's Facilitation of Audit. The Sub-recipient shall take such action to facilitate the performance of such audit(s) conducted pursuant to this Section as TDEM may require of the Sub-recipient. The Sub-recipient shall ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through the Sub-recipient and the requirement to cooperate is included in any subcontract it awards.

Reimbursement

Sub-recipient agrees to make no request for reimbursement prior to return of this agreement signed by the authorized Sub-recipient representative. Sub-recipient also agrees to make no request for reimbursement for goods or services procured by Sub-recipient prior to the performance period start date of this agreement.

A. Request for Advance or Reimbursement. The Sub-recipient shall submit to TDEM, a properly completed Local Purchase Submission Cover Sheet as often as actually needed. TDEM retains the authority to approve or deny amount requested and shall not make disbursement of any such payment until TDEM has reviewed and approved such a request. The Local Purchase Submission Cover Sheet shall be supported by documentation as required by the SAA, currently referenced on the SAA web-based grants management system, and may be revised in subsequent policy updates.

B. Request for Advance Funds and Transfer of Funds. The Sub-recipient's requests for an advance of Sub-recipient agreement funds shall be limited to the minimum amounts needed for effective operation of their project(s) under this Sub-recipient agreement and shall be timed as closely as possible to be in accord with actual cash requirements. The

Sub-recipient shall establish procedures to minimize the time elapsing between the transfer of funds from TDEM to the Sub-recipient and shall ensure that such funds are disbursed within fifteen (15) days unless extenuating circumstances can be documented.

C. **Payment Contingent.** Notwithstanding the provisions of Subsection A of this Section, payments under this Sub-recipient agreement are contingent upon the Sub-recipient's performance of its contractual obligations.

D. **Source Documentation Requirement:** Sub-recipients must provide proof of payment documentation with all reimbursement requests submitted for processing. The following is a list of acceptable proof of payment documents:

- o Copy of cancelled check
- o Screen print of General Ledger account showing funds have been encumbered
- o Credit Card Statement showing purchase of the items
- o Payroll journal for individuals showing rate of pay and hours worked
- o Copy of invoice stamped "paid" with the date, vendor initials and check number for reference

National Incident Management System (NIMS) and the Incident Command System (ICS)

Sub-recipients must have adopted and be implementing the National Incident Management System (NIMS) and the Incident Command System (ICS) at the local level. NIMS compliance for 2009 must be achieved by completing required actions outlined by FEMA and TDEM.

For a more detailed description of these requirements, as well as other NIMS implementation requirements, see <http://www.fema.gov/emergency/nims/CurrentYearGuidance.shtml>

NIMSCAST Requirements

To be eligible to receive FY 2009 DHS funding, local primary jurisdictions and tribes must have achieved 100% compliance with the FY 2008 NIMS compliance objectives and metrics in the NIMSCAST by January 30, 2009.

All State and territory grantees were required to submit their compliance assessment via the NIMSCAST by September 30, 2008 in order to be eligible for FY 2009 preparedness programs.

Additional information on achieving NIMS compliance is available through the FEMA National Integration Center (NIC) Incident Management Systems Integration (IMSI) Division at <http://www.fema.gov/emergency/nims/>.

Other Requirements

A. During the performance period of this grant, Sub-recipients must maintain an emergency management plan at the Intermediate Level of planning preparedness or higher, as prescribed by TDEM. This may be accomplished by a jurisdiction maintaining its own emergency management plan or participating in an inter-jurisdictional emergency management program that meets the required standards. If TDEM identifies deficiencies in the Sub-recipient's plan, Sub-recipient will correct deficiencies within 60 days of receiving notice of such deficiencies from TDEM.

B. Projects identified in the SAA web-based grant management system must identify and relate to the goals and objectives indicated by the applicable approved project investments for the period of performance of the grant.

C. During the performance period of this grant, Sub-recipient agrees that it will participate in a legally-adopted county and/or regional mutual aid agreement.

D. During the performance period, the Sub-recipient must register as a user of the Texas Regional Response Network (TRRN) and identify all major resources such as vehicles and trailers, equipment costing \$5,000 or more and specialized teams/response units equipped and/or trained using grant funds (i.e. hazardous material, decontamination, search and rescue, etc.). This registration is to ensure jurisdictions or organizations are prepared to make grant funded resources available to other jurisdictions through mutual aid.

E. Sub-recipients must submit Fiscal Year 2009 Indirect Cost Allocation Plan signed by Cognizant Agency. Plan should be forwarded to the SAA along with the Planning and Administration Grant Budget Form.

F. Council of Governments (COG) will follow guidelines listed in the SAA FY 09 COG Statement of Work.

H. The State's 24 planning regions are voluntary associations of local governments organized pursuant to state law as regional planning commissions, councils of government, development councils, and area councils. It is recognized that

one of the major functions of state planning regions as homeland security grant Sub-recipients is to perform a wide variety of planning and some program administration for both their region and on behalf of the cities and counties within the region that may also be homeland security grant Sub-recipients.

Closing the Grant

A. The Sub-recipient must have expended all grant funds and submitted expenditure reimbursement requests and any invoices by the end of the performance period listed on the sub-recipient agreement.

B. TDEM/SAA will close a sub-award after receiving Sub-recipient's final performance report indicating that all approved work has been completed and all funds have been disbursed, completing a review to confirm the accuracy of the reported information, and reconciling actual costs to awards modifications and payments. If the close out review and reconciliation indicates that the Sub-recipient is owed additional funds, TDEM/SAA will send the final payment automatically to the Sub-recipient. If the Sub-recipient did not use all the funds received, TDEM/SAA will issue a Grant Adjustment Notice (GAN) to recover the unused funds.

C. TDEM/SAA will unilaterally close out this grant if sub-recipient does not reconcile account and sign closeout GAN by the 60th day after the sub-recipient performance period ends.

Restrictions, Disclaimers and Notices

A. Approval of this award does not indicate approval of any consultant rate in excess of \$450 per day. A detailed justification must be submitted to and approved by TDEM/SAA prior to obligation or expenditure of such funds. U.S. Department of Justice Financial Guide (Part III Chapter 15) <http://www.ojp.usdoj.gov/financialguide/>

B. In cases where local funding is established by COGs, release of funds by TDEM is contingent upon regional funding allocation approval by the Sub-recipient's COG governing board.

C. Notwithstanding any other agreement provisions, the parties hereto understand and agree that TDEM's obligations under this agreement are contingent upon the receipt of adequate funds to meet TDEM's liabilities hereunder. TDEM shall not be liable to the Sub-recipient for costs under this Agreement which exceed the amount specified in the Notice of Sub-recipient Award.

D. Notice. All notices or communication required or permitted to be given by either party hereunder shall be deemed sufficiently given if mailed by registered mail or certified mail, return receipt requested, or sent by overnight courier, such as Federal Express, to the other party at its respective address set forth below or to such other address as one party shall give notice of to the other from time to time hereunder. Mailed notices shall be deemed to be received on the third business day following the date of mailing. Notices sent by overnight courier shall be deemed received the following business day.

Chief
Division of Emergency Management
State Administrative Agency
PO Box 4087
Austin, TX 78773-0220

Uniform Administrative Requirements, Cost Principles and Audit Requirements

Except as specifically modified by law or this Sub-recipient agreement's provisions, the Sub-recipient shall administer the award through compliance with all applicable Laws and Regulations. A non-exclusive list is provided below

A. Administrative Requirements

1. 44 C.F.R. Part 13, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments;
2. 2 C.F.R. Part 215, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations (OMB Circular A-110).

B. Cost Principles

1. 2C.F.R. Part 225, Cost Principles for State, Local and Tribal Governments (OMB Circular A-87)
2. 2C.F.R. Part 220, Cost Principles for Education Institutions (OMB Circular A-21)
3. 2C.F.R. Part 230, Cost Principles for Non-Profit Organizations (OMB Circular A-122)
4. Federal Acquisition Regulations (FAR) Subpart 31.2, Contracts with Commercial Organizations

C. **Audit Requirements – OMB Circular A-133, Audits of States, Local Governments and Non-Profit Organizations.**

Retention and Accessibility of Records

A. **Retention of Records.** The Sub-recipient shall maintain fiscal records and supporting documentation for all expenditures of Sub-recipient agreement funds pursuant to the applicable OMB Circular and this Sub-recipient agreement. The Sub-recipient shall retain these records and any supporting documentation for the greater of three (3) years from the completion of this project's public objective, including program requirements and financial obligations, or the period of time required by other applicable laws and regulations as described in Exhibit A.

B. **Access to Records.** The Sub-recipient shall give the United States Department of Homeland Security (DHS), the Comptroller General of the United States, the Texas State Auditor, TDEM, or any of their duly authorized representatives, access to and the right to examine all books, accounts, records, reports, files, other papers, things or property belonging to or in use by the Sub-recipient pertaining to this Sub-recipient agreement including records concerning the past use of DHS/FEMA funds. Such rights to access shall continue as long as the records are retained by the Sub-recipient. The Sub-recipient agrees to maintain such records in an accessible location and to provide citizens reasonable access to such records consistent with the Texas Public Information Act, Chapter 552, Texas Government Code.

C. **Inclusion in Subcontracts.** The Sub-recipient shall include the substance of this Section in all subcontracts.

Subcontracts

A. **TDEM's Approval of Subcontract and Liability.** The Sub-recipient may subcontract for performances described in this Sub-recipient agreement without obtaining TDEM's prior written approval.

B. **Sub-recipient Liability.** In no event shall any provision of this Section be construed as relieving the Sub-recipient of the responsibility for ensuring that the performances rendered under all subcontracts comply with all of this Sub-recipient agreement's terms as if such performances rendered were rendered by the Sub-recipient. TDEM's approval under this Section does not constitute adoption, ratification or acceptance of the Sub-recipient's or a subcontractor's performance.

C. **Applicable Law.** The Sub-recipient shall comply with 44 C.F.R. § 13.1-13.52 and all applicable federal and state laws outlined in Exhibit A and local laws, regulations and ordinances related to making procurements under this Sub-recipient agreement.

Legal Authority

A. **Signatory Authority.** The Sub-recipient assures and guarantees that the Sub-recipient possesses the legal authority to enter into this Sub-recipient agreement, receive Sub-recipient agreement funds and to perform the services the Sub-recipient has obligated itself to perform pursuant to this Sub-recipient agreement.

B. **Authorized Representative.** The person or persons signing and executing this Sub-recipient agreement on the Sub-recipient's behalf do warrant and guarantee that he, she or they have been duly authorized by the Sub-recipient to execute this Sub-recipient agreement on the Sub-recipient's behalf and to validly and legally bind the Sub-recipient to all contractual terms, performances and provisions.

Notice of Litigation and Claims

The Sub-recipient shall give TDEM immediate notice in writing of:

1. any action, including any proceeding before an administrative agency, filed against the Sub-recipient arising out the performance of any subcontract under this Sub-recipient agreement; and
2. any claim against the Sub-recipient, the cost and expense of which the Sub-recipient may be entitled to be reimbursed by DHS/FEMA grant programs.

Except as otherwise directed by TDEM, the Sub-recipient shall furnish immediately to TDEM copies of all documentation received by the Sub-recipient with respect to such action or claim.

Indemnification

To the extent permitted by law, the Sub-recipient agrees to hold TDEM harmless and to indemnify TDEM from and against any and all claims, demands and causes of action of every kind and character that may be asserted by any party occurring or in any way incident to, arising out of or in connection with the services to be performed by the Sub-recipient pursuant to this Sub-recipient agreement.

Changes and Amendments

- A. Written Amendment. Except as specifically provided otherwise in this Sub-recipient agreement, any alterations, additions or deletions to this Sub-recipient agreement's terms shall be made through Grant Adjustment Notices generated by the SAA web-based grants management system and executed by the Parties.
- B. Authority to Amend. During the period of this Sub-recipient agreement's performance TDEM and/or FEMA may issue policy directives that serve to establish, interpret or clarify this Sub-recipient agreement's performance requirements. Such policy directives shall be promulgated by TDEM or FEMA in the form of Information Bulletins and shall have the effect of qualifying this Sub-recipient agreement's terms and shall be binding upon the Sub-recipient as if written in the Sub-recipient agreement.
- C. Effect of Changes in Federal and State Laws. Any alterations, additions, or deletions to this Sub-recipient agreement's terms that are required by the changes in federal and state laws or regulations are automatically incorporated into this Sub-recipient agreement without written amendment to this Sub-recipient agreement and shall become effective on the date designated by such law or regulation. Federal Emergency Management Agency (FEMA) periodically publishes Information Bulletins to release, update, amend or clarify grants and programs which it administers. FEMA's National Preparedness Directorate Information Bulletins can be accessed at <http://www.gip.usdoj.gov/odp/docs/bulletins.htm> and are incorporated by reference into this sub-grant.

Headings

Headings and captions of this Sub-recipient agreement's sections and paragraphs are only for convenience and reference. These headings and captions shall not affect or modify this Sub-recipient agreement's terms or be used to interpret or assist in the construction of this Sub-recipient agreement.

Oral and Written Agreements

- A. Prior Agreements. All oral and written agreements between the Parties relating to this Sub-recipient agreement's subject matter that were made prior to Date of Execution have been reduced to writing and are contained in this Sub-recipient agreement.
- B. Exhibits. The exhibits enumerated and denominated in the agreement are hereby made a part of this Sub-recipient agreement and constitute promised performances by the Sub-recipient in accordance with the Sub-recipient agreement and the Exhibits.
- C. Commissioner's Signature. This Sub-recipient agreement is not effective unless signed by the Chief of TDEM or by his authorized designee.

Waiver

Any right or remedy provided for in this Sub-recipient agreement provision shall not preclude the exercise of any other right or remedy under this Sub-recipient agreement or under any provision of law, nor shall any action taken or failure to take action in the exercise of any right or remedy be deemed a waiver of any other rights or remedies at any time.

Venue

For purposes of litigation pursuant to this Sub-recipient agreement, venue shall lie in Travis County, Texas, and be governed by Texas Statute.

EXHIBIT A

THE APPLICABLE LAWS AND REGULATIONS

The Sub-recipient shall comply with OMB Circular A-21, A-87, A-102, A-110, A-122, A-133; Ex. Order 12372 (intergovernmental review of federal programs); and 44 C.F.R. Part 13, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments. Sub-recipients shall also comply with 2C.F.R. Part 215, Institutions of Higher Education, Hospitals and Other Non-Profit Organizations, 2C.F.R. Parts 225, State and Local Governments, Part 220, Educational Institutions; and Part 230, Non-Profit Organizations. Compliance with Federal Acquisition Regulation Sub-part 31.2, Contracts with Commercial organizations is required. Sub-recipient shall also comply with all other federal, state, and local laws and regulations applicable to this Sub-recipient agreement's activities and performances rendered by the Sub-recipient including but not limited to the laws and the regulations promulgated hereunder and specified in State Administrative Agency Information Bulletins, Texas Uniform Grants Management Standards (UGMS) and Paragraph A through M of this Exhibit.

A. CIVIL RIGHTS - Title VI of the Civil Rights Act of 1964, as amended. (42 U.S.C. § 2000d et seq.); (44 C.F.R. 7.1)
<http://uscode.house.gov/uscode-cgi/fastweb.exe?getdoc+uscview+t41t42+2957+3++%28civil%20ri>
http://www.access.gpo.gov/nara/cfr/waisidx_07/44cfr7_07.html

B. HANDICAP AND ARCHITECTURAL BARRIERS - Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794); (44 C.F.R. 16.101)
<http://uscode.house.gov/uscode-cgi/fastweb.exe?getdoc+uscview+t29t32+363+0++%28Handicap%29;>
<http://frwebgate.access.gpo.gov/cgi-bin/get-cfr.cgi?TITLE=44&PART=16&SECTION=101&TYPE=TEXT;>
The Sub-recipient shall ensure that the plans and specifications for construction of, improvements to, or the renovation of buildings, related to this project have been received by the Texas Department of Licensing and Regulation (TDLR) concerning the elimination of architectural barriers encountered by persons with disabilities as specified in Chapter 469, Texas Government Code. <http://www.statutes.state.tx.us/?link=GV>

C. ENVIRONMENTAL LAW AND AUTHORITIES - In accordance with the provisions of law cited in 44 C.F.R. § 10.8, the responsible entity shall assume the environmental responsibilities for projects under programs cited in §10.1, and in doing so shall comply with the provisions of the National Environmental Policy Act of 1969, as amended and the Council on Environmental Quality regulations contained in 40 C.F.R. parts 1500 through 1508.
http://www.access.gpo.gov/nara/cfr/waisidx_07/40cfr1501_07.html; (44 C.F.R. 10.1)
http://edocket.access.gpo.gov/cfr_2007/octatr/44cfr10.1.htm

D. LABOR STANDARDS - The Davis-Bacon Act, as amended (40 U.S.C. § 3142)
<http://uscode.house.gov/uscode-cgi/fastweb.exe?getdoc+uscview+t37t40+1723+1++%28%29%20%20A;>
The Contract Work Hours & Safety Standards Act (40 U.S.C. § 3702)
<http://uscode.house.gov/uscode-cgi/fastweb.exe?getdoc+uscview+t37t40+1765+1++%28%29%20%20A;>
The Copeland "Anti-Kickback" Act (18 U.S.C. § 874)
<http://uscode.house.gov/uscode-cgi/fastweb.exe?getdoc+uscview+t17t20+511+0++%28%29%20%20AN>

E. FREEDOM OF INFORMATION ACT - (5 U.S.C. 552); (44 C.F.R. 5.1)
http://edocket.access.gpo.gov/cfr_2007/octatr/44cfr5.1.htm;
<http://uscode.house.gov/uscode-cgi/fastweb.exe?getdoc+uscview+t05t08+26+0++%28information%28>

F. UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970 - If the Sub-recipient is a governmental entity, it must comply with the requirements of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. § 4601 et seq.), which govern the treatment of persons displaced as a result of federal and federally-assisted programs; and (Federal Assurance) - (42 U.S.C. 4601); (44 C.F.R. 25.1)
<http://frwebgate.access.gpo.gov/cgi-bin/get-cfr.cgi?TITLE=44&PART=25&SECTION=1&TYPE=TEXT>
<http://uscode.house.gov/uscode-cgi/fastweb.exe?getdoc+uscview+t41t42+4568+1++%28%29%20%20A>

G. FAITH-BASED ACTIVITIES - Executive Order 13279 of December 12, 2002 - Equal Protection of the Laws for Faith-Based and Community Organizations, (67 Fed. Reg. 77141) <http://edocket.access.gpo.gov/2002/pdf/02-31831.pdf>

H. NATIONAL INCIDENT MANAGEMENT SYSTEM (NIMS) AND THE INCIDENT COMMAND SYSTEM (ICS) - Sub-Recipients must have adopted and be implementing the National Incident Management System (NIMS) and the Incident Command System (ICS) at the local level. <http://www.fema.gov/emergency/nims>

I. **PROGRAM INCOME** - If a Sub-recipient is approved for an advance, the funds must be deposited in a separate interest bearing account and are subject to the rules outlined in the Uniform Rule 28C.F.R. Part 66, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, at http://www.access.gpo.gov/nara/cfr/waisidx_03/28cfr66_03.html and the Uniform Rule 28C.F.R. Part 70, Uniform Administrative Requirements for Grants and Agreements (including sub-awards) with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations, at http://www.access.gpo.gov/nara/cfr/waisidx_03/28cfr70_03.html. Sub-recipients must report any interest earned to TDEM/SAA. Any interest earned in excess of \$100 must, on a quarterly basis, be remitted to:

United States Department of Health and Human Services
Division of Payment Management Services
P.O. Box 6021
Rockville, MD 20852

J. **AUDITS** - The Sub-recipient shall arrange for the performance of an annual financial and compliance audit of Sub-recipient agreement funds received and performances rendered under this Sub-recipient agreement under the Single Audit Act (OMB Circular A - 133; 44 C.F.R. 13.26)

<http://frwebgate.access.gpo.gov/cgi-bin/get-cfr.cgi?TITLE=44&PART=13&SECTION=26&TYPE=TEXT> ;
http://www.dhs.gov/xopnbiz/grants/ac_1162481125903.shtm

K. **GRANT ADMINISTRATION** - The Sub-recipient will also comply with Texas Government Code, Chapter 783, <http://www.statutes.legis.state.tx.us/?link=GV> ; and the Uniform Grant Management Standards (UGMS), State Uniform Administrative Requirements for Grants and Cooperative Agreements, [http://info.sos.state.tx.us/pls/pub/readtac\\$ext.TacPage?sl=T&app=9&p_dir=N&p_rloc=111847&p_tloc=&p_ploc=1&pg=2&p_tac=&ti=1&pt=1&ch=5&rl=141](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=T&app=9&p_dir=N&p_rloc=111847&p_tloc=&p_ploc=1&pg=2&p_tac=&ti=1&pt=1&ch=5&rl=141)

Sub-recipients must also comply with 44, C.F.R., Part 13, http://www.access.gpo.gov/nara/cfr/waisidx_07/44cfr13_07.html; with 2C.F.R. Part 215 http://www.access.gpo.gov/nara/cfr/waisidx_08/2cfrv1_08.html#215, 2C.F.R. Part 225, Part 220 and Part 230.

L. **PROPERTY ADMINISTRATION** - TAC Title 1, Part 5, Chapter 116, [http://info.sos.state.tx.us/pls/pub/readtac\\$ext.ViewTAC?tac_view=3&ti=1&pt=5](http://info.sos.state.tx.us/pls/pub/readtac$ext.ViewTAC?tac_view=3&ti=1&pt=5)

M. **PUBLICATIONS** - 44 C.F.R., Section 13.34
<http://frwebgate.access.gpo.gov/cgi-bin/get-cfr.cgi?TITLE=44&PART=13&SECTION=34&TYPE=TEXT>

1. Sub-recipient acknowledges that FEMA National Preparedness Directorate reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and authorize others to use, for Federal government purposes: (1) the copyright in any work developed under an award or sub-award; and (2) any rights of copyright to which a recipient or Sub-recipient purchases ownership with Federal support. The Recipient agrees to consult with NPD regarding the allocation of any patent rights that arise from, or are purchased with, this funding.

2. The Sub-recipient agrees that all publications created with funding under this grant shall prominently contain the following statement: "This Document was prepared under a grant from the National Preparedness Directorate, United States Department of Homeland Security. Point of view or opinions expressed in the document are those of the authors and do not necessarily represent the official position or policies of U.S. Department of Homeland Security."

EXHIBIT B

CERTIFICATIONS

I, Elizabeth Sumter (print) as the authorized official of Hays County, Texas hereinafter referred to as the "Sub-recipient," certify the following with respect to the expenditure of Sub-recipient agreement funds.

A. The Sub-recipient shall minimize displacement of persons as a result of activities assisted with Sub-recipient agreement funds.

B. The program shall be conducted and administered in conformity with the Civil Rights Act of 1964, as amended, (42 U.S.C. § 2000a et seq.); Section 504 of the Rehabilitation Act of 1973, as amended, (29 U.S.C. § 794); Title IX of the Education Amendments of 1972, as amended, (20 U.S.C. § 1681 et. seq.); The Age Discrimination Act of 1975, as amended, (20 U.S.C. § 6101 et. seq.).

C. As specified by TDEM and FEMA, in the event that displacement of residential dwellings shall occur in connection with a project assisted with HSGP funds, the Sub-recipient shall follow a residential anti-displacement and relocation assistance plan.

D. As required by Executive Order 12549, Debarment and Suspension, and implemented at 28C.F.R. Part 67, for prospective participants in primary covered transactions, as defined at 28C.F.R. Part 67, Section 67.510. (Federal Certification) The Sub-recipient certifies that it and its principals and vendors:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of Federal benefits by a State or Federal court, or voluntarily excluded from covered transactions by any Federal department or agency; Sub-recipients can access debarment information by going to www.epfs.gov and the State Debarred Vendor List http://www.window.state.tx.us/procurement/prog/vendor_performance/debarred/.
2. Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (D)(2) of this certification; and
4. Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and
5. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application. (Federal Certification)

E. Sub-recipient understands and certifies that it will not use any federal funds, either directly or indirectly, in support of the enactment, repeal, modification or adoption of any law, regulation or policy, at any level of government, without the express prior written approval of FEMA National Preparedness Directorate.

F. The Sub-recipient certifies federal funds will be used to supplement existing funds, and will not replace (supplant) funds that have been appropriated for the same purpose. Sub-recipient may be required to supply documentation certifying that a reduction in non-federal resources occurred for reasons other than the receipt or expected receipt of federal funds.

FY 2009 HSGP

Signature _____

Date _____

EXHIBIT C

CERTIFICATION REGARDING LOBBYING FOR
SUB-RECIPIENT AGREEMENTS, GRANTS, LOANS,
AND COOPERATIVE AGREEMENTS

The undersigned, Elizabeth Sumter (print), as the authorized official of Hays County, Texas certifies the following to the best of his/her knowledge and belief.

A. No federal appropriated funds have been paid or shall 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 Sub-recipient agreement, 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 Sub-recipient agreement, grant, loan or cooperative agreement.

B. If any funds other than federal appropriated funds have been paid or shall 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 Sub-recipient agreement grant, loan or cooperative agreement, the undersigned shall complete and submit standard form Disclosure Form to Report Lobbying form in accordance with its instructions.

C. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards including sub-contracts, sub-grants and Sub-recipient agreements under grants, loans, and cooperative agreements and that all Sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon that 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.

Signature

Date

Agenda Item Request Form

Hays County Commissioners' Court

9:00 a.m. Every Tuesday

Request forms are due in the County Judge's Office

no later than 2:00 p.m. on WEDNESDAY.

Phone (512) 393-2205 Fax (512) 393-2282

AGENDA ITEM: Discussion and Possible Action to authorize the County Judge to execute the new Customer Agreement between the Texas Department of Information Resources (DIR), Texas NICUSA, LLC (Vendor), and Hays County.

TYPE OF ITEM: ACTION

PREFERRED MEETING DATE REQUESTED: October 20, 2009

AMOUNT REQUIRED: n/a

LINE ITEM NUMBER OF FUNDS REQUIRED: n/a

REQUESTED BY: SUMTER/ADAIR

SPONSORED BY: SUMTER

SUMMARY: The agreement represents a renewal of an existing agreement between the county and TexasOnline which allows the clerk's office to accept and process electronic filings.

Please note: the court discussed this on the October 13th Agenda when it addressed JP's use of the TexasOnline System.

This Customer Agreement is effective on the 1st day of January, 2010 by and between the Texas Department of Information Resources (DIR), Texas NICUSA, LLC (Vendor), and Hays County (Customer). DIR, Vendor, and Customer may each be referred to as Party, and collectively DIR, Vendor, and Customer may be referred to as the Parties herein.

Capitalized terms not defined herein shall have the meaning set forth in the Master Agreement.

BACKGROUND

TexasOnline 2.0 is based on, and subject to, the TexasOnline 2.0 Master Agreement between DIR and Vendor dated July 31, 2009, including the Customer Agreement Standard Terms and Conditions. TexasOnline 2.0 is the name of the official web portal and application delivery framework for the State of Texas.

AGREEMENT

IN CONSIDERATION of mutual covenants and agreements contained in this Customer Agreement, DIR, Vendor, and Customer agree as follows:

1. Customer may receive Services provided by TexasOnline 2.0 by agreeing to abide by this Customer Agreement, including the Customer Agreement Standard Terms and Conditions. The TexasOnline 2.0 Master Agreement and this Customer Agreement represent the entire agreement for access to, and use of, TexasOnline 2.0 Services by Customer.
2. TexasOnline 2.0 offers a variety of website development and hosting, e-commerce and related support services to Customers. Exhibit A provides the List of Applications, List of Services, and Fee Schedule for this Customer Agreement. Specifications and additional terms for a service or application may be described in a Business Case. The applicable approved Business Case will be listed in Exhibit A and attached thereto, and is incorporated by reference for all purposes into this Customer Agreement.
3. All notices permitted or required under this Customer Agreement will be in writing and will be by personal delivery, a nationally recognized overnight courier service, e-mail, or certified mail, return receipt requested. Notices will be deemed given upon the earlier of actual receipt or one (1) day after deposit with the courier service, receipt by sender of confirmation of electronic transmission or five (5) days after deposit with the U.S. Postal Service. Notices will be sent to the addresses listed below, or to such other address as each Party may specify in writing.

If to DIR:

Texas Department of Information Resources
300 W. 15th Street, Suite 1300
Austin, TX 78701

If to Vendor:

Texas NICUSA, LLC
301 Congress Avenue, Suite 400
Austin, TX 78701

With a copy to:

NIC, Inc. General Counsel (Legal Notice)
25501 West Valley Parkway, Suite 300
Olathe, Kansas 66061

If to Customer:

CUSTOMER
Street
City, State, Zip

AGREED AND ACCEPTED:

Vendor:

Texas Department of Information Resources:

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Customer:

By: _____

Name: _____

Title: _____

Customer Agreement—Standard Terms and Conditions

These terms and conditions apply to each Customer Agreement, to which they are incorporated, by and between the Texas Department of Information Resources (DIR), TexasOnline 2.0 Vendor (Vendor) and Customer of TexasOnline 2.0. DIR, Vendor, and Customer may each be referred to herein as Party, and collectively DIR, Vendor, and Customer may be referred to as the Parties herein.

BACKGROUND

A. TexasOnline 2.0 is based on, and subject to, the TexasOnline 2.0 Master Agreement between DIR and Vendor dated July 31, 2009. TexasOnline 2.0 is the name of the official web portal and application delivery framework for the State of Texas.

B. DIR executed a contract with International Business Machines Corporation (IBM) on November 22, 2006, (Data Center Services Master Services Agreement) based on House Bill 1516, 79th Legislature (Regular Session) to establish a consolidated Data Center, and accordingly all data center services provided by Vendor, excluding DIR-approved Services under the TexasOnline 2.0 Master Agreement are managed and provided by IBM under the Data Center Services Master Services Agreement.

STANDARD TERMS AND CONDITIONS

1. Customer Agreement Elements

- 1.1 The Parties acknowledge and agree that the terms of the TexasOnline 2.0 Master Agreement will apply to the Customer Agreement, and will remain in full force and effect except as may be expressly modified by the terms of a Customer Agreement or any amendment to the TexasOnline 2.0 Master Agreement made in accordance with specific provisions of the TexasOnline 2.0 Master Agreement, Section 5 Contract Amendments. In the event of any conflict between the terms and conditions of a Customer Agreement and those of the TexasOnline 2.0 Master Agreement, the terms and conditions in the TexasOnline 2.0 Master Agreement will govern with respect to the Parties and the Services delivered, unless the Customer Agreement specifically identifies by section number a clause of the TexasOnline 2.0 Master Agreement and indicates that the Customer Agreement will be controlling. Notwithstanding the foregoing, the Parties agree that as between Vendor and DIR on the one hand, and Customer on the other, Sections 8.1, 8.2 and 9.7 in the Customer Agreement Terms and Conditions will control over any expressly conflicting statement contained in the TexasOnline 2.0 Master Agreement, if any. The Parties acknowledge the TexasOnline 2.0 Master Agreement is subject to subsequent amendment by Vendor and DIR pursuant to its terms and agree that, to the extent any such amendments impact any Customer Agreement terms and conditions, such amendments will automatically apply to the Customer Agreement with no further action by the Parties.
- 1.2 These Customer Agreement Standard Terms and Conditions may be modified by DIR and Vendor pursuant to the modification of terms of the TexasOnline 2.0 Master Agreement. Such modifications will be effective as to the affected Customer Agreements following thirty days written notice to the Customers.

- 1.3 Customer Agreements will continue until terminated as specified therein, and subject to the terms of the TexasOnline 2.0 Master Agreement, and Vendor will provide the Services described in the agreed attachments to the Customer Agreement.

2. DIR Approval

Customer acknowledges that in order for Vendor to provide services pursuant to a Customer Agreement, DIR must approve placing Customer's website and/or applications (each approved website or application is an "Application") on the TexasOnline 2.0 system. A list of websites and/or applications using services under a Customer Agreement is included in the Customer Agreement (which also includes information on the specific applications and fees).

3. Services Available to Customer

Vendor offers a variety of website development and hosting, e-commerce and related support services to participants. The specific list of services and applications that Vendor has agreed to provide Customer will be specified in each Customer's Customer Agreement.

4. Customer Website Security

If Customer is hosting its own website, Customer will follow recommended security standards for Texas State and local government websites, and will conform to security policies and procedures in the TexasOnline 2.0 Master Agreement, Attachment G-9 Security Plan. Customer acknowledges that any failure on its part to follow recommended security standards may place its own data and operations at risk as well as those of Vendor and other governmental entities. Vendor will not be liable for violations of security policies and procedures by Customer. Additionally, failure to comply with security standards may lead to the suspension or termination of the availability of the Applications on TexasOnline 2.0 by Vendor and DIR. Vendor will give DIR and the Customer notification of non-compliance immediately upon suspension.

5. Strategic Outreach

In marketing Customer services accessible through TexasOnline 2.0 through brochures, press releases, advertisements, and other mail-outs and information pieces, Customer will include in any marketing piece in any medium that the services are provided in affiliation with TexasOnline 2.0 and will use the TexasOnline 2.0 logo and universal resource locator (URL) provided by Vendor for such purpose. Customer agrees to explore the possibility of co-marketing with Vendor the Customer services available through TexasOnline 2.0 so that marketing costs are shared. There will be a link to the Customer URL from TexasOnline 2.0.

6. Fees

For the Services provided by Vendor, Vendor is entitled to the fees set out in Exhibit A to this Customer Agreement. A Customer Agreement can be modified for the addition of fees as new Applications are included in Customer Services based on mutual agreement of DIR, Vendor, and Customer.

7. Customer Obligations

In addition to any other Customer obligations set out in the Exhibits to this Customer Agreement and the TexasOnline 2.0 Master Agreement, Customer will have the obligations herein.

- 7.1 Customer will utilize a single merchant ID for the Application(s) listed on Exhibit A, unless expressly set out in Exhibit A.

- 7.2 Customer will provide a contact number for the Application or Application(s) on an 8:00 a.m. - 5:00 p.m. CT (Monday through Friday) basis to receive 2nd level inquiries routed from the Help Desk.
- 7.3 Customer will cooperate with Vendor in Vendor's performance of its obligations under this Agreement. Customer will agree to an online security audit if requested by Vendor. Customer will not store or retain any credit card number or the automated clearing house (ACH) account number captured on its systems.
- 7.4 Customer will comply with the terms of use and privacy statements, which are displayed on the TexasOnline 2.0 Website, and with all applicable laws related to information received from or distributed to individuals using the TexasOnline 2.0 Applications. Customer acknowledges that no personally identifiable or private information collected through TexasOnline 2.0 may be used by Customer for any purpose or provided to any third party unless: (i) the user is given clear prior notice of the possibility of such other use, and (ii) the user affirmatively consents to such use (i.e., the user "opts-in" to the contemplated use of his or her personally identifiable or private information), and (iii) the Customer agrees to its use or the use is otherwise permitted under the privacy statement. Notwithstanding the foregoing, the Parties acknowledge that such information may be required by law to be provided to law enforcement, or may be used in investigating unauthorized use of TexasOnline 2.0.
- 7.5 Customer will provide access to information and systems as necessary to assist Vendor in performing its obligations hereunder and under the TexasOnline 2.0 Master Agreement.
- 7.6 Customer will follow reasonable security standards regarding physical security, data, and systems, and will not knowingly or negligently take actions to, or by omissions put, State Information or Customer at risk of loss, damage, or breach of security.
- 7.7 Customer will at all times be responsible for the backup and preservation of any data within its control, which does not reside on TexasOnline 2.0.
- 7.8 Customer will process all refunds for its users. Customer will use the Vendor Customer Service interface application to process credit card refunds requested by its users.
- 7.9 Customer will notify Vendor in writing of all laws, rules and regulations, and changes thereto, that affect TexasOnline 2.0.

8. Representations and Warranties by Vendor

- 8.1 VENDOR REPRESENTS AND WARRANTS THAT ALL SERVICES PERFORMED UNDER THIS CUSTOMER AGREEMENT WILL BE PERFORMED IN A GOOD AND WORKMANLIKE MANNER. VENDOR DISCLAIMS ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.
- 8.2 NEITHER DIR NOR VENDOR WILL HAVE ANY LIABILITY WHATSOEVER TO CUSTOMER FOR ANY INCIDENTAL, PUNITIVE, INDIRECT, CONSEQUENTIAL, OR SPECIAL DAMAGES OF ANY KIND (INCLUDING LOST REVENUES OR PROFITS, LOSS OF BUSINESS, OR LOSS OF DATA) ARISING OUT OF OR IN CONNECTION WITH OR RELATED TO THIS CUSTOMER AGREEMENT OR THE RIGHTS PROVIDED HEREUNDER SUFFERED BY CUSTOMER EVEN IF VENDOR IS INFORMED IN ADVANCE OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL DIR'S OR VENDOR'S TOTAL LIABILITY TO

CUSTOMER HEREUNDER FOR ANY REASON EXCEED THE SHARE OF TOTAL REVENUE RECEIVED, BY VENDOR OR DIR AS APPROPRIATE, UNDER THIS AGREEMENT IN THE TWELVE MONTHS PRECEDING SUCH CLAIM. THE PARTIES AGREE AND ACKNOWLEDGE THAT THIS LIMITATION OF DAMAGES IS A FREELY BARGAINED FOR ALLOCATION OF RISK.

- 8.3 Vendor represents and warrants that Vendor, to the best of its knowledge, has no actual or potential conflicts of interest in providing services to Customer under the Customer Agreement and that Vendor's provision of services under the Customer Agreement to the best of its knowledge would not reasonably create an appearance of impropriety.
- 8.4 Vendor represents and warrants that neither Vendor nor any person or entity, which will participate financially in the Customer Agreement, has received compensation from Customer for participation in preparation of specifications for the Customer Agreement. Vendor represents and warrants that it has not given, offered to give, and does not intend to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to any public servant or employee in connection with the Customer Agreement.

9. General Terms

- 9.1 Customer agrees and acknowledges that the terms of the TexasOnline 2.0 Master Agreement related to force majeure, confidentiality, and any additional limitations on damages will apply to the Customer Agreement. This section only applies to the extent authorized by law.
- 9.2 Except as expressly provided herein, no provision of the Customer Agreement will constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies or immunities available to Customer. The failure to enforce or any delay in the enforcement of any privileges, rights, defenses, remedies, or immunities available to Customer by law will not constitute a waiver of said privileges, rights, defenses, remedies, or immunities or be considered as a basis for estoppel. Except as expressly provided herein, Customer does not waive any privileges, rights, defenses, remedies or immunities available to Customer.
- 9.3 This Customer Agreement will be construed and governed by the laws of the State of Texas and is performable in Travis County, Texas. Venue for any action relating to a Customer Agreement is in Texas state courts in Austin, Travis County, Texas, or, with respect to any matter in which the federal courts have exclusive jurisdiction, the federal courts for Travis County, Texas.
- 9.4 If one or more provisions of this Customer Agreement, or the application of any provision to any Party or circumstance, is held invalid, unenforceable, or illegal in any respect, the remainder of the Customer Agreement and the application of the provision to other Parties or circumstances will remain valid and in full force and effect
- 9.5 Except as provided in Section 1.2 above, the Customer Agreement may be amended only upon written agreement between DIR, Vendor, and Customer, but in no case will the Customer Agreement be amended so as to make it conflict with the laws of the State of Texas.
- 9.6 Neither DIR, nor Vendor, nor Customer may assign or transfer this Customer Agreement without the written consent of the other Parties, which consent will not be unreasonably withheld, except that upon written notice to DIR and Customer, Vendor may assign the Customer Agreement without

DIR's and Customer's consent to any entity that Vendor controls, is controlled by, or is under common control with, (provided such entity is adequately capitalized) or to any entity which acquires or succeeds to all or substantially all of the business or assets of Vendor whether by consolidation, merger, sale or otherwise (such as a spin-off of Vendor).

- 9.7 *Exhibit B Terms and Conditions*, Section 14.01 Ownership of Intellectual Property; Infringement and Misappropriation of the TexasOnline 2.0 Master Agreement is incorporated herein by reference and will apply to work product created by Vendor pursuant to the Customer Agreement.
- 9.8 Vendor will serve as an independent contractor in providing services under this Customer Agreement. Vendor's employees are not and will not be construed as employees of Customer.
- 9.9 Vendor will have no authority to act for or on behalf of Customer except as provided for in the Customer Agreement and the TexasOnline 2.0 Master Agreement; no other authority, power, or use is granted or implied. Vendor may not incur any debts, obligations, expenses, or liabilities of any kind on behalf of Customer other than those incurred in performance of the Customer Agreement.
- 9.10 In addition to the requirements of Exhibit B Terms and Conditions, Section 8.01 Financial record retention and audit of the TexasOnline 2.0 Master Agreement, Vendor will maintain and retain supporting fiscal documents adequate to ensure that claims for Customer Agreement funds associated with the Customer Agreement are in accordance with applicable State of Texas requirements. These supporting fiscal documents will be retained by Vendor for a period of four (4) years after the date of submission of the final invoices.
- 9.11 *Exhibit D Performance Criteria* of the TexasOnline 2.0 Master Agreement addresses the agreed upon performance criteria for TexasOnline 2.0, including Applications developed or maintained by Vendor, or otherwise provided to Customer by Vendor. Customer may notify DIR in writing of alleged performance failures and DIR may, in its sole and exclusive discretion as between DIR and Customer, determine that a performance failure may have occurred.

10. Termination

- 10.1 The Customer Agreement is effective upon execution by representatives of DIR, Vendor, and Customer and expires upon termination or expiration of the TexasOnline 2.0 Master Agreement (as renewed or extended), unless the Customer Agreement is earlier terminated as set forth below, or extended in accordance with Section 10.5 below.
- 10.2 In the event that any Party fails to carry out or comply with any of the material terms and conditions of the Customer Agreement, another Party may notify the breaching Party of such failure or default in writing and demand that the failure or default be remedied within thirty (30) days. In the event that the breaching Party fails to remedy such failure or default within thirty (30) days of receiving written notice, each other Party will have the right to cancel the Customer Agreement upon thirty (30) days written notice. Notwithstanding the foregoing, Customer will not have the right to cancel the Customer Agreement if Vendor's failure or inability to comply with the terms and conditions of the Customer Agreement is caused by or arises from, in whole or in part, the refusal or inability, for whatever reason, of Customer to provide the support and assistance that Vendor requires from Customer to perform its obligations under the Customer Agreement, and which Customer previously agreed to provide to Vendor. If Customer does not provide Vendor with the

requisite level or amount of support, for whatever reason, Vendor will, upon receipt of DIR approval, be entitled, but not obligated, to suspend or cancel any further work on the particular service or product or Application for which adequate support is not available, and focus its efforts on other services, products or Applications.

- 10.3 Except as otherwise provided in the TexasOnline 2.0 Master Agreement, or as provided below, DIR or Vendor may terminate the Customer Agreement without cause and without cost or penalty upon ninety (90) days' prior written notice. Notwithstanding the foregoing, with respect to services under Business Cases which are funded through Convenience Fees or Premium Subscription Fees, DIR or Vendor may terminate said Business Case without cost or penalty upon one hundred and eighty (180) days' prior written notice.
- 10.4 Upon written amendment signed by all Parties, Customer and Vendor may elect to continue Vendor's services under the Customer Agreement, notwithstanding the expiration or termination of the TexasOnline 2.0 Master Agreement.
- 10.5 Unless otherwise provided in Exhibit A herein, pursuant to the provisions of TexasOnline 2.0 Master Agreement and with respect to services that are not funded through Transaction Fees and Premium Subscription Fees, the Customer will pay any unrecovered costs associated with Vendor providing service to them through TexasOnline 2.0, if the Customer terminates the Customer Agreement for convenience or lack of funding before those costs are fully recovered. Such unrecovered costs will be calculated in accordance with Exhibit B Terms and Conditions, Section 11.03(d) Termination fee of the Master Agreement.
- 10.6 DIR may terminate this Customer Agreement following the determination by a competent judicial or quasi-judicial authority and Vendor's exhaustion of all legal remedies that Vendor, its employees, agents or Subcontractors have either offered or given any thing of value to an officer or employee of Customer or the State of Texas in violation of State law.

11. Dispute Resolution

If a dispute seeking money damages is identified by DIR, Vendor, or Customer, dispute resolution will follow the procedures outlined in Exhibit B Terms and Conditions, Section 11.11 Dispute Resolution of the TexasOnline 2.0 Master Agreement, which references Chapter 2260 of the Texas Government Code. Any pursuit of equitable relief will not constitute a waiver by DIR or Customer of any immunity from suit or liability. Notwithstanding the foregoing, DIR and Customer are not precluded from initiating a lawsuit for damages against Vendor in a court of competent jurisdiction and may do so without engaging in the process provided by Chapter 2260 of the Texas Government Code or 37 TEX. ADMIN. CODE § 34.1, et seq. (2001) (Department of Public Safety, Negotiation and Mediation of Certain Contract Disputes).

12. Miscellaneous Provisions

- 12.1 **Customer Copyright and Content Non-Supervision Acknowledgment.** The Customer represents to Vendor and DIR that the content and other materials furnished to Vendor by the Customer for TexasOnline 2.0 do not (i) violate any third party's copyright, intellectual property rights, rights of privacy or publicity or other similar rights and (ii) violate any applicable law or State rules and regulations for TexasOnline 2.0. The Customer acknowledges that neither Vendor nor DIR is responsible for investigation or approval of the content of any third party sites to which Customer's

links on TexasOnline 2.0. Further, the Customer acknowledges that neither DIR nor Vendor is responsible for the accuracy, completeness, or review of the content of the Customer's public records or text furnished by the Customer to Vendor or TexasOnline 2.0.

- 12.2 Any situation that could adversely affect TexasOnline 2.0 may lead to the suspension of the Customer's Applications on TexasOnline 2.0. Vendor will give DIR and the Customer written notice immediately upon suspension.

Exhibit A

List of Application(s) Supported Under this Customer Agreement

1. Electronic Filing Manager (EFM) Application
 - a) Court Intake Application
 - b) Court Profile
 - c) Court Registration
 - d) Filer Registration
 - e) Payment Services

List of Service(s) Provided Under this Customer Agreement

1. Electronic Filing Manager (EFM) Application
 - Electronic Payments System Credit Card Authorization Services/Settlement Services
 - Electronic Payments Chargeback Services
 - Filing Purge Services
 - Customer Information Center Services for Government Entity Applications
 - Customer Information Center Services for Electronic Payments transaction services
 - TexasOnline Hosting and Application Service Provider (ASP) Services
 - TexasOnline Training
 - Strategic Outreach
 - Physical Environment Management
 - Network Infrastructure Management
 - Hardware Management
 - Operating System Administration

Fee Schedule

1. Electronic Filing Manager (EFM) Application

The fee schedule listed below outlines the convenience fees required from the Internet user for each completed transaction.

Government Entity Service Type	TxO Services Fee
Electronic Filing Manager Court Intake Services	\$4.00 TexasOnline \$2.00 County*
Cost Recovery on all Credit Card transactions	Based on the credit card type and starting at 2.25% the first year

*NIC will pay to Government Entity on a monthly basis, for each accepted e-Filing the fee for cost recovery as approved by the Department of Information Resources Board.

Agenda Item Request Form

Hays County Commissioners' Court

9:00 a.m. Every Tuesday

Request forms are due in the County Judge's Office

No later than **2:00 p.m. on WEDNESDAY.**

Phone (512) 393-2205 Fax (512) 393-2282

AGENDA ITEM: ACTION:

Discussion and possible action to appoint Commissioner Will Conley as the Commissioners' Court representative of the Emergency Services Committee to address 911 issues.

CHECK ONE:

CONSENT

X ACTION

☐ **EXECUTIVE SESSION**

☐ **WORKSHOP**

☐ **PROCLAMATION**

☐ **PRESENTATION**

PREFERRED MEETING DATE REQUESTED: October 20, 2009

AMOUNT REQUIRED:

LINE ITEM NUMBER OF FUNDS REQUIRED:

REQUESTED BY: Will Conley

SPONSORED BY: Commissioner Will Conley

SUMMARY:

On September 15, 2009

Buda Fire Chief Clay Huckaby (Hays County Fire Chief Association) spoke of having created a committee of public safety professionals from each Fire and EMS Departments, as well as the Hays County Sheriff's Office Emergency Communications Center. The main purpose of this committee has been to address those issues which currently prevent the ultimate goal of a unified, co-located, countywide, shared 9-1-1 communications center. Current staffing at the Emergency Communications Center (ECC) is 13 fulltime Emergency Communication Officers (ECO), 1 part-time ECO, and 4 ECO supervisors [each working 12 hour shifts]. The center is only able to maintain minimal staff of 3 ECO's per shift. Hays County ECC only meets 53% of the requirement for the Insurance Services Office grading. The lack of available ECO's leads to public safety hazards. CAPCOG's upgrade to the 9-1-1 mapping system is in the final stages. The new Incident Management System (IMS) is provided at no cost to Hays County and can be used to run reports and track incidents. Two additional LCRA radio consoles were approved by Commissioners Court today and 10 new ECO's for Fire and EMS Dispatching (2 per shift) will improve the safety of citizens and first responders in Hays County. Impact on the 2009/2010 budget = \$356,111. Chief Huckaby spoke of implementation timeline and creation of a Review Committee (consisting of one member each from HCFCA, Sheriff's Office, County Commissioner, Fire ESD Commissioner, EMS ESD Commissioner, CAPCOG representative, and one citizen of Hays County) which will oversee the implementation of the plan, evaluate and report on its progress, and measure overall effectiveness. ESD's will contribute funding as determined by their boards (possibly \$80,000-\$100,000). Sharon O'Brien advised that the ESD's will probably fund equipment rather than salaries. Deputy Sheriff Dennis Gutierrez spoke of training required for an ECO and retention of those officers.

Agenda Item Request Form

Hays County Commissioners' Court

9:00 a.m. Every Tuesday

Request forms are due in the County Judge's Office

no later than **2:00 p.m.** on **WEDNESDAY.**

Phone (512) 393-2205 Fax (512) 393-2282

AGENDA ITEM: Discussion and possible action to authorize the County Judge to execute an Additional Services Agreement with Land Design Partners to prepare a water pollution abatement plan for the Spring Lake Preserve project, in the amount of \$3,575.00.

CHECK ONE: ☐ CONSENT ☒ ACTION ☐ EXECUTIVE SESSION
 ☐ WORKSHOP ☐ PROCLAMATION ☐ PRESENTATION

PREFERRED MEETING DATE REQUESTED: October 20, 2009

AMOUNT REQUIRED: \$3,575.00; provided by the City of San Marcos – see below and attached

LINE ITEM NUMBER OF FUNDS REQUIRED:

REQUESTED BY: Hauff

SPONSORED BY: Conley

SUMMARY:

The County and the City of San Marcos have been jointly working - under interlocal agreements - to acquire the 251 acres known as the Spring Lake Preserve and develop passive recreational opportunities on the property consistent with the protection and enhancement of Spring Lake and the San Marcos River. A grant from the Texas Parks and Wildlife Department (TPWD) for acquisition and development of the property was received and accepted by Commissioners Court action on April 17, 2007, and Land Design Partners (LDP) was contracted by the County on February 12, 2008 for design and construction plan development in the amount of \$24,900.00.

The Texas Commission on Environmental Quality now requires a Water Pollution Abatement Plan to be prepared for any construction project that overlies the Edwards Aquifer Recharge Zone, a requirement that was not in place when the original contract was executed with LDP. This requires additional services from the design firm, and the cost for this work is \$3,575.00. The City of San Marcos has agreed to cover this additional cost through funding dedicated to the project (see attached letter dated October 5, 2009). No County funds are required for this work. The City of San Marcos has independently contracted for a geologic assessment of the property, as required by TCEQ, and has also contracted for a cultural resource survey of the property as required by the grant from TPWD.



**NOTICE OF ADDITIONAL
LANDSCAPE ARCHITECTURE SERVICES**

July 21, 2009

Judge Liz Sumter
Hays County
111 E. San Antonio Street
Suite 300
San Marcos, Texas 78666

Re: Spring Lake Preserve Improvements – located in Hays County, Texas.

Description of Work in Progress:

<u>Fee</u>	<u>Task</u>
\$3,575	Prepare Water Pollution Abatement Plan (WPAP) per TCEQ requirements. Submit to TCEQ and obtain approval of WPAP.

Method of Billing: Lump Sum.

Land Design Partners, Inc. is proceeding with the work described above in accordance with your instructions. If the above described work or terms of billing do not meet with your approval and you wish to suspend work, please contact our office immediately.

This agreement shall be made an addendum to the original Professional Services Agreement between Hays County and Land Design Partners, Inc.

Judge Liz Sumter

Date



Charles Mabry

7.21.09

Date

Land Design Partners, Inc.
221 West Sixth Street, Suite 300
Austin, Texas 78701
Ph 512.327.5900 512.328.1253 Fx

LANDSCAPE ARCHITECTS

PLANNERS



COMMUNITY SERVICES-PARKS AND RECREATION

630 East Hopkins
San Marcos, Texas 78666

5 October 2009

Dear Jeff:

The City of San Marcos agrees to reimburse Hays County for the expenditure of \$3,575.00. This amount will be paid by Hays County for the development of a Water Pollution Abatement Plan by Land Design Partners. A Water Pollution Abatement Plan is required by Texas Commission on Environmental Quality prior to construction of a trail and other amenities at Spring Lake Preserve.

Please notify Melani Howard at 393.8410 if there are any questions.

Thank you,

A handwritten signature in black ink, appearing to read "William Ford", is written over a horizontal line.

William Ford
Parks and Recreation, Director

Agenda Item Request Form

Hays County Commissioners' Court

9:00 a.m. Every Tuesday

Request forms are due in the County Judge's Office

no later than 2:00 p.m. on WEDNESDAY.

Phone (512) 393-2205 Fax (512) 393-2282

AGENDA ITEM: Discussion and possible action to request Civil Division of Hays County District Attorney's Office to prepare an official response from the Commissioners Court in relation to Request for Attorney General's Opinion #RQ-0822-GA relating to the ability of Type A General Law municipalities to impose and enforce nonpoint source pollution (NPS) ordinances within the ETJ.

TYPE OF ITEM: ACTION

PREFERRED MEETING DATE REQUESTED: October 20, 2009

AMOUNT REQUIRED:

LINE ITEM NUMBER OF FUNDS REQUIRED:

REQUESTED BY: FORD/KENNEDY

SPONSORED BY: FORD

SUMMARY:

The City of Wimberley has requested an Attorney General's Opinion on the above matter, and Representative Rose submitted it in a letter dated 9/4/09. Copy of letter is attached.
Responses must be filed with the AG by 10/23/09.

RECEIVED
SEP 09 2009
OPINION COMMITTEE



FILE # ML-46167-09
I.D. # 46167

COMMITTEES:
HUMAN SERVICES, CHAIR
HIGHER EDUCATION

Patrick M. Rose
TEXAS STATE REPRESENTATIVE
DISTRICT 45

COUNTIES:
BLANCO
CALDWELL
HAYS

September 4, 2009

The Honorable Greg Abbott
Office of the Attorney General
P.O. Box 12548
Austin, TX 78711

RQ-0822-GA

RE: Request for an Attorney General's Opinion

Dear General Abbott:

A question has arisen relating to the ability of specific types of municipalities to impose and enforce nonpoint source pollution (NPS) ordinances in that city's extra territorial jurisdiction (ETJ) under Section 26.177 of the Water Code. Some cities have interpreted subsection (b) to provide that any city, regardless of its size or whether the city is organized as general-law or home-rule municipality, has the authority to voluntarily implement and enforce a water pollution and abatement program in its ETJ.

On behalf of the City of Wimberley, I would like to request an Attorney General's Opinion on whether or not a Type A General-Law city has the authority to impose and enforce a nonpoint source pollution ordinance in its ETJ under Section 26.177.

Thank you for your attention to this matter. Please do not hesitate to contact me with any questions or if I may be of assistance to you in any way.

Sincerely,

A handwritten signature in cursive script that reads "Patrick M. Rose".

Patrick M. Rose

cc: Sen. Jeff Wentworth, Texas Legislature
Mayor Tom Haley, City of Wimberley

POST OFFICE BOX 2910 ★ AUSTIN, TEXAS 78768-2910 ★ 512-463-0647 ★ 512-473-9946-FAX

Agenda Item Request Form

Hays County Commissioners' Court

9:00 a.m. Every Tuesday

Request forms are due in the County Judge's Office

No later than 2:00 p.m. on WEDNESDAY.

Phone (512) 393-2205 Fax (512) 393-2282

AGENDA ITEM: ACTION:

Discussion and possible action to waive the fees for the Rotary Club of San Marcos event that will be held in the Hays County Civic Center on October 22, 2009.

CHECK ONE: **CONSENT** **X ACTION** ☐ **EXECUTIVE SESSION**
☐ **WORKSHOP** ☐ **PROCLAMATION** ☐ **PRESENTATION**

PREFERRED MEETING DATE REQUESTED: October 20, 2009

AMOUNT REQUIRED:

LINE ITEM NUMBER OF FUNDS REQUIRED:

REQUESTED BY: Sammy Falletta

SPONSORED BY: Commissioner Will Conley

SUMMARY:

The Rotary Club of San Marcos will be holding the Early Act First Knight Tournament for school children, teachers and community observers. They are requesting to have the fees waived for this event.

Jeff Laws

From: Jennifer Anderson
Sent: Wednesday, October 14, 2009 10:33 AM
To: Jeff Laws
Subject: FW: HCCC

Jeff,
You can put this with the HCCC agenda item as back-up.

Thanks again,
Jennifer

From: "Sammy Falletta" <sfalletta@secureandsmart.com>
Date: Wed, 14 Oct 2009 09:57:08 -0500
To: <will.conley@grandecom.net>; <willconley@grandecom.net>
Cc: 'Steven Searle' <SteveS@ozonabank.com>; 'Ronda Reagan' <rreagan2@austin.rr.com>; 'Zyg Maksymowicz' <zygmunt.maksymowicz@ahss.org>; 'Carole Farmer' <CaroleF@sacnpac.com>; 'Vaughn Thayer' <vthayer@grandecom.net>; <frank@texaskings.net>; <gtucker@ahmc.com>; 'Ratcliff, Scott' <sratcliff@burypartners.com>
Subject: HCCC

Will,
We will like to use the Civic Center Arena on Thursday October 22 at 1pm to 3pm. This will be for the Early Act First Knight Tournament.
We will have approximately 1300 school children, teachers and observers from the area. If it is possible we would like for the Commissioners to consider allowing our Rotary Clubs to use this facility free of charge. We appreciate your attention in this matter and will look forward to your response. Please call me at the numbers listed below for any additional information.

Best Regards
Sammy Falletta
President
The Rotary Club of San Marcos

Sammy Falletta
Licensed Manager
Interactive Security and Audio
TX License #'s - B10516 ; ACR-2067
512-738-0086:cell
512-396-2124:office
www.secureandsmart.com

Agenda Item Request Form

Hays County Commissioners' Court

9:00 a.m. Every Tuesday

Request forms are due in the County Judge's Office

no later than 2:00 p.m. on WEDNESDAY.

Phone (512) 393-2205 Fax (512) 393-2282

551.087

AGENDA ITEM: Executive Session pursuant to Section ~~552.131~~ of the Texas Government Code, related to a possible offer of economic development incentives to Grifols, Inc. for the development of a biomedical facility in Hays County. Possible action to follow in open Court.

TYPE OF ITEM: EXECUTIVE

PREFERRED MEETING DATE REQUESTED: October 20, 2009

AMOUNT REQUIRED: N/A

LINE ITEM NUMBER OF FUNDS REQUIRED: N/A

REQUESTED BY: INGALSBE

SPONSORED BY: INGALSBE

SUMMARY: To be provided in Executive Session.

Agenda Item Request Form

Hays County Commissioners' Court

9:00 a.m. Every Tuesday

Request forms are due in the County Judge's Office

no later than 2:00 p.m. on WEDNESDAY.

Phone (512) 393-2205

AGENDA ITEM: Executive Session pursuant to Section 551.074, Texas Government Code to discuss employment, evaluation and/or duties of all individual department heads.

CHECK ONE: **CONSENT** **ACTION** **X EXECUTIVE SESSION**

☐ **WORKSHOP**

☐ **PROCLAMATION**

☐ **PRESENTATION**

PREFERRED MEETING DATE REQUESTED: October 20, 2009

AMOUNT REQUIRED: \$

LINE ITEM NUMBER OF FUNDS REQUIRED:

REQUESTED BY:

SPONSORED BY: SUMTER

SUMMARY: