

**Commissioners Court -January 10, 2012
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 **10th day of January, 2012**, in the Hays County Courthouse, Room 301, San Marcos, Texas. An Open Meeting will be held concerning the following subjects:

CALL TO ORDER

INVOCATION

PLEDGE OF ALLEGIANCE - Pledge of Allegiance to the American Flag & Pledge of Allegiance to the Texas Flag

ROLL CALL

PUBLIC COMMENTS

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

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.

1	4	Approve payments of county invoices. HERZOG
2	5-17	Approve Commissioners Court Minutes of December 20, 2011, December 21, 2011 and January 3, 2012. COBB/GONZALEZ
3	18-22	Approve Service Agreement with Unifirst for rental of County Uniforms utilizing the Buyboard contract. COBB/HERZOG/MAIORKA
4	23	Approve out of State Training Travel Request for Lieutenant Graves. INGALSBE/DAVENPORT
5	24	Approve the reappointment of Mark Schultz to Hays County ESD #5 for an additional two year term, beginning January 1, 2012. JONES
6	25-75	Authorize the County Judge to execute Grant Application, Part II to the Texas Department of Transportation (TxDOT), Section 5310 grant program for \$3000 in maintenance funds for two vehicles in the Veterans Service Office. INGALSBE/HAUFF
7	76	Approve the reappointment of Randall Garst to the Hays County ESD #1 Board of Commissioners for an additional two year term, beginning January 1, 2012. WHISENANT
8	77	Authorize Counsel to retain land surveying services associated with the Jacob's Well Natural Area project. CONLEY
9	78-84	Authorize the County Judge to submit an application to the Capital Area Council of Governments, FY2012 Homeland Security Grant Program (HSGP) for the Hays County Community Emergency Response Team (CERT) for funding in the amount of \$19,796.60. COBB/HAUFF/TURNER
10	85-92	Authorize the County Judge to submit an application to the Capital Area Council of Governments (CAPCOG), FY2012 Homeland Security Grant Program (HSGP) for the Hays County Regional Inter-Operable Communications Project for funding in the amount of \$347,264.50. COBB/HAUFF/TURNER

ACTION ITEMS

SUBDIVISIONS

11	93-97	08-4-47 Constellation Subdivision (14 Lots). Consider variance from Hays County Road standards; discussion and possible action to approve final plat. WHISENANT/GARZA
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MISCELLANEOUS

12	98-106	Discussion and possible action to authorize the County Judge to sign a Data Sharing Agreement with the Texas Workforce Commission allowing interested Hays County Constables as law enforcement entities, Hays County Sheriff's Department and Office of the District Attorney to access information contained in Unemployment Insurance Records to aid them in serving outstanding warrants and citations. WHISENANT
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13	107-153	Discussion and possible action to ratify grant application and authorize acceptance of a Texas Emissions Reduction Plan (TERP) Program Rebate Grant from the Texas Commission on Environmental Quality, in the amount of \$52,573.00. COBB/BORCHERDING/HAUFF
14	154-170	Discussion and possible action to authorize the County Judge to submit a letter to the Texas Department of Transportation regarding the environmental process for local governments working on State Highway projects. CONLEY
15	171-194	Discussion and possible action to authorize the County Judge to execute a Contract for Engineering Services Supplemental #1 to the Professional Services Agreement and Work Authorization No. 3 with CP&Y, Inc. JONES
16	195-196	Discussion and possible action to adopt a resolution in support of the I-35 Frontage Roads project in Precinct 2. JONES
17	197-207	Discussion and possible action to authorize the County Judge to execute an Advanced Funding Agreement with the Texas Department of Transportation for the IH 35 Frontage Roads Project. JONES
18	208	Discussion and possible action to appoint Terry Hauptrief to the Hays County Transportation Committee. JONES
19	209	Discussion and possible action to consider the cancellation of Commissioners Court on February 7, 2012. COBB
20	210-211	Discussion and possible action to approve the appointment of Lon A. Shell to the Board of Directors for Tax Increment Reinvestment Zone No.4 for a (1) one year term beginning January 1, 2012. CONLEY
21	212	Discussion and possible action to approve the appointments of Commissioner Debbie Ingalsbe for a (2) two year term, Commissioner Will Conley for a (1) one year term, and Ed Mihalkanin for a (2) two year term, beginning January 1, 2012 to the Board of Directors for Tax Increment Reinvestment Zone No.5. COBB

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.

22	213	Executive Session pursuant to Sections 551.071 and 551.087 of the Texas Government Code: consultation with counsel and discussion related to economic development negotiations between Hays County and Stellar Plastics, Inc. Possible action to follow. INGALSBE
23	214	Executive Session pursuant to Sections 551.071 and 551.072 of the Texas Government Code: consultation with counsel and deliberation regarding the purchase, exchange, or value of real property related to the marketing and potential sale of County owned properties. Possible action may follow in open court. COBB
24	215	Executive Session pursuant to Section 551.071 and 551.072 of the Texas Government Code: consultation with counsel and deliberation regarding the acquisition of the West Travis County Water and Wastewater System and to deliberate the conveyance of real property associated with such acquisition. WHISENANT

STANDING AGENDA ITEMS

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

25	Discussion and possible action related to the burn ban and/or disaster declaration. COBB/CHAMBERS
26	Discussion of issues related to proposed capital construction projects in Hays County, including but not limited to the Government Center; the proposed Precinct 2 office; and the Law Enforcement Center Immediate Needs Project. Possible action may follow. INGALSBE
27	Discussion of issues related to the road bond projects, including updates from Mike Weaver, Prime Strategies and Jeff Curren, HDR. Possible action may follow. COBB
28	Discussion of material relating to the Hays County Water and Sewer Authority and/or the LCRA divestiture. WHISENANT

ADJOURNMENT

Posted by 5:00 o'clock P.M. on the 6th day of January, 2011

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

AGENDA ITEM: Approve payment of County invoices.

CHECK ONE:	<input checked="" type="checkbox"/> CONSENT	<input type="checkbox"/> ACTION	<input type="checkbox"/> EXECUTIVE SESSION
	<input type="checkbox"/> WORKSHOP	<input type="checkbox"/> PROCLAMATION	<input type="checkbox"/> PRESENTATION

PREFERRED MEETING DATE REQUESTED: 1/10/12

AMOUNT REQUIRED:

LINE ITEM NUMBER OF FUNDS REQUIRED:

REQUESTED BY: Auditor's Office

SPONSORED BY: Bill Herzog

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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: Approve Commissioners Court Minutes of December 20, 2011, December 21, 2011 and January 3, 2012.

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

PREFERRED MEETING DATE REQUESTED: 1/10/12

AMOUNT REQUIRED:

LINE ITEM NUMBER OF FUNDS REQUIRED:

REQUESTED BY: Gonzalez

SPONSORED BY: Cobb



STATE OF TEXAS *
COUNTY OF HAYS *

ON THIS THE 20th DAY OF DECEMBER A.D., 2011, THE COMMISSIONERS' COURT OF HAYS COUNTY, TEXAS, MET IN REGULAR MEETING. THE FOLLOWING MEMBERS WERE PRESENT, TO-WIT:

ALBERT H. COBB JR	COUNTY JUDGE
DEBBIE GONZALES INGALSBE	COMMISSIONER, PCT. 1
MARK JONES	COMMISSIONER, PCT. 2
WILL CONLEY	COMMISSIONER, PCT. 3
RAY O. WHISENANT JR	COMMISSIONER, PCT. 4
ROSE ROBINSON	DEPUTY COUNTY CLERK

AND THE FOLLOWING PROCEEDINGS WERE HAD, THAT IS:

Commissioner Whisenant gave the invocation and Judge Cobb led the court in the Pledge of Allegiance to the flags. Judge Cobb called meeting to order.

PUBLIC COMMENTS

Constable Pct. 2 James Kohler made a public comment.

PRESENTATION FROM GBRA REGARDING CONSERVATION PROGRAMS AND A DROUGHT UPDATE

William "Bill" West Jr. General Manager of the GBRA spoke of the 2011 Exceptional Drought Guadalupe Blanco Authority requirements. Municipals are required by the State Water Code to provide water supplies that are derived from "firm" sources. Firm sources are defined as being available throughout repeat of the "drought of record" for the area. In this part of Texas, the record is 1947-1957. The firm yield calculations for reservoirs and other water sources are based on availability of water for that period.

28640 APPROVE PAYMENTS OF COUNTY INVOICES

A motion was made by Commissioner Whisenant, seconded by Commissioner Conley to approve payments of County Invoices in the amount of \$987,593.97 as submitted by the County Auditor. All voting "Aye". MOTION PASSED

An amended motion was made by Commissioner Whisenant, seconded by Commissioner Conley to add an invoice in the amount of \$ 1,010.30 to Independence Title for the Wimberley Springs Partners Ltd donation so that the closing can be done prior to the end of the year for tax purposes. All voting "Aye". MOTION PASSED

28641 APPROVE COMMISSIONERS COURT MINUTES OF DECEMBER 1 SPECIAL MEETING AND DECEMBER 6, 2011

A motion was made by Commissioner Whisenant, seconded by Commissioner Conley to approve Commissioners Court Minutes of December 1 Special Meeting and December 6, 2011 as presented by the County Clerk. All voting "Aye". MOTION PASSED

28642 APPROVE RE-APPOINTMENT OF COMMISSIONER WILL CONLEY TO THE LONE STAR RAIL DISTRICT BOARD OF DIRECTORS FOR THE TWO YEAR TERM OF FEBRUARY 1, 2012 TO FEBRUARY 1, 2014

Hays County appoints one member to the Lone Star Rail District Board of Directors. The County's current appointment is Commissioner Conley. In accordance with the Rail District's governing statute (Texas Civil Statutes Article 6550c-1) and bylaws, each Board member serves a two year term; additionally, the terms are staggered so that one-half of the Board member's terms expire on February 1 of each year to ensure Board continually. Commissioner Conley's term expires on February 1, 2014. A motion was made by Commissioner Whisenant, seconded by Commissioner Conley to approve re-appointment of Commissioner Will Conley to the Lone Star Rail District Board of Directors for the two year term of February 1, 2012 to February 1, 2014. All voting "Aye". MOTION PASSED



DECEMBER 20, 2011

VOLUME U PG 749

28643 ACCEPT DONATIONS TOTALING \$900 TO THE HAYS COUNTY SHERIFF'S OFFICE

The Sheriff Office received three donations totaling \$900.00 and request to deposit into line item 001-618-00.4610/Contributions. \$500.00 of the donation was cash. A motion was made by Commissioner Whisenant, seconded by Commissioner Conley to accept donations totaling \$900 to the Hays County Sheriff's Office. All voting "Aye". MOTION PASSED

28644 AUTHORIZE THE COUNTY JUDGE TO EXECUTE AN AMENDMENT TO A SUBAWARD AGREEMENT WITH TEXAS STATE UNIVERSITY FOR THE ADVANCED LAW ENFORCEMENT RAPID RESPONSE TRAINING (ALERT) PROGRAM, TO EXTEND THE TERM TO SEPTEMBER 30, 2012

On June 28, 2011 the Commissioners Court authorized the County Judge to enter into two grant Subaward Agreements with Texas State University for County participation in the Advanced Law Enforcement Rapid Response Training (ALERT) program. These included Subaward Agreement No. 8000001412.1 for \$46,000.00 and Subaward Agreement No. 8000001480.1 for \$40,020.00, and both Agreements were for the term of October 1, 2010 to September 30, 2011. The Amendment will extend the expiration date for Subaward Agreement No. 8000001480.1 from September 30, 2011 to September 30, 2012. No other changes are proposed. A motion was made by Commissioner Whisenant, seconded by Commissioner Conley to authorize the County Judge to execute an Amendment to a Subaward Agreement with Texas State University for the Advanced Law Enforcement Rapid Response Training (ALERT) program, to extend the term to September 30, 2012. All voting "Aye". MOTION PASSED

28645 AUTHORIZE THE COUNTY JUDGE TO EXECUTE AMENDMENT NO. 1 TO THE INTERLOCAL COOPERATION AGREEMENT BETWEEN THE LOWER COLORADO RIVER AUTHORITY AND HAYS COUNTY, PROVIDING A TIME EXTENSION TO SEPTEMBER 30, 2012

On May 21, 2010 the Commissioners Court authorized an Interlocal Cooperative Agreement with the Lower Colorado River Authority for the purpose of initiating the current drainage basin/flood protection planning study jointly conducted by the parties above the U.S Army Corps of Engineers. The original Agreement with the LCRA has term of May 4, 2010 to September 30, 2011. The Amendment No.1 will extend the term of the original Agreement to September 30, 2012 with no other changes proposed at this time. This extension will allow work to continue on the current study maintain all other existing terms of the original Agreement. A motion was made by Commissioner Jones, seconded by Commissioner Whisenant to authorize the County Judge to execute Amendment No. 1 to the Interlocal Cooperation Agreement between the Lower Colorado River Authority and Hays County, providing a time extension to September 30, 2012. All voting "Aye". MOTION PASSED

28646 AMEND THE GDEM CERT GRANT FOR THE PURCHASE OF TWO MISTING FANS FOR \$525.00 EACH AND TWO ICE MACHINES FOR \$1,981.00 EACH

The granting agency has approved the purchase of equipment that was not part of the original grant application. The amendment will allow the program to spend the grant award with no matching funds required from the County. Amount required \$5,012.00 (already budgeted in the CERT cost center) 001-656-99-064.5472 \$4,717.00; 001-656-99-064.5551 \$295.00. A motion was made by Commissioner Jones, seconded by Commissioner Whisenant to amend the GDEM CERT grant for the purchase of two misting fans for \$525.00 each and two ice machines for \$1,981.00 each. All voting "Aye". MOTION PASSED

28647 APPROVE THE REAPPOINTMENT OF E. DUWAIN WHITIS, JR. AND HALLEY ORTIZ TO HAYS COUNTY ESD #2 FOR AN ADDITIONAL TWO YEAR TERM, BEGINNING JANUARY 1, 2012

E. Duwain Whitis, Jr. and Halley Ortiz have agreed to stay on for an additional two year term to expire in December 2013. A motion was made by Commissioner Jones, seconded by Commissioner Whisenant to approve the reappointment of E. Duwain Whitis, Jr. and Halley Ortiz to Hays County ESD #2 for an additional two year term, beginning January 1, 2012. All voting "Aye". MOTION PASSED



28648 APPROVE THE REAPPOINTMENT OF CAROL KAY CONWAY GREAVES AND JOE SEGOVIA TO HAYS COUNTY ESD #8 FOR AN ADDITIONAL TWO YEAR TERM, BEGINNING JANUARY 1, 2012

Carol Kay Conway Greaves and Joe Segovia have agreed to stay on for an additional two year term to expire in December 2013. A motion was made by Commissioner Jones, seconded by Commissioner Whisenant to approve the reappointment of Carol Kay Conway Greaves and Joe Segovia to Hays County ESD #8 for an additional two year term, beginning January 1, 2012. All voting "Aye". MOTION PASSED

28649 ACCEPT THE LOCAL RULES OF PROCEDURE AND RULES OF DECORUM FOR THE HAYS COUNTY JUSTICE OF THE PEACE COURTS

These rules are promulgated to provide a uniform system for the fair, impartial, and prompt disposition of matters properly before the Justice Courts of Hays County. They are to be interpreted consistent with this objective. These rules govern filed in the Justice Courts of Hays County, Texas. They are promulgated pursuant to Section 27.061 of the Texas Government Code. The Justice Courts of Hays County hear: (a) Civil Cases in which the amount in controversy is \$10,000.00 or less. (b) Eviction cases, both residential and commercial, including writs of re-entry, writs of utility restoration and writs of possession. (c) Administrative hearings involving revocation of driver's licenses, towing, hearings, concealed handgun permits, etc. Each Justice Court is Hays County has a specific geographical area of jurisdiction. Precinct One serves the San Marcos area; Precinct Two serves the Kyle area; Precinct Three services the Wimberley Area; Precinct Four services the Dripping Springs area; Precinct Five serves the Buda area. Each court has its own court clerks, responsible for the setting cases on the individual docket of the court. A motion was made by Commissioner Jones, seconded by Commissioner Whisenant to accept the Local Rules of Procedure and Rules of Decorum for the Hays County Justice of the Peace Courts. All voting "Aye". MOTION PASSED

28650 APPROVAL OF SERVICE AGREEMENT FOR 35 YARD SELF-CONTAINED COMPACTOR FOR GOVERNMENT CENTER

\$340/month plus \$380 per haul off. 001-613-00.5452. A motion was made by Commissioner Ingalsbe, seconded by Commissioner Jones to approval of Service Agreement for 35 yard self-contained compactor for Government Center. All voting "Aye". MOTION PASSED

28651 APPROVE UTILITY PERMITS

A motion was made by Commissioner Ingalsbe, seconded by Commissioner Jones, to approve Waterline Utility Permit #840 on McCarty Lane issued to Texas State University and Waterline Utility Permit # 841 on Sprucewood issued to Aqua Tx. as requested by the County Road Department. All voting "Aye". MOTION PASSED

28652 AUTHORIZE VARIOUS BUDGET AMENDMENTS RELATED TO PAYROLL PAYABLES RECONCILIATION IN PREPARATION FOR THE COUNTY'S FY 2011 YEAR-END AUDIT PROCESS

A motion was made by Commissioner Ingalsbe, seconded by Commissioner Jones to authorize various budget amendments related to payroll payables reconciliation in preparation for the County's FY 2011 year-end audit process. All voting "Aye". MOTION PASSED

28653 REVISED PLAT OF A PORTION OF LOT 7 AND A PORTION OF LOT 8 TRIPLE "R" RANCHETTES [11-2-42 - 1 LOT] APPROVE PRELIMINARY PLAN AND CALL FOR PUBLIC HEARING ON JANUARY 17, 2012

Clint Garza Development Services Director gave a brief explanation and staff recommendation. The Triple "R" Ranchettes Subdivision was approved and recorded in 1978. It consisted of 15 lots each over 10 acres in size. Resubdivision and conveyance by metes and bounds have increased the total taxable parcels to 45. The owner of portions of Lot 7 and Lot 8 would like to plat his 11.45 acres to get it into compliance with all Hays County regulations and receive development permit for his homestead. The property owner attempted to have neighbors join in on this replat to bring all portions of those two lots in compliance with Hays County Regulations but was unsuccessful in getting participation. Lot 7A will be served by an individual OSSF and public water supply. The division is in the City of Austin's ETJ, however the acreage (>5 acres) is exempt from City authority. A motion was made by Commissioner Jones, seconded by Commissioner Ingalsbe to approve preliminary plan of Revised plat of a portion of Lot 7 and a portion of Lot 8 Triple "R" Ranchettes 1 Lot and call for a public hearing on January 17, 2012. All voting "Aye". MOTION PASSED



DECEMBER 20, 2011

VOLUME U PG 751

28654 RICHFORD SUBDIVISION [11-4-24 - 2 LOTS] WAIVE PRELIMINARY PLAN AND APPROVE FINAL PLAT

Clint Garza Development Services Director gave a brief explanation and staff recommendation. The Richford Subdivision is a proposed division of 12.154 acres of land located off of Trautwein Road in Precinct 4. The owner is proposing to divide the land into two lots; Lot 1 – 1.052 acres; Lot 2 – 11.102 acres. There are currently three communication towers located on the proposed Lot 1 which will be restricted from residential use and limited to utility use only. Lot 2 will be platted for residential use and will be served by existing private wells and on-site sewage facilities. **A motion was made by Commissioner Whisenant, seconded by Commissioner Conley to waive preliminary plan and approve final plat of Richford Subdivision. All voting "Aye". MOTION PASSED**

28655 AMENDING PLAT OF LOTS 5 AND 6, HUNTERS GLEN [11-4-32 - 2 LOTS] WAIVE PUBLIC HEARING OF PRELIMINARY PLAN; APPROVE VARIANCE TO MINIMUM LOT SIZE IN SECTION 10.1 OF HAYS COUNTY OSSF REGULATIONS AND APPROVE FINAL PLAT

Clint Garza Development Services Director gave a brief explanation. Hunters Glen is a platted subdivision located off Hilliard Road in Precinct 4. The subdivision was originally platted in 1968 as a 39 lot subdivision with lots in size from 3.07 to 7.74 acres. The owner of Lots 5 and 6 has proposed a lot line adjustment between the two 4.99 acre lots, creating Lot 5R (5.86 acres) and Lot 6R (4.13 acres). Both lots will be served by existing private wells and on-site sewage facilities to be permitted by Hays County Development Services. Even though this amended plat will not result in an increase in density, the current Hays County Minimum lot size for this area is 5 acres and approval of this replat requires formal variance approval. **A motion was made by Commissioner Whisenant, seconded by Commissioner Jones to waive public hearing of preliminary plan amending plat of Lots 5 and 6, Hunters Glen; approve variance to minimum lot size in Section 10.1 of Hays County OSSF Regulations and approve final plat. All voting "Aye". MOTION PASSED**

28656 REVISED PLAT OF LOT 3A & LOT 4A-2, CREEKSIDE ADDITION [11-4-43 - 1 LOT] WAIVE PUBLIC HEARING OF PRELIMINARY PLAN AND APPROVE FINAL PLAT

Clint Garza Development Services Director gave a brief explanation and staff recommendation. Creekside Addition is platted subdivision located off of Sycamore Creek Drive in Precinct 4. The owner of lots 3A and 4A-2 wishes to dissolve the lot line dividing the two lots and create one larger lot (8.00 acres). Water and wastewater services will be provided to lot 3A-1 by an existing private well and on-site sewage facility. **A motion was made by Commissioner Whisenant, seconded by Commissioner Conley to waive public hearing of preliminary plan and approve final plat of Lot 3A & Lot 4A-2 Creekside Addition. All voting "Aye". MOTION PASSED**

28657 DRIFTWOOD HEIGHTS SUBDIVISION [11-4-44 - 2 LOTS] APPROVE PRELIMINARY PLAN

Clint Garza Development Services Director gave a brief explanation and staff recommendation. The Driftwood Heights Subdivision is a proposed 2 lot subdivision located off of Elder Hill Road in Precinct 4. The property owner would like to create 2 new lots 5.00 and 5.28 acres in size. The Lots will be served by a shared access driveway and are restricted to one single family residence per lot. Each Lot will be served by individual on-site sewage facilities and individual wells. The division lies within the boundaries of the Dripping Springs ETJ. **A motion was made by Commissioner Whisenant, seconded by Commissioner Conley approve Preliminary Plan of Driftwood Heights Subdivision 2 Lots. All voting "Aye". MOTION PASSED**

28658 AUTHORIZE PAYMENT OF INVOICES TOTALING \$325.59 FOR THE HAYS COUNTY CIVIC CENTER IN WHICH PURCHASE ORDERS WERE NOT OBTAINED

Barry Nelson, Civic Center Director spoke of the following invoices required authorization since Purchase Orders were not obtained for McCoy's Invoice 7010612 for \$89.99 and McCoy's Invoice 7010613 for \$235.60 totaling in the amount of \$325.59. In accordance with county policy, a purchase order must be issued on or before the invoice date for invoices total \$300 or more. Therefore, this invoice cannot be paid until it is granted by the court. **A motion was made by Commissioner Jones, seconded by Commissioner Ingalsbe to authorize payment of invoices totaling \$325.59 for the Hays County Civic Center in which purchase orders were not obtained. All voting "Aye". MOTION PASSED**

28659 APPROVE THE APPOINTMENT OF SUSIE CHURCHILL TO THE HAYS COUNTY CHILD PROTECTIVE BOARD

A motion was made by Commissioner Jones, seconded by Commissioner Whisenant to approve the appointment of Susie Churchill to the Hays County Child Protective Board. All voting "Aye". MOTION PASSED



**28660 AUTHORIZE THE PURCHASE OF EQUIPMENT AND SOFTWARE FOR
SESSIONWORKS JUDGE EDITION TO AID IN THE PRESERVATION OF COURT
RECORDS**

District Clerk Beverly Crumley spoke. District and County Court at Law Judges are proposing to utilize software in each of the courtroom that will enable court proceedings to be conducted without the use of paper files in the future. SessionWorks Judge Edition will allow the control of case information efficiently and securely from the bench and will eliminate the use paper files and folders for a more efficient courtroom. Currently maintain digitized images of all documents filed within the District and County Clerk's Office. Without having to consistently pull and re-file the case binders will aid in the preservation of the records on file that are required to be kept. And will be able to dispose the case paperwork that is not permanent, thus down-sizing the need of additional storage space in the future. **A motion was made by Commissioner Ingalsbe, seconded by Commissioner Jones to authorize the purchase of equipment and software for SessionWorks Judge Edition to aid in the preservation of court records and amend the budget accordingly in the amount of \$66,590.00 to come out of the Records Preservation Fund. All voting "Aye". MOTION PASSED**

**28661 AUTHORIZE PARTIAL PAYMENT OF PROMISSORY NOTE HELD BY THE NATURE
CONSERVANCY FOR THE JACOB'S WELL PROPERTY WITH FUNDS RETURNED
FROM OTHER PARK BOND PROJECTS**

On December 17, 2010 Hays County purchased the Jacob's Well property, which involved both a payment of funds allocated from the 2007 Park Bond and execution of a Promissory Note to The Nature Conservancy, in the amount of \$850,000.00 for the balance of the purchase price. The Note is due and payable in full on December 17, 2013. Prepayment in part or in entirety is allowed at any time without penalty, with interest ceasing on amounts prepaid. On November 22, 2011 the Commissioners Court amended the Park Bond Project Agreement with the City of San Marcos, resulting in the return of \$500,000.00 of previously allocated Bond funds to the County. It is proposed that these funds be re-allocated and applied to pay down the Note currently held on the Jacob's Well property. The County will continue to actively seek other opportunities to secure payoff of the balance of the loan. Amount required \$500,000.00 Park Funds. **A motion was made by Commissioner Conley, seconded by Commissioner Ingalsbe to authorize partial payment of Promissory Note held by The Nature Conservancy for the Jacob's Well property with funds returned from other Park Bond projects in the amount of \$500,000.00. All voting "Aye". MOTION PASSED**

An amended motion was made by Commissioner Conley, seconded by Commissioner Ingalsbe to include the \$30,000 collection from the Wimberley Watershed Association to be part of that payment to now be \$530,000 to the Promissory Note held by the Nature Conservancy for the Jacobs Well Park.

**28662 AUTHORIZE THE COUNTY AUDITOR TO TRANSFER ALL BUDGETED HEALTH &
DENTAL INSURANCE FUNDING FROM THE DEPARTMENTAL BUDGETS TO THE
MEDICAL & DENTAL FUND**

The Treasurer's Office spends many hours per month tracking departmental health insurance premiums for all employees & transferring those funds from the departmental budget to the Payroll Fund & again from the Payroll Fund to the Medical Dental Fund. Since the County is self funded for health & dental, no purpose is served is tracking employee insurance premiums. I recommended those funds be transferred to the medical & dental fund which will reduce the workload in the Treasurer's Office and build reserves in the fund to offset future increased costs of help our GASB 45 financial commitment. **A motion was made by Commissioner Ingalsbe, seconded by Commissioner Jones to authorize the County Auditor to transfer all budgeted health & dental insurance funding from the departmental budgets to the Medical & Dental Fund. All voting "Aye". MOTION PASSED**

**28663 AUTHORIZE THE COUNTY JUDGE TO ACCEPT AND SIGN A GRANT SUB-
RECIPIENT AWARD FROM THE TEXAS DEPARTMENT OF PUBLIC SAFETY,
HOMELAND SECURITY GRANT PROGRAM IN THE AMOUNT OF \$18,426.09 AND
AMEND THE BUDGET ACCORDINGLY**

Jeff Hauff Grants Administrator gave a brief overview. Jeff Turner Office of Emergency Management Coordinator spoke of this grant providing funding to support the Community Emergency Response Team (CERT) including the purchase of equipment, lease of storage space for equipment, training and exercise cost, and public outreach expenses. A Project Worksheet was provided to the Capital Area Council of Governments, Homeland Security Grant Program in August, 2010 that detailed the various elements for which funds were requested. The CERT is a local County organization made up of volunteer members who provide support services to various agencies involved in emergency. No matching funds required. **A motion was made by Commissioner Whisenant, seconded by Commissioner Conley to authorize the County Judge to accept and sign a grant Sub-Recipient Award from the Texas Department of Public Safety, Homeland Security Grant Program in the amount of \$18,426.09 and amend the budget accordingly. All voting "Aye". MOTION PASSED**



DECEMBER 20, 2011

VOLUME U PG 753

**28664 APPROVE A SUPPLEMENTAL TO LOCKWOOD, ANDREWS AND NEWMAN, INC.
MASTER AGREEMENT ON DACY LANE TO PROVIDE PRELIMINARY SCHEMATIC
DESIGN SERVICES**

Jerry Borcharding Transportation Director spoke of the funds are allocated within the project's bond program budget. Graham Moore of Lockwood, Andrews and Newman, Inc. spoke of Dacy Lane being identified as a County roadway warranting safety improvements as part of the 2008 road bond program. The project scope described in the Bond Program included the initial engineering studies required to begin environmental clearance as well as ROW preservation. The initial work authorization included only the work necessary to determine the preferred alignment for the roadway through the corridor. This work has been completed and a preferred alignment determined. This supplement to the Master Agreement Work Authorization will permit the development of a preliminary schematic setting final ROW needs for future ROW preservation. Amount required \$ 247,480.090 funds are available within the project's bond program budget. **A motion was made by Commissioner Jones, seconded by Commissioner Ingalsbe to approve a supplemental to Lockwood, Andrews and Newman, Inc. Master Agreement on Dacy Lane to provide preliminary schematic design services. All voting "Aye". MOTION PASSED**

County Clerks Note Item #27 RE: DIVIDE EMERGENCY SERVICES DISTRICT #5 APPOINTMENTS BETWEEN THE THREE HAYS COUNTY COMMISSIONERS THAT REPRESENT CITIZENS WITHIN THE BOUNDARIES OF THIS DISTRICT – No Action Taken

**28665 ADOPT A RESOLUTION IN SUPPORT OF SUBMITTING AN APPLICATION TO
CAMPO TO INCLUDE IMPROVEMENTS TO FM 2001 BETWEEN ROLLING HILLS
DRIVE AND STATE HIGHWAY (SH) 21 IN THE APPROVED 2035 REGIONAL
TRANSPORTATION PLAN AND IN THE PLANNING PORTION OF THE FISCAL YEAR
2013-2016 TRANSPORTATION IMPROVEMENT PROGRAM**

Mike Weaver of Prime Strategies spoke. A motion was made by Commissioner Jones, seconded by Commissioner Ingalsbe to adopt a resolution in support of submitting an application to CAMPO to include improvements to FM 2001 between Rolling Hills Drive and State Highway (SH) 21 in the approved 2035 Regional Transportation Plan and in the planning portion of the Fiscal Year 2013-2016 Transportation Improvement Program. All voting "Aye". MOTION PASSED

**28666 AMEND THE UTILITY AGREEMENT BETWEEN HAYS COUNTY AND CITY OF KYLE
UTILITIES FOR SERVICES ON THE IH 35 FRONTAGE ROAD PROJECT FROM FM
1626 TO RM 150**

Mike Weaver of Prime Strategies spoke. A motion was made by Commissioner Jones, seconded by Commissioner Ingalsbe to amend the utility agreement between Hays County and City of Kyle Utilities for services on the IH 35 Frontage Road project from FM 1626 to RM 150. All voting "Aye". MOTION PASSED

**28667 HOLD PUBLIC HEARING WITH ACTION TO ADOPT A RESOLUTION REGARDING
THE TAXATION OF GOODS-IN-TRANSIT**

Judge Cobb opened the public hearing. No public input was received. Public hearing was closed. Commissioner Ingalsbe and Special Counsel Mark Kennedy spoke of the Goods-in-transit are commercial goods stored in independent (not controlled by the owner of the goods) warehouse awaiting further distributions. It can constitute significant amounts of taxable personal property. The legislature, in SB 1, acted to make goods-in-transit exempt from property taxes unless a taxing entity holds a hearing and adopts a resolution to tax goods-in-transit. Even counties that have previously adopted such a resolution must do so again—or goods-in-transit become exempt despite the previous action. Goods-in-transit exemption is similar to, but not quite the same as, the Freeport exemption. Freeport goods are goods in storage to be shipped outside Texas. **A motion was made by Commissioner Ingalsbe, seconded by Commissioner Jones to adopt a resolution regarding the taxation of Goods-In-Transit. Commissioner Ingalsbe, Commissioner Jones, Commissioner Conley and Judge Cobb voting "Aye". Commissioner Whisenant not present for vote. MOTION PASSED**

**28668 AUTHORIZE APPROVAL OF THE HAYS COUNTY COMMUNITY PLAN FOR
COORDINATION OF CRIMINAL JUSTICE AND RELATED ACTIVITIES**

Jeff Hauff Grants Administrator gave a brief overview. Marla Johnson Executive Director, Hays-Caldwell Women's Center spoke. **A motion was made by Commissioner Ingalsbe, seconded by Commissioner Conley to authorize approval of the Hays County Community Plan for Coordination of Criminal Justice and Related Activities. Commissioner Whisenant not present for vote. Commissioner Ingalsbe, Commissioner Jones, Commissioner Conley and Judge Cobb voting "Aye". MOTION PASSED**



- 28669 CLARIFY THE DATE OF JANUARY 23, 2012 ON WHICH THE LOCATION FOR FORECLOSURE SALES, PURSUANT TO CHAPTER 51 OF THE TEXAS PROPERTY CODE SHALL BE MOVED TO THE NEW HAYS COUNTY GOVERNMENT CENTER AT 712 SOUTH STAGECOACH TRAIL IN SAN MARCOS, TEXAS**

Special Counsel Mark Kennedy spoke. Since the Commissioners Court voted on this new location on 712 South Stagecoach Trail, on October 25, 2011, which means that sales cannot begin until late January 23, 2012. Under Section 51.002 (b) reads as follows: the Commissioners Court of a county may designate an area other than an area at the courthouse where sales under this section will take place that is in a public place within a reasonable proximity of the county courthouse and in a location as accessible to the public as the courthouse door. The Commissioners Court shall record that designation in the real property records of the county. A sale may not be held at an area designated under this subsection before the 90th day after the date the designation is recorded. The posting of the notice required by Subsection 9 (b)(1) of a sale designated under the subsection to take place at an area other than an area of the courthouse remains at the courthouse door of the appropriate county. A motion was made by Commissioner Ingalsbe, seconded by Commissioner Jones to designate and clarify the effective date of January 23, 2012 on which the location for foreclosure sales, pursuant to Chapter 51 of the Texas Property Code shall be moved to the South door of the new Hays County Government Center at 712 South Stagecoach Trail in San Marcos, Texas. Commissioner Whisenant not present for vote. Commissioner Ingalsbe, Commissioner Jones, Commissioner Conley and Judge Cobb voting "Aye". MOTION PASSED

- 28670 APPOINT RUSSELL MOLENAAR AND KIMBERLY FREER FOR EMERGENCY SERVICE DISTRICT (ESD) #1 AND MARILYN MILLER AND STEVE JANDA FOR ESD #6 FOR A TWO YEAR TERM TO BE EFFECTIVE JANUARY 1, 2012**

Kimberly Freer will be replacing Mechelle Kutach. Russell Molenaar filled the unexpired term of Jim Spencer who resigned in June 2011. A motion was made by Judge Cobb, seconded by Commissioner Ingalsbe to appoint Russell Molenaar and Kimberly Freer for Emergency Service District (ESD) #1 and appoint Marilyn Miller and Steve Janda for ESD #6 for two year term to be effective January 1, 2012. Commissioner Whisenant not present for vote. Commissioner Ingalsbe, Commissioner Jones, Commissioner Conley and Judge Cobb voting "Aye". MOTION PASSED

- 28671 APPROVE PAYMENT TO THE COALITION OF CENTRAL TEXAS UTILITIES DEVELOPMENT CORPORATION ("UDC") A TOTAL OF THIRTY-TWO THOUSAND DOLLARS (\$32,000 USD), WHICH REPRESENTS HAYS COUNTY'S PRO RATA CONTRIBUTION TOWARD ADDITIONAL DUE DILIGENCE EXPENSES RELATED TO THE LCRA DIVESTITURE OF WATER SYSTEMS**

The UDC may be entering into the next phase of negotiations with LCRA for the divestiture of its 32 water systems (or a portion thereof). This commitment of \$32,000.00 from Hays County would streamline the process for paying additional due diligence monies related to this ongoing negotiation. A motion was made by Judge Cobb, seconded by Commissioner Conley to approve payment to the Coalition of Central Texas Utilities Development Corporation ("UDC") a total of Thirty-Two Thousand Dollars (\$32,000 USD), which represents Hays County's pro rata contribution toward additional due diligence expenses related to the LCRA divestiture of water systems and for the monies to come out of the LCRA Funds. Commissioner Whisenant not present for vote. Commissioner Ingalsbe, Commissioner Jones, Commissioner Conley and Judge Cobb voting "Aye". MOTION PASSED

- 28672 EXECUTIVE SESSION PURSUANT TO SECTIONS 551.071 AND 551.072 OF THE TEXAS GOVERNMENT CODE: CONSULTATION WITH COUNSEL AND DELIBERATION REGARDING THE PURCHASE, EXCHANGE, OR VALUE OF REAL PROPERTY RELATED TO RIGHT OF WAY ACQUISITION ON FM 1626**

Court convened into closed executive session at 10:50 a.m. and reconvened into open court meeting at 10:58 a.m. In attendance in Executive Session were Commissioner Conley, Commissioner Whisenant, Commissioner Jones, Commissioner Ingalsbe, Judge Cobb, Special Counsel Mark Kennedy and Ellie Dietz. A motion was made by Commissioner Jones, seconded by Judge Cobb to authorize the use of power of endowment domain to acquire a half acre locate at 200 FM 1626 in Hays County Texas for Right of Way purposes concerning the widening and reconstruction of Fm 1626 to use by the traveling public. Commissioner Whisenant and Commissioner Conley not present for vote. Commissioner Ingalsbe, Commissioner Jones and Judge Cobb voting "Aye". MOTION PASSED

EXECUTIVE SESSION PURSUANT TO SECTIONS 551.071 AND 551.072 OF THE TEXAS GOVERNMENT CODE: CONSULTATION WITH COUNSEL AND DELIBERATION REGARDING THE PURCHASE, EXCHANGE, OR VALUE OF REAL PROPERTY RELATED TO THE MARKETING AND POTENTIAL SALE OF COUNTY OWNED PROPERTIES

Court convened into closed executive session at 10:58 a.m. and reconvened into open court meeting at 11:30 a.m. In attendance in Executive Session were Commissioner Conley, Commissioner Whisenant, Commissioner Jones, Commissioner Ingalsbe, Judge Cobb, Special Counsel Mark Kennedy Dee Dee Baen Human Resources Director and Lon Shell. No Action Taken



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28673 EXECUTIVE SESSION PURSUANT TO OPEN MEETINGS ACT, TEXAS GOVERNMENT CODE 551.074, DELIBERATE THE APPOINTMENT, EMPLOYMENT, EVALUATION, REASSIGNMENT AND DUTIES OF INDIVIDUAL EMPLOYEES OF THE MAINTENANCE DEPARTMENT

Court convened into closed executive session at 11:32 a.m. and reconvened into open court meeting at 11:58 a.m. In attendance in Executive Session were Commissioner Conley, Commissioner Whisenant, Commissioner Jones, Commissioner Ingalsbe, Judge Cobb, Special Counsel Mark Kennedy Dee Dee Baen Human Resources Director and Lon Shell. A motion was made by Commissioner Jones, seconded by Judge Cobb to eliminate two maintenance and construction positions December 31, 2011 and add one facility maintenance position effective January 1, 2012 eliminate two custodial positions effective January 31, 2012. Commissioner Whisenant not present for vote. Commissioner Ingalsbe, Commissioner Jones, Commissioner Conley and Judge Cobb voting "Aye". MOTION PASSED

EXECUTIVE SESSION PURSUANT TO OPEN MEETINGS ACT, TEXAS GOVERNMENT CODE 551.074, DELIBERATE THE APPOINTMENT, EMPLOYMENT, EVALUATION, REASSIGNMENT AND DUTIES OF INDIVIDUAL EMPLOYEES OF THE COMPLIANCE/COLLECTIONS DEPARTMENT

Court convened into closed executive session at 11:00 a.m. and reconvened into open court meeting at 11:30 a.m. In attendance in Executive Session were Commissioner Conley, Commissioner Whisenant, Commissioner Jones, Commissioner Ingalsbe, Judge Cobb, Special Counsel Mark Kennedy, Dee Dee Baen Human Resources Director and Lon Shell. No Action Taken.

ACTION RELATED TO THE BURN BAN AND/OR DISASTER DECLARATION

The Burn Ban will remain lifted due to the recent rains. County Judge urged county residents to burn responsibly and for everyone to have a safe holiday.

County Clerks Note Item #40 RE: DISCUSSION OF ISSUES RELATED TO PROPOSED CAPITAL CONSTRUCTION PROJECTS IN HAYS COUNTY, INCLUDING BUT NOT LIMITED TO THE GOVERNMENT CENTER; THE PROPOSED PRECINCT 2 OFFICE; AND THE LAW ENFORCEMENT CENTER IMMEDIATE NEEDS PROJECT - was pulled

County Clerks Note Item #41 RE: DISCUSSION OF ISSUES RELATED TO THE ROAD BOND PROJECTS, INCLUDING UPDATES FROM MIKE WEAVER, PRIME STRATEGIES AND JEFF CURREN, HDR- was pulled

County Clerks Note Item #42 RE: DISCUSSION OF MATERIAL RELATING TO THE HAYS COUNTY WATER AND SEWER AUTHORITY AND/OR THE LCRA DIVESTITURE- was pulled

COURT WAS ADJOURNED.

I, LIZ G. GONZALEZ, COUNTY CLERK and EXOFFICIO CLERK OF THE COMMISSIONERS' COURT, do hereby certify that the foregoing contains a true and accurate record of the proceedings had by the Hays County Commissioners' Court on DECEMBER 20, 2011.



**LIZ G GONZALEZ, COUNTY CLERK AND EXOFFICIO
CLERK OF THE COMMISSIONERS' COURT OF
HAYS COUNTY, TEXAS**



STATE OF TEXAS *
COUNTY OF HAYS *

ON THIS THE 21ST DAY OF DECEMBER A.D., 2011, THE COMMISSIONERS' COURT OF HAYS COUNTY, TEXAS, MET IN SPECIAL MEETING. THE FOLLOWING MEMBERS WERE PRESENT, TO-WIT:

ALBERT H. COBB JR	COUNTY JUDGE
DEBBIE GONZALES INGALSBE	COMMISSIONER, PCT. 1
MARK JONES	COMMISSIONER, PCT. 2
WILL CONLEY	COMMISSIONER, PCT. 3
RAY O. WHISENANT JR	COMMISSIONER, PCT. 4
ROSE ROBINSON	DEPUTY COUNTY CLERK

AND THE FOLLOWING PROCEEDINGS WERE HAD, THAT IS:

Judge Cobb called the meeting to order.

28674 RESOLUTION OF THE COMMISSIONERS COURT, ADOPTING A "CONCURRENT ORDINANCE" PURSUANT TO CHAPTER 572 OF THE TEXAS LOCAL GOVERNMENT CODE WHICH CREATES A REGIONAL PUBLIC UTILITY AGENCY ("PUA") IN COLLABORATION WITH THE CITY OF BEE CAVE AND WEST TRAVIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 5; APPROVING THE DIRECTORS OF SAID PUA; AND AUTHORIZING THE COUNTY JUDGE TO EXECUTE AN INTERLOCAL AGREEMENT BETWEEN THE PARTIES TO SAID PUA

Bob Bass and Randy Wilburn spoke of the production and provision of water. Jim Allen spoke. The City of Bee Caves, Hays County, and MUD No.5 are public entities whose citizens are currently served with water service, wastewater service, or both by the portion of the LCRA Water and Wastewater System known as the West Travis County and Wastewater System. The PUA can serve as a vehicle and instrument to acquire the West Travis County System and can acquire on behalf of some or all of the sponsoring local governments, and local communities that participate by contract or inter-local agreement to preserve local control of the West Travis System. The PUA will be governed by a board of directors appointed by each entity. The PUA will not have authority to create any debt of financial obligation for or on behalf of any of the members and of any sponsoring local government unless an entity voluntarily enters into a separate approval for that purpose. This MOU will expire automatically on January 17, 2012. A motion was made by Commissioner Whisenant, seconded by Commissioner Conley that the Commissioners Court, adopting a "concurrent ordinance" pursuant to chapter 572 of the Texas Local Government Code which creates a Regional Public Utility Agency ("PUA") in collaboration with the City of Bee Cave and West Travis County Municipal Utility District No. 5; approving the directors of said PUA; and authorizing the County judge to execute an Interlocal Agreement between the parties to said PUA. All voting "Aye". MOTION PASSED

A motion was made by Commissioner Jones, seconded by Commissioner Ingalsbe to adjourn court.

I, LIZ G. GONZALEZ, COUNTY CLERK and EXOFFICIO CLERK OF THE COMMISSIONERS' COURT, do hereby certify that the foregoing contains a true and accurate record of the proceedings had by the Hays County Commissioners' Court on DECEMBER 21, 2011.



LIZ G GONZALEZ, COUNTY CLERK AND EXOFFICIO
CLERK OF THE COMMISSIONERS' COURT OF
HAYS COUNTY, TEXAS

HAYS COUNTY COMMISSIONERS' COURT MINUTES



JANUARY 3, 2012

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STATE OF TEXAS *
COUNTY OF HAYS *

ON THIS THE 3RD DAY OF JANUARY A.D., 2012, THE COMMISSIONERS' COURT OF HAYS COUNTY, TEXAS, MET IN REGULAR MEETING. THE FOLLOWING MEMBERS WERE PRESENT, TO-WIT:

ALBERT H. COBB JR	COUNTY JUDGE
DEBBIE GONZALES INGALSBE	COMMISSIONER, PCT. 1
MARK JONES	COMMISSIONER, PCT. 2
WILL CONLEY	COMMISSIONER, PCT. 3
RAY O. WHISENANT JR	COMMISSIONER, PCT. 4
LIZ G. GONZALEZ	COUNTY CLERK

AND THE FOLLOWING PROCEEDINGS WERE HAD, THAT IS:

Pastor Robert Smith of Powerhouse Christian Center gave the invocation and Judge Cobb led the court in the Pledge of Allegiance to the flags. Judge Cobb called the meeting to order.

PUBLIC COMMENTS

Commissioner Ingalsbe spoke of a Ribbon Cutting Ceremony and an open house for the new Hays County Government Center on February 2, 2012 at 3:00 p.m.

28675 APPROVE PAYMENTS OF COUNTY INVOICES

A motion was made by Commissioner Jones, seconded by Commissioner Ingalsbe to approve payments of County Invoices in the amount of \$ 2,814,258.24 as submitted by the County Auditor. All voting "Aye". MOTION PASSED

County Clerk's Note Item # 2 RE: APPROVE COMMISSIONERS COURT MINUTES OF DECEMBER 20, 2011- was pulled

28676 ACCEPT A DONATION OF \$400.00 TO THE SHERIFF'S OFFICE COMMUNITY OUTREACH PROGRAM

The Sheriff's Office received donations totaling in the amount of \$400.00 and request to deposit into line item 052-618-00.4610 Contributions. A motion was made by Commissioner Jones, seconded by Commissioner Ingalsbe to accept a donation of \$400.00 to the Sheriff's Office Community Outreach Program and amend the budget accordingly. All voting "Aye". MOTION PASSED

28677 AMEND BUDGET OF THE EXTENSION OFFICE FOR TRAVEL

The Extension Office eliminated the position of Agent-4H, which included travel allowance. The administrative staff person assuming most of the duties requires reimbursed travel, which was not budgeted. Amount required \$300.00 to 001-660-00.5501 Travel from 001-660-00.52.01 General Supplies and 001-660-00.5413 Vehicle Maint. A motion was made by Commissioner Jones, seconded by Commissioner Ingalsbe to amend budget of the Extension office for travel. All voting "Aye". MOTION PASSED

28678 APPROVE THE REAPPOINTMENT OF LEA ANN KENWORTHY AND W. LEIGHTON STALLONES TO THE HAYS COUNTY ESD#3 FOR TWO YEAR TERM BEGINNING JANUARY 1, 2012 AND ENDING DECEMBER 31, 2013

A motion was made by Commissioner Jones, seconded by Commissioner Ingalsbe to approve the reappointment of Lea Ann Kenworthy and W. Leighton Stallones to the Hays County ESD#3 for two year term beginning January 1, 2012 and ending December 31, 2013. All voting "Aye". MOTION PASSED

28679 TIGER CREEK SUBDIVISION [11-3-45--1 Lot] AND APPROVE PRELIMINARY PLAN

The Tiger Creek Subdivision is a proposed 1 lot subdivision located off of 2325 northwest of Ledgerrock Subdivision in Precinct 3. The proposed division is 3.350 acres in size and the parcel, previously divided by metes and bounds, will be in compliance with state and local plat regulations. The lot will be served by individuals private well and individual OSSF's. A motion was made by Commissioner Conley, seconded by Commissioner Whisenant to approve prelim plan of Tiger Creek Subdivision 1 Lot. All voting "Aye". MOTION PASSED



28680 RESUBDIVISION OF LOT 1 BLOCK A, SHADOW CREEK SUBDIVISION PHASE 1-SECTION 5 AND COMMERCIAL ADDITION [11-2-29--9 LOTS] APPROVE FINAL PLAT

Clint Garza Development Services Director gave a brief explanation and staff recommendation. The Shadow Creek Subdivision is a multi-phased development off of Windy Hill Rd. in Precinct 2. As of to date, 16 phase/sections have been final platted. All lots within the subdivision are served by Goforth WSC and a TCEQ permitted public sewer system managed by North Hays County MUD#1. The proposed resubdivisions will create 9 new lots at an average 2.91 acres in size. Most of the residential lots each are around .25 acres in size but do meet the minimum lot size for lots served by public wastewater service. **A motion was made by Commissioner Jones, seconded by Commissioner Ingalsbe to approve final plat of Resubdivision Lot 1 Block A, Shadow Creek Subdivision Phase 1-Section 5 and commercial addition 9 Lots. All voting "Aye". MOTION PASSED**

28681 DRIFTWOOD HEIGHTS SUBDIVISION [11-4-44--2 LOTS] APPROVE FINAL PLAT

Clint Garza Development Services Director gave a brief explanation and staff recommendation. The Driftwood Heights Subdivision is a proposed 2 lot subdivision located off of Elder Hill Road in Precinct 4. The property owner would like to create 2 new lots 5.00 and 5.28 acres in size. The lots will be served by a shared access driveway and are restricted to one single family residence per lot. Each lot will be served by individual on-site sewage facilities and individual wells. The division lies within the boundaries of the Dripping Springs ETJ. **A motion was made by Commissioner Whisenant, seconded by Commissioner Conley to approve final plat of Driftwood Heights Subdivision. All voting "Aye". MOTION PASSED**

28682 BRIDGEPORT BUDA SUBDIVISION [11-2-41--3 LOTS] APPROVE PRELIMINARY PLAN

Clint Garza Development Services Director gave a brief explanation and staff recommendation. The Bridgeport Buda Subdivision is a proposed 3 lot subdivision located off of Robert S. Light Blvd. in Precinct 2. The proposed division is 22.48 acres in size and will result in 3 new commercial lots. The site is in the City of Buda's ETJ and has been through their approval process. Each lot will be served by public water and individual private OSSF's. **A motion was made by Commissioner Jones, seconded by Commissioner Ingalsbe to approve preliminary plan of Bridgeport Buda Subdivision 3 Lots. All voting "Aye". MOTION PASSED**

28683 AUTHORIZE LEASE OF A XEROX MULTIFUNCTION COPIER FOR THE GRANTS ADMINISTRATION DEPARTMENT

Jeff Hauff Grants Administrator spoke of the Grants Department no longer has access to a multi-function copier, which was previously available through sharing of the machine in the Judge's/Commissioner Precinct 1 Offices. A relatively large volume of documents are processed by the Grants Office, including grant applications, contracts, planning studies and other materials such as handouts for citizen advisory groups, that necessitate the ability to print, copy, and scan these items in an efficient and effective manner. Because many of these materials include graphics, it is essential that the equipment acquired has the color functions. A multifunction printer was requested as capital equipment during the FY12 budget process, but this was denied pending determination of appropriate document handling needs in the new Government Center. It has been determined that centralized multifunctional copiers will be placed in each department to consolidate document processing needs; however, the Grants office was inadvertently not included when needs were analyzed. A quote from Xerox has been obtained that indicates an appropriate multifunction copier could be leased for \$200/month, equivalent to \$2,400 annually. Additional funds will need to be identified and allocated, as the current budget for the Grants office did not anticipate the current resolution to printing needs. 001-645-00.5399 Contingencies. **A motion was made by Commissioner Jones, seconded by Commissioner Whisenant to authorize lease of a Xerox multifunction copier for the Grants Administration Department with the funds coming out of continuous and amended the budget accordingly. All voting "Aye". MOTION PASSED**

28684 ADOPT A RESOLUTION REGARDING THE APPOINTMENT OF COMMISSIONERS TO EMERGENCY SERVICES DISTRICTS (ESDS) IN HAYS COUNTY; AND TO CONSIDER THE APPOINTMENT OF NOMINATION(S) FOR A COMMISSIONER TO ESD#5

Commissioners Court had some limited discussion regarding, the ESD appointment issue on the last Court agenda. This item is meant to resolve some of the open questions regarding Court policy for appointments. Additionally, one or more Commissioners might bring nominations for the new vacancy is ESD #5. **A motion was made by Commissioner Whisenant, seconded by Commissioner Jones to adopt a resolution regarding the appointment of commissioners to Emergency Services Districts (ESDs) in Hays County; and to consider the appointment of nomination(s) for a commissioner to ESD#5. All voting "Aye". MOTION PASSED**

A motion was made by Commissioner Jones to appoint Chad Benninghauff motion died for lack of seconded. A motion was made by Whisenant, seconded by Commissioner Conley, to appoint Beth Smith to the Emergency Services District #5 Board. Commissioner Jones voting "No". Commissioner Ingalsbe, Commissioner Conley, Commissioner Whisenant and Judge Cobb voting "Aye". MOTION PASSED.



JANUARY 3, 2012

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28685 ACCEPT THE RECOMMENDATION OF THE BUILDING COMMITTEE TO HIRE MITCH MUNCH'S MAINTENANCE MANAGEMENT CO. (MMMM) FOR JANITORIAL SERVICES FOR THE GOVERNMENT CENTER AND AUTHORIZE COUNSEL TO NEGOTIATE AND/OR FINALIZE CONTRACT

A total of six proposals were received from BWH Cleaning Svcs, Capital City Janitorial, High Rise Cleaning Services, International Building Services, MMM and Pruitt Building Svcs, Inc. however, one was late and not considered. After reviewing and scoring each proposal, it is recommended that MMMM be selected to provide Night-Time Cleaning services at the Government Center. They will look locally for hiring their employees and will also strongly consider hiring former county employees. A motion was made by Commissioner Ingalsbe, seconded by Commissioner Jones to accept the recommendation of the Building Committee to hire Mitch Munch's Maintenance Management Co. (MMMM) for Janitorial Services for the Government Center and authorize counsel to negotiate and/or finalize contract. Commissioner Conley abstain from vote. Commissioner Ingalsbe, Commissioners Jones, Commissioner Whisenant and Judge Cobb voting "Aye". MOTION PASSED

28686 EXECUTIVE SESSION PURSUANT TO SECTION 551.071 AND 551.072 OF THE TEXAS GOVERNMENT CODE: CONSULTATION WITH COUNSEL AND DELIBERATION REGARDING THE PURCHASE, EXCHANGE, OR VALUE OF REAL PROPERTY RELATED TO A NEW LOCATION FOR THE HAYS COUNTY PRECINCT 2 OFFICES

Court convened into closed executive session at 10:00 a.m. and reconvened into open court meeting at 10:35 a.m. In attendance in Executive Session were Commissioner Conley, Commissioner Whisenant, Commissioner Jones, Commissioner Ingalsbe, Judge Cobb, Special Counsel Mark Kennedy Lon Shell and Terry Whitman from Broadus and Associates. A motion was made by Commissioner Jones, seconded by Commissioner Ingalsbe to authorize the County Judge to execute a Contract of Sale as presented in Executive Session between Hays County and Patricia Reno-Davis for the purchase of approximately 3.495 acres in Precinct 2 in Hays County. All voting "Aye". MOTION PASSED

EXECUTIVE SESSION PURSUANT TO SECTION 551.071 AND 551.072 OF THE TEXAS GOVERNMENT CODE: CONSULTATION WITH COUNSEL AND DELIBERATION REGARDING THE PURCHASE, EXCHANGE, OR VALUE OF REAL PROPERTY RELATED TO THE MARKETING AND POTENTIAL SALE OF COUNTY OWNED PROPERTIES

Court convened into closed executive session at 10:37 a.m. and reconvened into open court meeting at 10:50 a.m. In attendance in Executive Session were Commissioner Conley, Commissioner Whisenant, Commissioner Jones, Commissioner Ingalsbe, Judge Cobb, Special Counsel Mark Kennedy Lon Shell and Terry Whitman from Broadus and Associates - No Action Taken

ACTION RELATED TO THE BURN BAN AND/OR DISASTER DECLARATION

The Burn Ban will remain lifted.

County Clerks Note Item #16 RE: DISCUSSION OF ISSUES RELATED TO PROPOSED CAPITAL CONSTRUCTION PROJECTS IN HAYS COUNTY, INCLUDING BUT NOT LIMITED TO THE GOVERNMENT CENTER; THE PROPOSED PRECINCT 2 OFFICE; AND THE LAW ENFORCEMENT CENTER IMMEDIATE NEEDS PROJECT-was pulled

County Clerks Note Item #17 RE: DISCUSSION OF ISSUES RELATED TO THE ROAD BOND PROJECTS, INCLUDING UPDATES FROM MIKE WEAVER, PRIME STRATEGIES AND JEFF CURREN, HDR-was pulled

County Clerks Note Item #18: RE: DISCUSSION OF MATERIAL RELATING TO THE HAYS COUNTY WATER AND SEWER AUTHORITY AND/OR THE LCRA DIVESTITURE-was pulled

A motion was made by Commissioner Jones, seconded by Commissioner Whisenant to adjourn court All voting "Aye". MOTION PASSED

I, LIZ G. GONZALEZ, 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 January 3, 2012.



**LIZ G GONZALEZ, 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 Service Agreement with Unifirst for rental of County Uniforms utilizing the Buyboard contract.

CHECK ONE:	<input checked="" type="checkbox"/> CONSENT	<input type="checkbox"/> ACTION	<input type="checkbox"/> EXECUTIVE SESSION
	<input type="checkbox"/> WORKSHOP	<input type="checkbox"/> PROCLAMATION	<input type="checkbox"/> PRESENTATION

PREFERRED MEETING DATE REQUESTED: January 10, 2012

AMOUNT REQUIRED:

LINE ITEM NUMBER OF FUNDS REQUIRED:

REQUESTED BY: Herzog/Maiorka

SPONSORED BY:

SUMMARY: The number of renewals for the current bid (Uniform Rental) for which Unifirst was awarded has expired. BuyBoard, a purchasing coop of which Hays County is a member, formally bid out the rental for uniforms and Unifirst was awarded the contract. The recommendation from Purchasing is to utilize the BuyBoard contract that was awarded to Unifirst, which will in turn provide a savings for Hays County. The departments are satisfied with Unifirst services.

DESCRIPTION OF Item: Approve Service Agreement with Unifirst for rental of County Uniforms utilizing the Buyboard contract.

PREFERRED MEETING DATE REQUESTED: January 10, 2011

COUNTY AUDITOR

AMOUNT: \$ Budgeted

LINE ITEM NUMBER: Various departments

COUNTY PURCHASING GUIDELINES FOLLOWED: Yes

PAYMENT TERMS ACCEPTABLE: Yes

COMMENTS: This contract will cover uniforms for various offices. The expense is budgeted in each department.

Bill Herzog

SPECIAL COUNSEL

CONTRACT TERMS ACCEPTABLE: _____

COMMENTS:

COUNTY JUDGE

Signature Required if Approved

DATE CONTRACT SIGNED: _____

Customer Service Agreement

COMPANY NAME (Customer) HAYS COUNTY		LOC. NO. 822	AGREEMENT NO. 362551
ADDRESS 111 E. SAN ANTONIO STREET <i>712 South Stagecoach Trail Ste 1071</i>		ROUTE NO. See attached list	CUSTOMER NO.
SAN MARCOS, TX 78666		DATE 12/19/2011	
PHONE (512) 393-2273		SIC/NAICS	

The undersigned (the "CUSTOMER") orders from UniFirst Corporation and/or UniFirst Holdings, L.P. d.b.a. UniFirst and/or UniFirst Canada LTD ("UNIFIRST") the rental services at the prices and upon the conditions outlined:

MERCHANDISE SERVICED

ITEM DESCRIPTION	LOST PROD	MERCH BUYOUT	WKS BTWN DELIVERY	NO. OF PERS/ITEMS	TOTAL NO. OF PIECES/CHANGES	PRICE PER PIECE/CHANGE	STD/ NON*	TOTAL FULL SERVICE	TOTAL VAL-U-LEASE**
0101 LS SHIRT-CHINO 100% COTTO			1	10	92	.1280		11.78	
0201 SS SHIRT-CHINO 100% COTTO			1	10	95	.1280		12.16	
0202 SS SHIRT-65/35 WORKSHIRT			1	4	44	.1280		5.63	
03UMLS SHIRT-UNIFIRST MICROCH			1	6	36	.2300		8.28	
0325 LS SHIRT-ENHANCED VISIBIL			1	53	503	.2450		123.24	
04UMSS SHIRT-UNIFIRST MICROCH			1	1	6	.2300		1.38	
0425 SS SHIRT-ENHANCED VISIBIL			1	17	113	.2450		27.69	
10A1 PANT-65/35 W/CARGO PKT			1	5	55	.5800		31.90	
1043 PANT-WOMENS 65/35 1/2 ELA	13.85		1	1	11	.1550		1.71	
1091 JEAN-DENIM 100% COTTON	15.45		1	76	836	.1800		150.48	
15UMSS SHIRTJAC-65/35 MICROCH			1	5	27	.2300		6.21	
1527 JACKET-65/35 HIP LINED W/			1	2	2	1.6500		3.30	
4520 SS SMOCK-POLY/COTTON BUTT			1	6	34	.2000		6.80	

* Out-sizes of otherwise standard Merchandise are deemed to be non-standard Merchandise.

** Merchandise which is Val-U-Leased is not cleaned by UniFirst.

CHARGE	AMOUNT	CHARGE	AMOUNT
Garment preparation per piece	1.10	Non-stock sizes per piece	20%
Name emblem per piece		Restocking Fee per piece	.50
Company emblem per piece		Exchange Fee per piece	1.50
Company/Name Emblem Combo	2.00	Auto. Wiper Replacement	
Direct Embroidery		Auto. Linen Replacement	
Garment Maintenance Program	NO	DEFE (SEE DESCRIPTION ON LAST PAGE)	\$5.00
Loss Protection Maintenance Program	NO	Auto. Mop Replacement	

COMMENTS **3 YEAR AGREEMENT BASED OF THE TEXAS BUY BOARD.**

New Account ☐

Existing Account ☒

Minimum weekly services charge \$

Installation Date:

Payment Terms: C.O.D. ☐ Approved Charge* ☒

Approved charge CUSTOMER agrees to make payments within 30 days of invoice receipt. A late charge of 1 1/2% per month (18% annum) for any amount in arrears may be applied.

The undersigned agrees to all terms on the last page and attests to have the authority to execute for the named CUSTOMER, and to approve use of any personalization - including logos or brand identities - that has been requested.

SALES REP: **BRIAN WASHBURN**

BY: _____ Date _____

ACCEPTED: **[Signature]** **12/19/11**
UniFirst Location Manager Date

Authorized Name and Title (please print)

* This Agreement is effective only upon acceptance by UniFirst Location Manager.

* Charge status contingent upon continuing worthiness and may be revoked at UniFirst's discretion

Service Agreement Terms

REQUIREMENTS SUPPLIED. The Customer orders from UniFirst Corp. (together with its subsidiaries, "UniFirst") rental and related services for all of Customer's requirements for garments and other items ("Merchandise") of the type listed on the previous page(s), at the prices and upon the terms and conditions outlined. Additional Merchandise requested by Customer, verbally or in writing, will also be covered by this Agreement. All rental Merchandise supplied to Customer remains the property of UniFirst. Customer warrants that it is not subject to, and that this Agreement does not interfere or conflict with, any existing agreement for the supply of the Merchandise or services covered.

UNIFIRST GUARANTEES TO DELIVER HIGH QUALITY SERVICE AT ALL TIMES. All items of Merchandise cleaned, finished, inspected, repaired and delivered by UniFirst will meet or exceed its quality standards, or non-conforming items will be replaced by the next scheduled delivery day at no cost to Customer. Items of rental Merchandise requiring replacement due to normal wear and tear will be replaced at no cost to Customer, save for any applicable personalization and set-up charges.

Customer expressly waives the right to terminate this Agreement during the initial term or any extension thereof for deficiencies in services and/or quality of Merchandise unless: (1) complaints are first made in writing to UniFirst which set forth the precise nature of any deficiencies; (2) UniFirst is afforded at least sixty (60) days to correct any deficiencies complained of; and (3) UniFirst fails to correct those deficiencies complained of within sixty (60) days. In the event Customer complies with the foregoing and UniFirst fails to correct such deficiencies, Customer may terminate this Agreement by written notice to UniFirst, providing that all previous balances due UniFirst have been paid in full and that all other conditions to terminate have been satisfied. Any delay or interruption of the service provided for in this Agreement, by reason of acts of God, fires, explosions, strikes or industrial disturbances, or any other cause not within the control of UniFirst, shall not be deemed a breach or violation of this Agreement.

TERM AND RENEWAL. This Agreement is effective when signed by both the Customer and UniFirst Location Manager and continues in effect for 60 months (260 revenue weeks) after installation of Merchandise (for new customers) or of any renewal date. This Agreement will be renewed automatically and continuously for multiple successive 60 month periods unless Customer or UniFirst gives written notice of non-renewal to the other at least 90 days prior to the next expiration date.

PRICES AND PAYMENTS. All charges are based upon the total Merchandise covered by this Agreement and may change as the amount of such Merchandise is increased or decreased. Customer agrees to pay the additional service-related charges listed on the front page(s) of this Agreement. Charges relating to an individual leaving Customer's employ can be terminated by giving notice to UniFirst and by returning or paying for any Merchandise issued to that individual. Any Merchandise payments required, pursuant to this Agreement, will be at UniFirst's list replacement price(s) then in effect.

Each year, either upon the anniversary date of this Agreement, or such other date as UniFirst may determine appropriate, the prices then in effect will be increased by the greater of the annual percent increase in the Consumer Price Index- All Urban Consumers, Series ID: CUUROOOSAG, other goods and service or by 5%. Additional price increases and other charges may be imposed by separate written notice or by notation on Customer's invoice. Customer may, however, decline such additional increases or charges by notifying UniFirst in writing within ten days after receipt of such notice or notation.

Prices are based on fifty-two weeks of service per year. Customer agrees to pay all charges on receipt of invoice or, if a pre-approved charge customer, per standard terms. A late charge of 1 1/2% per month (18% per year) will be added to all amounts not paid within thirty day of invoice. If Customer fails to make timely payment, UniFirst, may at any time and in its sole discretion, terminate this Agreement by giving written notice to Customer, whether or not UniFirst has previously strictly enforced Customer's obligation to make timely payments. Customer agrees to pay, and will pay, all applicable sales, use, personal property and other taxes and assessments arising out of this Agreement. Customer agrees to a minimum weekly service charge as indicated.

DEFE CHARGE. Customer's invoices may include a DEFE CHARGE, that may vary for different customers, to cover all or only portions of certain expenses including:
D = DELIVERY, or expenses associated with the actual delivery of services and products to customers' places of business, primarily Route Sales Representative commissions, management salaries, vehicle depreciation, equipment maintenance, insurance, road use charges and local access fees.
E = ENVIRONMENTAL, or expenses (past, present and future) UniFirst absorbs related to wastewater testing, purification, effluent control, solids disposal, supplies and equipment for pollution controls and energy conservation and overall regulatory compliance.
F = FUEL, or the gas, diesel fuel, oil and lubricant expenses associated with keeping UniFirst's fleet vehicles on the road and servicing its customers.
E = ENERGY, primarily the natural gas UniFirst uses to run boilers and gas dryers, plus other local utility charges.

MERCHANDISE. Customer acknowledges that the Merchandise supplied, including but not limited to floor care and facility services products, is for general occupational use and, except as expressly specified below, affords no special user protections. If the Merchandise supplied is designated as flame resistant ("FR"), it is intended only to prevent the ignition and burning of fabric away from the point of high heat impingement and to be self-extinguishing upon removal of the ignition source. FR garments will not provide significant protection from burns in the immediate area of high heat contact, due to thermal transfer through the fabric and/or destruction of the fabric in the area of such exposure. FR garments are designed for continuous wear as only a secondary level of protection. Primary protection is still required for work activities where direct or significant exposure to heat or open flame is likely to occur.

If the Merchandise supplied is visibility wear, it is intended to provide improved conspicuity of the wearer under daylight conditions and when illuminated by a light source to sufficient candlepower at night. It is Customer's responsibility to determine the level of conspicuity needed by wearers under specific work conditions. Further, Customer agrees that the garments alone do not ensure conspicuity of the wearer and that additional safety precautions may be necessary. The garments supplied satisfied particular Class I, Class II or Class III ANSI/SEA standards only when they were new and unused and only if so labeled. Customer acknowledges that usage and laundering of visibility Merchandise will adversely affect its conspicuity.

Customer agrees to notify all employees that the Merchandise is for general occupational use and, except for FR or visibility garments, affords no special wearer protections. Customer further agrees to notify all employees who will be wearing FR or visibility garments that such garments provide only limited protection as set forth herein and only under certain conditions. In addition, Customer acknowledges that (1) UniFirst has not reviewed or analyzed Customer's facilities or operations, the environment or conditions in which the Merchandise will be used or Customer's intended use of the Merchandise, (2) UniFirst does not have any obligation to advise, and has not advised, Customer concerning the fitness or suitability of the Merchandise for Customer's intended use, (3) UniFirst makes no representation, warranty or covenant regarding the performance of the Merchandise (including without limitation FR and visibility garments), and (4) UniFirst shall in no way be responsible or liable for any injury or harm suffered by any Customer employees while wearing or using any Merchandise. Customer agrees to indemnify and hold harmless UniFirst and its employees and agents from and against all claims, injuries or damages to any person or property resulting from Customer's or Customer's employee use of the Merchandise, whether or not such claims, injuries or damages arise from any alleged defects in the Merchandise.

Customer agrees not to contaminate any Merchandise with asbestos, heavy metals, solvents, inks or other hazardous or toxic substances ("contaminants"). Customer agrees to pay UniFirst for all Merchandise that is lost, stolen, damaged or abused beyond repair. If any Merchandise supplied hereunder is Merchandise that (1) UniFirst does not stock for whatever reason (including due to style, color, size or brand), (2) consists of non-UniFirst manufactured or customized FR garments, or (3) consists of garments that have been permanently personalized (in all cases known as "Non-Standard Merchandise"), then, upon the discontinuance of any service hereunder at any time for any reason, including expiration, termination, or cancellation of this Agreement, with or without cause, deletion of any Non-Standard Merchandise from Customer's service program, or due to employee reductions (in each case a "Discontinuance of Service"), Customer will purchase ordered for Customer's use, paying for same the replacement charges then in effect.

As a condition to the termination of this Agreement, for whatever reason, Customer will return to UniFirst all standard Merchandise in good and usable condition or pay for same at the replacement charges then in effect.

OBLIGATIONS AND REMEDIES. If Customer breaches or terminates this Agreement before the expiration date for any reason (other than for UniFirst's failure under the performance guarantee described above), Customer will pay UniFirst, as liquidated damages and not as a penalty (the parties acknowledging that actual damages would be difficult to calculate with reasonable certainty) an amount equal to 50 percent of the average weekly amounts invoiced in the preceding 26 weeks, multiplied by the number of weeks remaining in the current term. These damages will be in addition to all other obligations or amounts owed by Customer to UniFirst, including the return of standard Merchandise or payment of replacement charges, and the purchase of any non-standard merchandise items as set forth herein.

All disputes of whatever kind between Customer and UniFirst based upon past, present or future acts, whether known or unknown, and arising out of or relating to the negotiation, formation or performance of this Agreement shall be resolved exclusively by final and binding arbitration. The arbitration shall be conducted in the capital city of the state where Customer has its principal place of business (or some other location mutually agreed to by Customer and UniFirst) pursuant to the Expedited Procedures of the Commercial Arbitration Rules of the American Arbitration Association and shall be governed by the Federal Arbitration Act. Customer acknowledges that, with respect to all such disputes, it has voluntarily and knowingly waived any right it may have to a jury trial or to participate in a class action or class litigation as a representative of any other persons or as a member of any class of persons, or to consolidate its claims with those of any other persons or class of persons. If this prohibition against class litigation is ruled to be unenforceable for any reason in any proceeding, then the prohibition against class litigation shall be void and of no force and effect in that proceeding. This paragraph is governed by New York law (exclusive of choice of law). The arbitrators shall award to the substantially prevailing party, if any, as determined by the arbitrators, all of its costs and fees. "Costs and fees" are defined as all reasonable pre-award expenses of the arbitration, including the arbitrators' fees, administrative costs, travel expenses, out-of-pocket expenses, such as copying and telephone expenses, court costs, witness fees, and attorneys' fees.

MISCELLANEOUS. The parties agree that this Agreement represents the entire agreement between them. UniFirst may, in its sole discretion, assign this Agreement. Customer may not assign this Agreement without the prior written consent of UniFirst. Customer agrees that in the event it sells or transfers its business, it will require the purchaser or transferee to assume all obligations and responsibilities under this Agreement. Neither party will be liable for any incidental, consequential, or punitive damages. In the event any portion of this Agreement is held by a court of competent jurisdiction or by a duly appointed arbitrator to be unenforceable, the balance will remain in effect. All written notices provided to UniFirst must be sent by certified mail to the attention of the Location Manager. In Texas and certain other locations, UniFirst's business is conducted by, and the term "UniFirst" as used herein, means UniFirst Holdings, Inc. dba UniFirst.

12/19/2011

FERGUSMR

UniFirst Corporation
Association List

RCRUP00R

11:10:39

Page: 3

Association HC8 HAYS COUNTY

Contract Number 362551

Loc	Cust No	Customer Name	Address	Route
822	611222	HAYS CO. RD DPT. PRCT #2	2171 YARRINGTON ROAD SAN MARCOS, TX	G4380
822	611230	HAYS CO. RD DPT. PRCT #4	20290 FM 150 WEST DRIFTWOOD, TX	G2970
822	611236	HAYS CO. RD DPT PRCT #3	830 JACOBS WELL ROAD WIMBERLY, TX	G2370
822	611237	HAYS COUNTY BLDG MAINT.	2019 CLOVIS BARKER BLDG.B SAN MARCOS, TX	G4220
822	611239	HAYS CO SHERIFF'S BLDG MA	1307 UHLAND ROAD SAN MARCOS, TX	G4690
822	611240	HAYS CO. SHERIFF'S FLEET	1307 UHLAND ROAD SAN MARCOS, TX	G4620
822	611241	HAYS CO. SHIRIFF'S KITCHEN	1307 UHLAND ROAD SAN MARCOS, TX	G4770
822	611243	HAYS CO. RD DPT PRCT #1	1101 CIVIC CENTER LOOP SAN MARCOS, TX	G4830

***** End of Report *****


LM Initial

Customer Initial

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 out of State Training Travel Request for Lieutenant Graves.

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

PREFERRED MEETING DATE REQUESTED: January 10, 2012

AMOUNT REQUIRED: \$0.00

LINE ITEM NUMBER OF FUNDS REQUIRED: 001-618-00-5551

REQUESTED BY: Captain Michael Davenport / Hays County Sheriff's Office

SPONSORED BY: Commissioner Ingalsbe

SUMMARY:

The Hays County Sheriff's Office would like to send Lieutenant Mark Graves to the National FBI Academy in Quantico, Virginia beginning January 12, 2012 and scheduled to end on March 16. There are no tuition fees, per diem or hotel fees required for Lt Graves to attend this training. The Hays County Sheriff's Office is asking for the Court's consent for Lt Graves to travel out of state to attend.

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 the reappointment of Mark Schultz to Hays County ESD #5 for an additional two year term, beginning January 1, 2012.

TYPE OF ITEM: CONSENT

PREFERRED MEETING DATE REQUESTED: January 10, 2012

AMOUNT REQUIRED: N/A

LINE ITEM NUMBER OF FUNDS REQUIRED: N/A

REQUESTED BY: Commissioner Precinct 2 Mark Jones

SPONSORED BY: Commissioner Precinct 2 Mark Jones

SUMMARY:

Mark Schultz has agreed to stay on for an additional two year term to expire in December 2013.

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: Authorize the County Judge to execute Grant Application, Part II to the Texas Department of Transportation (TxDOT), Section 5310 grant program for \$3000 in maintenance funds for two vehicles in the Veterans Service Office.

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

PREFERRED MEETING DATE REQUESTED: January 10, 2012

AMOUNT REQUIRED: N/A

LINE ITEM NUMBER OF FUNDS REQUIRED:

REQUESTED BY: Hauff

SPONSORED BY: Ingalsbe

SUMMARY:

On August 9, 2011 the Commissioners Court authorized a grant application to the Texas Department of Transportation (TxDOT), Section 5310 program for \$3000.00 in funding for preventive maintenance on two vehicles in the Veterans Service Office, previously purchased through this program. On September 29, 2011 notification was received from TxDOT that the project had been approved, pending receipt of federal funds for the program.

The Grant Application, Part II materials – essentially certifications and assurances – must be completed and submitted prior to formal award of the grant funds. The County has participated in this program for numerous years, and is bound to the conditions through acceptance of previous grants for the purchase of vehicles, most recently for the van acquired in 2010.

Hays County, Texas
(Name of Subrecipient)

**Fiscal Year 2012 Grant Application Part II
(Certifications & Assurances)**



Public Transportation Division (PTN)

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The inclusion of federal funding into this grant application requires the applicant to certify to several federal regulations. The documents included here are required but may not be all-inclusive of the regulations the applicant will be required to follow.

1. Primary Contacts

Name of Subrecipient: Hays County	
Physical Address: 111 E. San Antonio St., Ste. 200 San Marcos, Texas 78666	Mailing Address (if different):
Contact Person: Jude Prather	Title: Veteran Service Officer
Telephone: 512-393-8387	Fax: 512-393-7718

2. Checklist

Check the item after ensuring it has been completed.

Subrecipient Review	TxDOT Review	Federal / State Documents
X		A. FY 2012 Certifications and Assurances
X		B. Lobbying Certification required for each applicant exceeding \$100,000
X		C. Debarment and Suspension (Non-procurement)
X		D. Lower Tier Participant Debarment Certification
N/A		E. U.S. Department of Labor Special Section 5333(b) Waiver Certification

TxDOT Review

Vanessa Owens

Typed/Printed Name of Public Transportation Coordinator

Austin, Texas

Field Office

Signature

Date

A. FEDERAL FISCAL YEAR 2012 CERTIFICATIONS AND ASSURANCES FOR FEDERAL TRANSIT ADMINISTRATION ASSISTANCE PROGRAMS - PREFACE

In accordance with 49 U.S.C. 5323(n) and before the Texas Department of Transportation (TxDOT) may award Federal transit assistance (funding or funds) to support a project, an authorized representative (You) must provide certain certifications and assurances required by Federal law or regulation. You must provide all certifications and assurances required to support your application for FTA funding during Federal fiscal year (FY) 2012.

We request that you read each certification and assurance carefully. We can award FTA funding only if you provide adequate certifications and assurances as required by Federal law or regulation.

The Federal Transit Administration (FTA) has consolidated the certifications and assurances into 24 groups. At a minimum, you must provide the assurances in Group 01. If your Applicant requests more than \$100,000, you must also provide the Lobbying certification in Group 02, unless your Applicant is an Indian tribe or organization or a tribal organization. Depending on the nature of the project, you may need to provide some of the certifications and assurances in Groups 03 through 24. FTA and TxDOT understand and agree that not every provision of these certifications and assurances will apply to every Applicant or every project we fund.

You also understand and agree that these certifications and assurances are special pre-award requirements and do not include all Federal requirements that may apply to you. The FTA Master Agreement MA(18) for Federal Fiscal Year 2012, <http://www.fta.dot.gov/documents/18-Master.pdf>, contains a list of most of those requirements.

Except in limited circumstances, you are ultimately responsible for compliance with the certifications and assurances that apply to itself or its project irrespective of subrecipient participation in the project. Because many FY 2012 certifications and assurances will require compliance, we strongly recommend that you take appropriate measures to assure the validity of your certifications and assurances. You understand and agree that when you apply for funding on behalf of a consortium, joint venture, partnership, or team, each member of that consortium, joint venture, partnership, or team is responsible for compliance with the certifications and assurances you select on your behalf.

Federal FY 2012 changes:

- *The Preface has been amended to identify the Web site for our FY 2012 Master Agreement [Http://www.fta.gov/documents/18-Master.pdf](http://www.fta.gov/documents/18-Master.pdf).*
- *Certification (02) has been amended to clarify that the lobbying certification does not apply to an Indian tribe, tribal organization, or other Indian organization for consistency with the applicability provision of the "Byrd" lobbying amendment at 31 U.S.C. 1352 (g)(1)(B).*
- *References have been added to various acts of the Authority Section of Federal Register Preamble to reflect the extended effective date of FTA's authorizing legislation through March 31, 2012.*

APPENDIX A

GROUP 01. ASSURANCES REQUIRED FOR EACH APPLICANT

You must select the following assurances in Group 01 on behalf of your Applicant unless we expressly determine otherwise in writing.

A. Assurance of Authority of the Applicant and Its Representative.

Both you and the Applicant's attorney who sign these certifications, assurances, and agreements, affirm that both the Applicant and you as its authorized representative may, under their State, local, or Indian tribal law and regulations, and the Applicant's by-laws or internal rules, undertake the following activities on behalf of the Applicant:

1. Execute and file its application for Federal funds,
2. Execute and file its certifications, assurances, and agreements binding its compliance, and
3. Execute Grant Agreements or Cooperative Agreements, or both, with FTA.

B. Standard Assurances.

The Applicant assures that:

1. It has sufficient authority under its State, local, or Indian tribal law, regulations by-laws and internal rules to carry out each FTA funded project as required by Federal laws and regulations,
2. It will comply with all applicable Federal statutes and regulations to carry out any FTA funded project,
3. It is under a continuing obligation to comply with the terms and conditions of the FTA Grant Agreement or Cooperative Agreement for the project, including the FTA Master Agreement incorporated by reference and made part of the latest amendment to Grant Agreement or Cooperative Agreement,
4. It recognizes that Federal laws and regulations may be modified from time to time and those modifications may affect project implementation,
5. It understands that Presidential executive orders and Federal directives, including Federal policies and program guidance, may be issued concerning matters affecting the Applicant or its project, and
6. It agrees that the most recent Federal laws, regulations, and directives will apply to the project, unless FTA determines otherwise in writing.

C. Intergovernmental Review Assurance.

This assurance does not apply to Indian tribe or organization or a tribal organization that applies for funding under FTA's Tribal Transit Program, 49 U.S.C. 5311(c)(1).

The Applicant assures that it has or will submit each Federal funding application to the appropriate State and local agencies for intergovernmental review to facilitate compliance with U.S. Department of Transportation (U.S. DOT) regulations, "Intergovernmental Review of Department of Transportation Programs and Activities," 49 CFR part 17.

APPENDIX A

D. Nondiscrimination Assurance.

1. The Applicant assures that it will comply with the following laws and regulations so that no person in the United States will be denied the benefits of, or otherwise be subjected to discrimination in any U.S. DOT or FTA funded program or activity (particularly in the level and quality of transportation services and transportation-related benefits on the basis of race, color, national origin, creed, sex, or age:

- a. Federal transit law, specifically 49 U.S.C. 5332 (prohibiting discrimination on the basis of race, color, creed, national origin, sex, or age, and in employment or business opportunity),
- b. Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d, and
- c. U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act," 49 CFR part 21.

2. As required by 49 CFR 21.7, the Applicant assures that:

- a. It will comply with 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR part 21 in the manner:

- (1) It conducts each project,
- (2) It undertakes property acquisitions, and
- (3) It operates the project facilities, including:
 - (a) Its entire facilities, and
 - (b) Its facilities operated in connection with its project,

- b. This assurance applies to its entire project and entire facilities, including facilities operated in connection with its project,

- c. It will promptly take the necessary actions to carry out this assurance, including:

- (1) Notifying the public that discrimination complaints about transportation-related services or benefits may be filed with U.S. DOT or FTA, and
- (2) Submitting information about its compliance with these provisions to U.S. DOT or FTA upon their request,

- d. If it transfers FTA funded real property, structures, or improvements to another party, any deeds and instruments recording that transfer will contain a covenant running with the land assuring nondiscrimination:

- (1) While the property is used for the purpose that the Federal funding is extended,
- (2) While the property is used for another purpose involving the provision of similar services or benefits,

- e. The United States has a right to seek judicial enforcement of any matter arising under:

- (1) Title VI of the Civil Rights Act, 42 U.S.C. 2000d,
- (2) U.S. DOT regulations, 49 CFR part 21, and
- (3) This assurance,

- f. It will make any changes in its Title VI implementing procedures as U.S. DOT or FTA may request to comply with:

- (1) Title VI of the Civil Rights Act, 42 U.S.C. 2000d,
- (2) U.S. DOT regulations, 49 CFR part 21, and
- (3) Federal transit law, 49 U.S.C. 5332,

- g. It will extend the requirements of 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR part 21 to each third party participant, including:

- (1) Any subrecipient,
- (2) Any transferee,
- (3) Any third party contractor or subcontractor at any tier,

APPENDIX A

- (4) Any successor in interest,
- (5) Any lessee, or
- (6) Any other participant in the project,
- h. It will include adequate provisions to extend the requirements of 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR part 21 to each third party agreement, including:
 - (1) Each subagreement,
 - (2) Each property transfer agreement,
 - (3) Each third party contract or subcontract at any tier,
 - (4) Each lease, or
 - (5) Each participation agreement,
- i. The assurances it has made will remain in effect for the longest of the following:
 - (1) As long as Federal funding is extended to the project,
 - (2) As long as the Project property is used for a purpose for which the Federal funding is extended,
 - (3) As long as the Project property is used for a purpose involving the provision of similar services or benefits, or
 - (4) As long as the Applicant retains ownership or possession of the project property.

E. Assurance of Nondiscrimination on the Basis of Disability.

- 1. The Applicant assures that it and its project implementation and operations will comply with all applicable requirements of:
 - a. The Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, *et seq.*,
 - b. The Americans with Disabilities Act of 1990, as amended, 42 U.S.C. 12101 *et seq.*,
 - c. U.S. DOT regulations, specifically 49 CFR parts 27, 37, and 38, and
 - d. Any other applicable Federal laws that may be enacted or Federal regulations that may be promulgated,
- 2. As required by U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 CFR part 27, specifically 49 CFR 27.9, the Applicant assures that:
 - a. The following prohibition against discrimination on the basis of disability is a condition to the approval or extension of any FTA funding awarded to:
 - (1) Construct any facility,
 - (2) Obtain any rolling stock or other equipment,
 - (3) Undertake studies,
 - (4) Conduct research, or
 - (5) Participate in or obtain any benefit from any FTA administered program,
 - b. In any program or activity receiving or benefiting from Federal funding FTA or any entity within U.S. DOT administers, no otherwise qualified people with a disability will, because of their disability, be:
 - (1) Excluded from participation,
 - (2) Denied benefits, or
 - (3) Otherwise subjected to discrimination.

F. Suspension and Debarment.

- 1. U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 CFR part 1200, which adopts and supplements the provisions of U.S. Office of Management and Budget

APPENDIX A

(U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 CFR part 180, permit certifications to assure the Applicant acknowledges that:
2. The Applicant certifies to the best of its knowledge and belief that, it, its principals, and first tier subrecipients:

a. Are eligible to participate in covered transactions of any Federal department or agency and are not presently:

- (1) Debarred,
- (2) Suspended,
- (3) Proposed for debarment,
- (4) Declared ineligible, or
- (5) Voluntarily excluded, or
- (6) Disqualified,

b. Have not within a three-year period preceding its latest application or proposal been convicted of or had a civil judgment rendered against any of them for:

- (1) 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,
- (2) Violation of any Federal or State antitrust statute, or
- (3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making any false statement, or receiving stolen property,

c. 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 listed in the preceding Section 2.b of this certification,

d. Have not had one or more public transactions (Federal, State, or local) terminated for cause or default within a three-year period preceding this certification,

e. Will promptly provide any information to the FTA if at a later time any information contradicts the statements of subparagraphs (1) through (4) above, and

f. Will treat each lower tier contract or lower tier subcontract under the Project as a covered lower tier contract for purposes of 2 CFR part 1200 and 2 CFR part 180 if it:

- (1) Equals or exceeds \$25,000,
- (2) Is for audit services, or
- (3) Requires the consent of a Federal official,

g. Will require that each covered lower tier contractor and subcontractor:

- (1) Comply with the Federal requirements of 2 CFR part 1200 and 2 CFR part 180, and
- (2) Assure that each lower tier participant in the Project is not presently declared by any Federal department or agency to be:

- (a) Debarred from participation in the federally funded project,
- (b) Suspended from participation in the federally funded project,
- (c) Proposed for debarment from participation in the federally funded project,
- (d) Declared ineligible to participate in the federally funded project,
- (e) Voluntarily excluded from participation in the federally funded project, or
- (f) Disqualified from participation in the federally funded Project.

3. The Applicant will provide a written explanation indicated on its Signature Page or a page attached in FTA's TEAM if it or any of its principals, including any of its first tier subrecipients or lower tier participants, is unable to certify to the preceding statements in this certification.

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G. U.S. OMB Assurances in SF-424B and SF-424D.

(These assurances are consistent with U.S. OMB assurances required in SF-424B and SF-424D.)

1. Administrative Activities. The Applicant assures that:

- a. For every project described in any application it submits, it has adequate resources to properly plan, manage, and complete the project, including:
 - (1) The legal authority to apply for Federal funding, and
 - (2) The institutional capability,
 - (3) The managerial capability, and
 - (4) The financial capability (including funds sufficient to pay the non-Federal share of project cost).
- b. It will give access and the right to examine project-related materials, including but not limited to:
 - (1) FTA,
 - (2) The Comptroller General of the United States, and,
 - (3) If appropriate, the State, through any authorized representative,
- c. It will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
- d. It will establish safeguards to prohibit employees from using their positions for a purpose that:
 - (1) Results in a personal or organizational conflict of interest, or personal gain, or
 - (2) Presents the appearance of a personal or organizational conflict of interest or personal gain.

2. Project Specifics. The Applicant assures that:

- a. Following receipt of FTA award, it will begin and complete Project work within the applicable time periods,
- b. For FTA funded construction projects:
 - (1) It will comply with FTA provisions concerning the drafting, review, and approval of construction plans and specifications
 - (2) It will to the extent practicable provide and maintain competent and adequate engineering supervision at the construction site to assure that the completed work conforms with the approved plans and specifications,
 - (3) It will include a covenant in the title of federally funded real property acquired to assure nondiscrimination during the useful life of the project,
 - (4) To the extent FTA requires, it will record the Federal interest in the title to FTA assisted real property or interests in real property, and
 - (5) To the extent practicable, without permission and instructions from FTA, it will not alter the site of the FTA funded construction project or facilities by:
 - (a) Disposing of the underlying real property or other interest in the site and facilities,
 - (b) Modifying the use of the underlying real property or other interest in the site and facilities, or
 - (c) Changing the terms of the underlying real property title or other interest in the site and facilities.
- c. It will furnish progress reports and other information as FTA or the State may require.

3. Statutory and Regulatory requirements. The Applicant assures that:

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a. It will comply with all applicable Federal statutes relating to nondiscrimination including, but not limited to the:

- (1) Prohibitions against discrimination on the basis of race, color, or national origin of Title VI of the Civil Rights Act, 42 U.S.C. 2000d,
- (2) Prohibitions against discrimination on the basis of sex of:
 - (a) Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681 – 1683, and 1685 – 1687, and
 - (b) U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 CFR part 25,
- (3) Prohibitions against discrimination on the basis of age in federally assisted programs of the Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 – 6107,
- (4) Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, which prohibits discrimination on the basis of disability,
- (5) Prohibitions against discrimination on the basis of disability of Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794,
- (6) Nondiscrimination requirements relating to the sale, rental, or financing of housing of Title VIII of the Civil Rights Act, 42 U.S.C. 3601 *et seq.*,
- (7) Prohibitions against discrimination on the basis of drug abuse of the Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. 1101 *et seq.*,
- (8) Prohibitions against discrimination on the basis of alcohol abuse of the Comprehensive Alcohol Abuse and Alcoholism Prevention Act of 1970, as amended, 42 U.S.C. 4541 *et seq.*,
- (9) Confidentiality requirements for the records of alcohol and drug abuse patients of the Public Health Service Act, as amended, 42 U.S.C. 290dd – 290dd-2, and
- (10) Nondiscrimination provisions of any other statute(s) that may apply to the project,

b. Regardless of whether Federal funding has been provided for any of the real property acquired for Project purposes, it will provide for fair and equitable treatment of displaced persons or persons whose property is acquired as a result of federally assisted programs, and:

- (1) It has the necessary legal authority under State and local law to comply with:
 - (a) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (Uniform Relocation Act) 42 U.S.C. 4601 *et seq.*, as specified by sections 210 and 305 of that Act, 42 U.S.C. 4630 and 4655, respectively, and
 - (b) U.S. DOT regulations, "Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs," 49 CFR part 24, specifically 49 CFR 24.4.
- (2) It has complied with or will comply with the Uniform Relocation Act and implementing U.S. DOT regulations including but not limited to doing the following:
 - (a) It will adequately inform each affected person of the benefits, policies, and procedures provided for in 49 CFR part 24,
 - (b) As required by 42 U.S.C. 4622, 4623, and 4624, and 49 CFR part 24, it will provide fair and reasonable relocation payments and assistance for displacement, resulting from any FTA funded project, of:
 1. Families and individuals,
 2. Partnerships, corporations, or associations,
 - (c) As provided by 42 U.S.C. 4625 and 49 CFR part 24, it will provide relocation assistance programs offering the services described in to the U.S. DOT regulations to such

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displaced:

1. Families and individuals,
2. Partnerships, corporations, or associations,

(d) As required by 42 U.S.C. 4625(c)(3), within a reasonable time before displacement it will make available comparable replacement dwellings to families and individuals,

(e) It will:

1. Carry out the relocation process to provide displaced persons with uniform and consistent services, and
2. Make available replacement housing in the same range of choices with respect to such housing to all displaced persons regardless of race, color, religion, or national origin,

(f) It will be guided to the greatest extent practicable under State law, by the real property acquisition policies of 42 U.S.C. 4651 and 4652,

(g) It will pay or reimburse property owners for their necessary expenses as specified in 42 U.S.C. 4653 and 4654, understanding that FTA will provide Federal funding for its eligible costs of providing payments for those expenses, as required by 42 U.S.C. 4631,

(h) It will execute the necessary implementing amendments to third party contracts and subagreements financed with FTA funding, and

(i) It will execute, furnish, and be bound by such additional documents as FTA may determine necessary to effectuate or implement these assurances, and

(j) It will incorporate these assurances by reference into and make them a part of any third party contract or subagreement, or any amendments thereto, relating to any FTA funded project involving relocation or land acquisition, and

(k) It will provide in any affected document that these relocation and land acquisition provisions must supersede any conflicting provisions,

c. To the extent practicable, it will comply with the Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. 4831(b), which prohibits the use of lead-based paint in the construction or rehabilitation of residence structures,

d. It will, to the extent practicable, comply with the protections for human subjects involved in research, development, and related activities supported by Federal funding of:

(1) The National Research Act, Pub. L. 93-348, July 12, 1974, as amended, 42 U.S.C. 289 *et seq.*, and

(2) U.S. DOT regulations, "Protection of Human Subjects," 49 CFR part 11,

e. It will, to the extent practicable, comply with the labor standards and protections for federally funded projects of:

(1) The Davis-Bacon Act, as amended, 40 U.S.C. 3141 *et seq.*,

(2) Sections 1 and 2 of the Copeland "Anti-Kickback" Act, as amended, 18 U.S.C. 874, and 40 U.S.C. 3145, respectively,

(3) The Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. 3701 *et seq.*,

f. It will, to the extent practicable, comply with any applicable environmental standards that may be prescribed to implement the following Federal laws and executive orders, including but not limited to the following:

(l) It will comply with the institution of environmental quality control measures under the National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 – 4335 and

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Executive Order No. 11514, as amended, 42 U.S.C. 4321 note,

(2) It will comply with notification of violating facilities pursuant to Executive Order No. 11738, 42 U.S.C. 7606 note,

(3) It will comply with protection of wetlands pursuant to Executive Order No. 11990, 42 U.S.C. 4321 note,

(4) It will comply with evaluation of flood hazards in floodplains in accordance with Executive Order No. 11988, 42 U.S.C. 4321 note,

(5) It will comply with an assurance of project consistency with the approved State management program developed pursuant to the requirements of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1451 – 1465,

(6) It will comply with Conformity of Federal actions to State (Clean Air) Implementation Plans under section 176(c) of the Clean Air Act of 1955, as amended, 42 U.S.C. 7401 – 7671q,

(7) It will comply with protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. 300f – 300j-6,

(8) It will comply with protection of endangered species under the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 – 1544, and

(9) It will comply with environmental protections for Federal transportation programs, including, but not limited to, protections for parks, recreation areas, or wildlife or waterfowl refuges of national, State, or local significance or any land from a historic site of national, State, or local significance to be used in a transportation project as required by 49 U.S.C. 303(b) and 303(c),

(10) It will comply with protection of the components of the national wild and scenic rivers systems, as required under the Wild and Scenic Rivers Act of 1968, as amended, 16 U.S.C. 1271 – 1287, and

(11) It will comply with and facilitate compliance with

(a) Section 106 of the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470f,

(b) The Archaeological and Historic Preservation Act of 1974, as amended, 16 U.S.C. 469 – 469c, and

(c) Executive Order No. 11593 (identification and protection of historic properties), 16 U.S.C. 470 note,

g. To the extent practicable, it will comply with Federal requirements for the care, handling, and treatment of warm blooded animals held or used for research, teaching, or other activities supported by Federal funding of:

(1) The Animal Welfare Act, as amended, 7 U.S.C. 2131 *et seq.*, and

(2) U.S. Department of Agriculture regulations, "Animal Welfare," 9 CFR subchapter A, parts 1, 2, 3, and 4,

h. To the extent practicable, before accepting delivery of any FTA funded building it will obtain a certificate of compliance with the seismic design and construction requirements of U.S. DOT regulations, "Seismic Safety," 49 CFR part 41, specifically 49 CFR 41.117(d),

i. To the extent practicable, it and its subrecipients located in special flood hazard areas will comply with section 102(a) of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4012a(a), by:

(1) Participating in the Federal flood insurance program,

(2) Purchasing flood insurance if the total cost of insurable construction and acquisition

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is \$10,000 or more,

j. To the extent practicable, it will comply with:

- (1) The Hatch Act, 5 U.S.C. 1501 – 1508, 7324 – 7326, which limits the political activities of State and local agencies and their officers and employees whose primary employment activities are financed in whole or part with Federal funds including a Federal loan, grant agreement, or cooperative agreement, and
- (2) 49 U.S.C. 5307(k)(2) and 23 U.S.C. 142(g), which provide an exception from Hatch Act restrictions for a nonsupervisory employee of a public transportation system (or of any other agency or entity performing related functions) receiving FTA funding to whom the Hatch Act does not otherwise apply,

k. It will have performed the financial and compliance audits as required by:

- (1) The Single Audit Act Amendments of 1996, 31 U.S.C. 7501 *et seq.*,
- (2) U.S. OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," Revised, and
- (3) The most recent applicable U.S. OMB A-133 Compliance Supplement provisions for the U.S. DOT, and

l. It will, to the extent practicable, comply with all applicable provisions of all other Federal laws or regulations, and follow Federal directives governing the project, except to the extent that FTA has expressly approved otherwise in writing.

GROUP 02. LOBBYING CERTIFICATION

You must select the following certifications in Group 02 if you apply on behalf of your Applicant for a Federal grant or cooperative agreement exceeding \$100,000, or a loan (including a line of credit), loan guarantee, or loan insurance exceeding \$150,000, except if you are applying on behalf of an Indian tribe, tribal organization, or other Indian organization or if we determine otherwise in writing. As required by 31 U.S.C. 1352 and U.S. DOT regulations, "New Restrictions on Lobbying," specifically 49 CFR 20.110, you and your Applicant understand that:

a. The lobbying restrictions of your certification apply your Applicant's requests for:

- (1) \$100,000 or more in Federal funding for a grant or cooperative agreement, and
- (2) \$150,000 or more in Federal funding for a loan, line of credit, or loan guarantee,

b. Its certification covers the lobbying activities of:

- (1) It,
- (2) Its principals, and
- (3) Its first tier subrecipients:

Therefore, on behalf of your Applicant, you certify to the best of your knowledge and belief, that:

1. No Federal appropriated funds have been or will be paid by or on its behalf to any person:

a. To influence or attempt to influence:

- (1) An officer or employee of any Federal agency,
- (2) A Member of Congress, an employee of a member of Congress, or an officer or employee of Congress,

b. Regarding the award of a:

- (1) Federal grant or cooperative agreement, or

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- (2) Federal loan, line of credit, loan guarantee, or loan insurance
2. It will submit a complete OMB Standard Form-LLL, "Disclosure of Lobbying Activities (Rev. 7-97)," in accordance with its instructions, if any funds other than Federal appropriated funds have been or will be paid to any person:
 - a. To influence or attempt to influence:
 - (1) An officer or employee of any Federal agency,
 - (2) A Member of Congress, an employee of a Member of Congress, or an officer or employee of Congress, or
 - b. Regarding any application for a:
 - (1) Federal grant or cooperative agreement,
 - (2) Federal loan, line of credit, loan guarantee, or loan insurance, and
3. It will include the language of this certification in the award documents for all subawards at all tiers including, but not limited to:
 - a. Subcontracts,
 - b. Subgrants,
 - c. Subagreements, and
 - d. Third party contracts under a:
 - (1) Federal grant or cooperative agreement, or
 - (2) Federal loan, line of credit, loan guarantee, or loan insurance, and
4. It understands that:
 - a. This certification is a material representation of fact that the Federal Government relies on, and
 - b. It must submit this certification before the Federal Government may award funding for a transaction covered by 31 U.S.C. 1352, including a:
 - (1) Federal grant or cooperative agreement, or
 - (2) Federal loan, line of credit, loan guarantee, or loan insurance, and
5. It also understands that any person who does not file a required certification will be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

GROUP 03. PROCUREMENT COMPLIANCE

We request that you provide the following procurement certification, on behalf of your Applicant by selecting Group 03, especially if your Applicant is a State, local, or Indian tribal government with a certified procurement system, as provided in 49 CFR 18.36(g)(3)(ii).

The Applicant certifies that its procurements and procurement system will comply with all applicable Federal laws and regulations in accordance with applicable Federal directives, except to the extent FTA has approved otherwise in writing.

GROUP 04. PROTECTIONS FOR PRIVATE TRANSPORTATION PROVIDERS

You must select the following certifications in Group 04 on behalf of your Applicant if it is a State, local, or Indian tribal government and you are applying for or will apply for 49 U.S.C. chapter 53 funding to:

- *Acquire property of a private transit operator, or*
- *Operate public transit in competition with or in addition to a private transit provider.*

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As required by 49 U.S.C. 5323(a)(1), the Applicant certifies that:

1. Before it:
 - a. Acquires the property or an interest in the property of a private provider of public transportation, or
 - b. Operates public transportation equipment or facilities:
 - (1) In competition with transportation service provided by an existing public transportation company, or
 - (2) In addition to transportation service provided by an existing public transportation company,
2. It has or will have:
 - a. Determined that the funding is essential to carrying out a program of projects as required by 49 U.S.C. 5303, 5304, and 5306,
 - b. Provided for the participation of private companies engaged in public transportation to the maximum extent feasible, and
 - c. Paid just compensation under State or local law to the company for any franchise or property acquired.

GROUP 05. PUBLIC HEARING

You must select the following certifications in Group 05 on behalf of your Applicant if you apply for 49 U.S.C. chapter 53 funding for a capital project that will substantially affect a community or its transit service.

As required by 49 U.S.C. 5323(b), the Applicant certifies that:

1. Before submitting an application for a capital project that:
 - a. Will substantially affect:
 - (1) A community, or
 - (2) The public transportation service of a community, and
 - b. Also will affect:
 - (1) Significant economic interests,
 - (2) Significant social interests, or
 - (3) Significant environmental interests,

It will:

 - (1) Provide an adequate opportunity for public review and comment on the project, after giving notice that:
 - (a) Includes a concise description of the proposed project; and
 - (b) Has been published in a newspaper of general circulation in the geographic area the project.
 - (2) Hold a public hearing on the project if the project affects:
 - (a) Significant economic, interests,
 - (b) Significant social, interests, or
 - (c) Significant environmental interests,
2. It will have considered the economic, social, and environmental effects of the project, and
3. It will have determined that the project is consistent with official plans for developing the community.

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GROUP 06. ACQUISITION OF ROLLING STOCK FOR USE IN REVENUE SERVICE

You must select the following certification on behalf of your Applicant in Group 06 if you apply for 49 U.S.C. chapter 53 funding to acquire any rolling stock for use in revenue service.

The Applicant certifies that in procuring revenue service rolling stock, it will comply with:

1. Federal transit law, specifically 49 U.S.C. 5323(m),
2. FTA regulations, "Pre-Award and Post-Delivery Audits of Rolling Stock Purchases," 49 CFR part 663, specifically 49 CFR 663.7, as modified by amendments authorized by section 3023(k) of SAFETEA-LU, including the requirements to:
 - a. Conduct or cause to be conducted the required preaward and post delivery reviews, and
 - b. Maintain on file the certifications required by 49 CFR part 663, subparts B, C, and D.

GROUP 07. ACQUISITION OF CAPITAL ASSETS BY LEASE

You must select the following certifications in Group 07 if you apply on behalf of your Applicant for 49 U.S.C. chapter 53 funding to acquire capital assets by lease.

As required by FTA regulations, "Capital Leases," 49 CFR part 639, specifically 639.15(b)(1) and 639.21, if the Applicant acquires any capital asset by lease financed with Federal funding authorized under 49 U.S.C. chapter 53, the Applicant certifies as follows:

1. It will not use Federal funding authorized under 49 U.S.C. chapter 53 to finance the cost of leasing any capital asset until:
 - a. It performs calculations demonstrating that leasing the capital asset would be more cost-effective than purchasing or constructing a similar asset, and
 - b. It completes these calculations before the later of:
 - (1) Entering into the lease, or
 - (2) Receiving a capital grant for the asset, and
2. It will not enter into a capital lease for which FTA can provide only incremental Federal funding unless it has adequate financial resources to meet its future lease obligations if Federal funding is not available.

GROUP 08. BUS TESTING

You must select the following certification in Group 08 if you apply on behalf of your Applicant for 49 U.S.C. chapter 53 funding to acquire any new or newly configured bus or a bus with new major components.

The Applicant certifies that:

1. It will comply with Federal transit law, specifically 49 U.S.C. 5318,
2. FTA regulations, "Bus Testing," 49 CFR part 665, specifically 49 CFR 665.7, requires that
 - a. Before:
 - (1) Spending any Federal funds to acquire:
 - (a) The first bus of any new bus model,
 - (b) The first bus with a new major change in configuration or components, or

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(2) Authorizing final acceptance of a new bus model or a bus model with a major change in components or configuration:

b. It will:

- (1) Ensure that the bus model has been tested at FTA's bus testing facility, and
- (2) Have received a copy of the test report prepared on the bus model.

GROUP 09. CHARTER SERVICE AGREEMENT

You must enter in the Charter Service Agreement in Group 09 on behalf of your Applicant if you apply for funding to acquire or operate transit facilities and equipment, unless your Applicant qualifies for an exception under Federal law and regulations.

As required by 49 U.S.C. 5323(d) and (g) and FTA regulations, "Charter Service," 49 CFR part 604, specifically 49 CFR 604.4, the Applicant understands and agrees that:

1. Except in certain circumstances described in its regulations, FTA's "Charter Service" regulations restrict transportation by charter service using facilities and equipment acquired by FTA for transportation projects with Federal funding derived from:

- (1) Federal transit laws, 49 U.S.C. chapter 53, or
- (2) 23 U.S.C. §§ 133 or 142,

2. FTA's charter service restrictions extend to:

a. The Applicant when it becomes a recipient of Federal funding under:

- (1) Federal transit laws, 49 U.S.C. chapter 53, or
- (2) 23 U.S.C. §§ 133 or 142,

b. Any third party participant that receives Federal funding derived from:

- (1) Federal transit laws, 49 U.S.C. chapter 53, or
- (2) 23 U.S.C. §§ 133 or 142,

c. A third party participant includes a:

- (1) Subrecipient at any tier,
- (2) Lessee,
- (3) Third party contractor or subcontractor at any tier, and
- (4) Other participant in the project,

3. Neither the Applicant nor any third party participant involved in its Project will engage in charter service operations, except as permitted under:

- a. Federal transit laws, specifically 49 U.S.C. § 5323(d) and (g),
- b. FTA regulations, "Charter Service," 49 C.F.R. Part 604,
- c. Any other Federal Charter Service regulations, or
- d. Federal directives, except as FTA determines otherwise in writing.

4. The Applicant agrees that the latest Charter Service Agreement it has selected in its latest annual Certifications and Assurances is incorporated by reference in and made part of the underlying Agreement accompanying an award of FTA funding.

5. The Applicant agrees that:

- a. FTA may require corrective measures or impose remedies on it or any subrecipient that has engaged in a pattern of violations of FTA's Charter Service regulations by:
 - (1) Conducting charter operations prohibited by Federal transit laws and FTA's Charter Service regulations, or

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(2) Otherwise violating the Applicant's Charter Service Agreement it has elected in its latest annual Certifications and Assurances.

b. These corrective measures and remedies may include:

- (1) Barring it or any third party participant operating public transportation under the Project that has provided prohibited charter service from receiving FTA funds, or
- (2) Withholding an amount of Federal funds as provided by Appendix D to FTA's Charter Service regulations.

GROUP 10. SCHOOL TRANSPORTATION AGREEMENT

You must enter in the School Transportation Agreement in Group 10 on behalf of your Applicant if you apply for funding to acquire or operate transit facilities and equipment, unless your Applicant qualifies for an exception under Federal law and regulations.

As required by 49 U.S.C. 5323(f) and (g) and FTA regulations, "School Bus Operations," 49 CFR part 605, to the extent consistent with 49 U.S.C. 5323(f) and (g), the Applicant understands and agrees that:

1. FTA's "School Bus Operations" regulations restrict school bus service as defined in the FTA regulations using facilities and equipment acquired with Federal funding derived from:

- (1) Federal transit laws, 49 U.S.C. chapter 53, or
- (2) 23 U.S.C. §§ 133 or 142,

2. FTA's school bus operations restrictions extend to:

a. The Applicant when it becomes a recipient of Federal funding under:

- (1) Federal transit laws, 49 U.S.C. chapter 53, or
- (2) 23 U.S.C. §§ 133 or 142,

b. Any third party participant that receives Federal funding derived from:

- (1) Federal transit laws, 49 U.S.C. chapter 53, or
- (2) 23 U.S.C. §§ 133 or 142,

c. A third party participant includes a:

- (1) Subrecipient at any tier,
- (2) Lessee,
- (3) Third party contractor or subcontractor at any tier, and
- (4) Other participant in the project,

3. Neither the Applicant nor any third party participant involved in its Project will engage in school transportation operations in competition with private operators of school transportation, except as permitted under:

- a. Federal transit laws, specifically 49 U.S.C. § 5323(f) and (g),
- b. FTA regulations, "School Bus Operations," 49 C.F.R. Part 605, to the extent consistent with 49 U.S.C. § 5323(f) and (g),
- c. Any other Federal School Transportation regulations, or
- d. Federal directives, except as FTA determines otherwise in writing.

4. The Applicant agrees that the latest School Transportation Agreement it has selected in its latest annual Certifications and Assurances is incorporated by reference in and made part of the underlying Agreement accompanying an award of FTA funding.

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5. The Applicant agrees that FTA will bar the Applicant or any third party participant that has violated this School Transportation Agreement from receiving Federal transit funding in an amount FTA considers appropriate.

GROUP 11. DEMAND RESPONSIVE SERVICE

You must select the following certification in Group 11 on behalf of your Applicant if your Applicant operates demand responsive service and you apply for 49 U.S.C. chapter 53 funding to acquire non rail transit vehicles.

As required by U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 CFR part 37, specifically 49 CFR 37.77(d), the Applicant certifies that:

1. The following public transportation services it offers are equivalent in level and quality of service:
 - a. Its demand responsive service offered to individuals with disabilities, including individuals who use wheelchairs,
 - b. Its service offered to individuals without disabilities,
2. Viewed in its entirety, the Applicant's service for individuals with disabilities is:
 - a. Provided in the most integrated setting feasible, and
 - b. Equivalent to the service it offers individuals without disabilities with respect to:
 - (1) Response time,
 - (2) Fares,
 - (3) Geographic service area,
 - (4) Hours and days of service,
 - (5) Restrictions on trip purpose,
 - (6) Availability of information and reservation capability, and
 - (7) Constraints on capacity or service availability.

GROUP 12. ALCOHOL MISUSE AND PROHIBITED DRUG USE

You must select the following certification in Group 12 on behalf of your Applicant if FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 CFR part 655, require your Applicant to provide a certification concerning its activities to prevent alcohol misuse and prohibited drug use in its public transportation operations.

As required by FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," specifically 49 CFR part 655, subpart I, the Applicant certifies that it:

1. Has established and implemented:
 - a. An alcohol misuse program and
 - b. An anti-drug program, and
2. Has complied with or will comply with all applicable requirements of this part.

GROUP 13. INTEREST AND OTHER FINANCING COSTS

You must select the following certification in Group 13 if the your Applicant intends to reimburse interest or other financing costs with Urbanized Area Formula Program, Capital Investment

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Program, or Paul S. Sarbanes Transit in Parks Program funding.

The Applicant certifies that:

1. It will not seek reimbursement for interest or other financing costs:
 - a. Unless it is eligible to receive Federal funding for those costs,
 - b. Its records demonstrate that it has used reasonable diligence in seeking the most favorable financing terms underlying those costs, to the extent FTA may require, and
2. It will comply with:
 - a. Urbanized Area Formula Program interest provisions of 49 U.S.C. 5307(g)(3),
 - b. Capital Investment Program provisions of 49 U.S.C. 5309(g)(2)(B)(iii),
 - c. Capital Investment Program provisions of 49 U.S.C. 5309(g)(3)(B)(iii),
 - d. Capital Investment Program provisions of 49 U.S.C. 5309(i)(2)(C), and
 - e. Paul S. Sarbanes Transit in Parks Program provisions of 49 U.S.C. 5320(h)(2)(C).

GROUP 14. INTELLIGENT TRANSPORTATION SYSTEMS

Select the following assurance in Group 14 if you apply on behalf of your Applicant for an Intelligent Transportation Systems (ITS) project or a project in support of an ITS project. An Applicant for ITS project funding that fails to provide this assurance, without providing other documentation assuring its commitment to comply with applicable Federal ITS standards and protocols, may be ineligible for award of Federal funding for that ITS project.

As used in this assurance, the term Intelligent Transportation Systems (ITS) project is defined to include any project that in whole or in part finances the acquisition of technologies or systems of technologies that provide or significantly contribute to the provision of one or more ITS user services as defined in the "National ITS Architecture." The Applicant assures that:

1. As provided in subsection 5307(c) of SAFETEA-LU, 23 U.S.C. 512 note:
 - a. "Intelligent transportation system projects carried out using funds made available from the Highway Trust Fund, including funds made available under this subtitle to deploy intelligent transportation system technologies, [will] conform to the national architecture, applicable standards or provisional standards, and protocols developed under subsection (a) [of section 5307 of SAFETEA-LU]."
 - b. ITS standards will not apply if it obtains an exception to subsection 5307(c) of SAFETEA-LU, 23 U.S.C. 512 note.
2. It will use its best efforts to assure that any ITS project it undertakes will not preclude interface with other intelligent transportation systems in the Region, if supported with Federal funding not derived from:
 - a. Title 49, United States Code, or
 - b. Title 23, United States Code.
3. To facilitate compliance with subsection 5307(c) of 23 U.S.C. 512 note, except as the Federal Government determines otherwise in writing, the Applicant assures that it will comply with:
 - a. FTA Notice, "FTA National ITS Architecture Policy on Transit Projects," 66 FR 1455, January 8, 2001, specifically:
 - (1) Applicable provisions of Section V (Regional ITS Architecture, and
 - (2) Section VI (Project Implementation), and
 - b. Other FTA policies that may be issued in connection with any ITS project it undertakes

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financed with funds authorized under Title 49 or Title 23, United States Code,

GROUP 15. URBANIZED AREA FORMULA PROGRAM

You must select the following certifications and assurances in Group 15 if you apply on behalf of your Applicant for Urbanized Area Formula Program funding, 49 U.S.C. 5307. Your Applicant is ultimately responsible for compliance with its certifications and assurances even though a subrecipient, lessee, third party contractor, or other participant may participate in that project, unless FTA determines otherwise in writing. Consequently, we strongly encourage your Applicant to take the appropriate measures including, but not limited to, obtaining sufficient documentation from each subrecipient, to assure the validity of all certifications and assurances it has made.

Each Applicant is required by 49 U.S.C. 5307(d)(1)(J) to spend at least one (1) percent of its Urbanized Area Formula Program funding for public transportation security projects, unless it has certified that such expenses are not necessary. Information about its intentions must be recorded in the "Security" tab page of the TEAM-Web "Project Information" window when it submits its Urbanized Area Formula Program application in TEAM-Web.

We may not award Urbanized Area Formula Program funding to any Applicant that is required by 49 U.S.C. 5307(d)(1)(K) to spend one (1) percent of its Urbanized Area Formula Program funding for eligible transit enhancements unless its quarterly report for the fourth quarter of the preceding Federal fiscal year has been submitted to FTA and includes the required list or sufficient information to demonstrate that the Designated Recipients in its area together have spent one (1) percent of the amount of Urbanized Area Program funding made available to them for transit enhancement projects or have included the same information in a separate report attached in TEAM-Web.

The following certifications apply to each Applicant for funding under the Urbanized Area Formula Program authorized under 49 U.S.C. 5307. The Applicant certifies that:

1. As required by 49 U.S.C. 5307(d)(1)(A), it has or will have the:
 - a. Legal capacity to carry out its proposed projects,
 - b. Financial capacity to carry out its proposed projects,
 - c. Technical capacity to carry out its proposed projects,
 - d. Safety aspects of its proposed projects, and
 - e. Security aspects of its proposed projects,
2. As required by 49 U.S.C. 5307(d)(1)(B), it has or will have satisfactory continuing control over the use of project equipment and facilities,
3. As required by 49 U.S.C. 5307(d)(1)(C), it will maintain the project equipment and facilities adequately,
4. As required by 49 U.S.C. 5307(d)(1)(D), it will ensure that the following individuals will be charged not more than fifty (50) percent of the peak hour fare for transportation during non-peak hours using or involving project facilities or equipment supported under 49 U.S.C. 5307:
 - a. Elderly individuals,
 - b. Individuals with disabilities, or
 - c. Individuals presenting a Medicare card issued to himself or herself pursuant to title II or

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title XVIII of the Social Security Act (42 U.S.C. 401 *et seq.* or 42 U.S.C. 1395 *et seq.*),

5. As required by 49 U.S.C. 5307(d)(1)(E), when carrying out a procurement under 49 U.S.C. 5307, it will:

- a. Use competitive procurement (as defined or approved by FTA),
- b. Not use exclusionary or discriminatory specifications in its procurements,
- c. Comply with applicable Buy America laws, and
- d. Comply with the:
 - (1) General provisions for FTA programs of 49 U.S.C. 5323, and
 - (2) Third party procurement requirements of 49 U.S.C. 5325,

6. As required by 49 U.S.C. 5307(d)(1)(F), it has complied with or will comply with 49 U.S.C. 5307(c) because it:

- a. Has informed or will inform the public of the amounts of its Urbanized Area Formula Program funds available under 49 U.S.C. 5307, and the projects it proposes to undertake,
- b. Has developed or will develop, in consultation with interested parties including private transportation providers, the projects proposed to be funded,
- c. Has published or will publish a list of its projects in a way that affected citizens, private transportation providers, and local elected officials will have an opportunity to examine and submit comments on the proposed projects and its performance,
- d. Has provided or will provide an opportunity for a public hearing to obtain the views of citizens on the proposed projects,
- e. Has assured or will assure that the proposed projects provide for coordination of transportation services assisted under 49 U.S.C. 5336 with federally assisted transportation services supported by a Federal Government source other than U.S. DOT,
- f. Has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final list of projects, and
- g. Has made or will make the final list of projects available to the public,

7. As required by 49 U.S.C. 5307(d)(1)(G), it:

- a. Has or will have the amount of funds required for the local share,
- b. Will provide the local share funds from approved non-Federal sources except as permitted by Federal law, and
- c. Will provide the local share funds when needed,

8. As required by 49 U.S.C. 5307(d)(1)(H), it will comply with:

- a. The requirements of 49 U.S.C. 5301(a) for public transportation systems that:
 - (1) Maximize the safe, secure, and efficient mobility of people,
 - (2) Minimize environmental impacts, and,
 - (3) Minimize transportation-related fuel consumption and reliance on foreign oil,
- b. The requirements of 49 U.S.C. 5301(d) for special efforts to:
 - (1) Design public transportation for elderly individuals and individuals with disabilities, and
 - (2) Provide public transportation for elderly individuals and individuals with disabilities, and
- c. The requirements of 49 U.S.C. 5303 – 5306 for:
 - (1) Metropolitan and State Planning, and
 - (2) Private enterprise participation,

9. As required by 49 U.S.C. 5307(d)(1)(I), it has a locally developed process to solicit and consider public comment before:

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- a. Raising a fare, or
 - b. Implementing a major reduction of public transportation,
10. As required by 49 U.S.C. 5307(d)(1)(J), if it serves an urbanized area with a population of at least 200,000:
- a. Each fiscal year, it will spend at least one (1) percent of its 49 U.S.C. 5307 funding for public transportation security projects (limited to capital projects in the case of an Applicant serving an urbanized area with a population of 200,000 or more), or
 - b. That fiscal year, it will certify that such expenses for transportation security projects are not necessary,
 - c. Public transportation security projects include:
 - (1) Increased lighting in or adjacent to a public transportation system (including bus stops, subway stations, parking lots, and garages),
 - (2) Increased camera surveillance of an area in or adjacent to that system,
 - (3) Emergency telephone line or lines to contact law enforcement or security personnel in an area in or adjacent to that system, and
 - (4) Any other project intended to increase the security and safety of an existing or planned public transportation, and
11. As required by 49 U.S.C. 5307(d)(1)(K), if it serves an urbanized area with a population of at least 200,000:
- a. Each fiscal year, it or all the Recipients of 49 U.S.C. 5307 funding in its urbanized area will spend at least one (1) percent of that funding for transit enhancements, as defined in 49 U.S.C. 5302(a),
 - b. It will include in its quarterly report for the fourth quarter of the preceding Federal fiscal year a list of the projects during that Federal fiscal year using those 49 U.S.C. 5307 funds, and
 - c. The report of its transit enhancement projects is or will be incorporated by reference and made part of its certifications and assurances.

GROUP 16. CLEAN FUELS GRANT PROGRAM

You must select the following certifications and assurances in Group 16 if you apply on behalf of your Applicant for Clean Fuels Grant Program funding, 49 U.S.C. 5308. Your Applicant itself is ultimately responsible for compliance with its certifications and assurances even though a subrecipient, lessee, third party contractor, or other participant may participate in that project, unless FTA determines otherwise in writing. Consequently, we strongly encourage your Applicant to take the appropriate measures including, but not limited to, obtaining sufficient documentation from each subrecipient, to assure the validity of all certifications and assurances it has made.

The following certifications apply to each Applicant for funding under the Clean Fuels Grant Program authorized under 49 U.S.C. 5308:

- 1. As required by FTA regulations, "Clean Fuels Grant Program, 49 CFR part 624, specifically 49 CFR 624.7, the Applicant certifies it will operate vehicles purchased with Federal funding provided under the Clean Fuels Grant Program, 49 U.S.C. 5308 only with clean fuels.
- 2. Under 49 U.S.C. 5308(d)(1), the requirements of 49 U.S.C. 5307 apply to the Clean Fuels Grant Program. To comply with those requirements, as specified under 49 U.S.C. 5307(d)(1), the Applicant certifies that:

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- a. As required by 49 U.S.C. 5307(d)(1)(A), it has or will have the:
 - (1) Legal capacity to carry out its proposed projects,
 - (2) Financial capacity to carry out its proposed projects,
 - (3) Technical capacity to carry out its proposed projects,
 - (4) Safety aspects of its proposed projects, and
 - (5) Security aspects of its proposed projects,
- b. As required by 49 U.S.C. 5307(d)(1)(B), it has or will have satisfactory continuing control over the use of project equipment and facilities,
- c. As required by 49 U.S.C. 5307(d)(1)(C), it will maintain the project equipment and facilities adequately,
- d. As required by 49 U.S.C. 5307(d)(1)(D), it will ensure that the following individuals will be charged not more than fifty (50) percent of the peak hour fare for transportation during non-peak hours using or involving project facilities or equipment supported under 49 U.S.C. 5308:
 - (1) Elderly individuals,
 - (2) Individuals with disabilities, or
 - (3) Individuals presenting a Medicare card issued to himself or herself pursuant to title II or title XVIII of the Social Security Act (42 U.S.C. 401 *et seq.* or 42 U.S.C. 1395 *et seq.*),
- e. As required by 49 U.S.C. 5307(d)(1)(E), when carrying out a procurement under 49 U.S.C. 5308, it will:
 - (1) Use competitive procurement (as defined or approved by FTA),
 - (2) Not use exclusionary or discriminatory specifications in its procurements,
 - (3) Comply with applicable Buy America laws, and
 - (4) Comply with the general provisions for FTA programs of 49 U.S.C. 5323, and
 - (5) Comply with the third party procurement requirements of 49 U.S.C. 5325,
- f. As required by 49 U.S.C. 5307(d)(1)(F), it has complied with or will comply with 49 U.S.C. 5307(c) because it:
 - (1) Has informed or will inform the public of the amounts of its Clean Fuels Grant Program funds available under 49 U.S.C. 5308, and the projects it proposes to undertake,
 - (2) Has developed or will develop, in consultation with interested parties including private transportation providers, the projects proposed to be funded,
 - (3) Has published or will publish a list of its projects in a way that affected citizens, private transportation providers, and local elected officials will have an opportunity to examine and submit comments on the proposed projects and its performance,
 - (4) Has provided or will provide an opportunity for a public hearing to obtain the views of citizens on the proposed projects,
 - (5) Has assured or will assure that the proposed projects provide for coordination of transportation services assisted under 49 U.S.C. 5336 with federally assisted transportation services supported by a Federal government source other than U.S. DOT,
 - (6) Has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final list of projects, and
 - (7) Has made or will make the final list of projects available to the public,
- g. As required by 49 U.S.C. 5307(d)(1)(G), it:
 - (1) Has or will have the amount of funds required for the local share,
 - (2) Will provide the local share funds from approved non-Federal sources except as permitted by Federal law, and
 - (3) Will provide the local share funds when needed,

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- h. As required by 49 U.S.C. 5307(d)(1)(H), it will comply with:
- (1) The requirements of 49 U.S.C. 5301(a) for public transportation systems that:
 - (a) Maximize the safe, secure, and efficient mobility of people,
 - (b) Minimize environmental impacts, and
 - (c) Minimize transportation-related fuel consumption and reliance on foreign oil,
 - (2) The requirements of 49 U.S.C. 5301(d) for special efforts to:
 - (a) Design public transportation for elderly individuals and individuals with disabilities, and
 - (b) Provide public transportation for elderly individuals and individuals with disabilities, and
 - (3) The requirements of 49 U.S.C. 5303 – 5306 for:
 - (a) Metropolitan and State Planning, and
 - (b) Private enterprise participation, and
- i. As required by 49 U.S.C. 5307(d)(1)(I), it has a locally developed process to solicit and consider public comment before:
- (1) Raising a fare, or
 - (2) Implementing a major reduction of public transportation.

GROUP 17. ELDERLY INDIVIDUALS AND INDIVIDUALS WITH DISABILITIES FORMULA GRANT PROGRAM AND PILOT PROGRAM

You must select the following certifications and assurances in Group 17 if you apply on behalf of your State or State organization as the direct Applicant for Elderly Individuals and Individuals with Disabilities Formula Grant Program funding 49 U.S.C. 5310, and, if qualified, for Elderly Individuals and Individuals with Disabilities Pilot Program funding, subsection 3012(b) of SAFETEA-LU. Only a State or a State organization acting as the Recipient on behalf of a State may be a direct recipient of this funding. Your State or State organization Applicant is ultimately responsible for compliance with its certifications and assurances even though a subrecipient, lessee, third party contractor, or other participant may participate in that project, unless FTA determines otherwise in writing. Consequently, we strongly encourage your State or State organization Applicant to take the appropriate measures including, but not limited to, obtaining sufficient documentation from each subrecipient, to assure the validity of all certifications and assurances it has made.

The following certifications and assurances apply to each State or State organization serving as Applicant for funding and each subrecipient of funding under the Elderly Individuals and Individuals with Disabilities Formula Grant Program authorized under 49 U.S.C. 5310, and the Elderly Individuals and Individuals with Disabilities Pilot Program authorized under subsection 3012(b) of SAFETEA-LU.

1. The State or State organization Applicant assures that:
 - a. Each subrecipient is:
 - (1) Recognized under State law as a private nonprofit organization with the legal capability to contract with the State to carry out the proposed project, or
 - (2) A public body that has met the statutory requirements to receive Federal funding authorized for 49 U.S.C. 5310,
 - b. The State or State organization Applicant can conclude from information in a private

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nonprofit subrecipient's application for 49 U.S.C. 5310 funding that:

(1) The transit service provided or offered to be provided by existing public or private transit operators cannot meet the special needs of elderly individuals and individuals with disabilities, because it is:

- (a) Unavailable,
- (b) Insufficient, or
- (c) Inappropriate,

c. As required by 49 U.S.C. 5310(d)(2)(A) and subsection 3012(b)(2) of SAFETEA-LU, the State certifies that, before it transfers funds to a project funded under 49 U.S.C. 5336, the project has been or will have been coordinated with private nonprofit providers of services under 49 U.S.C. 5310,

d. As required by 49 U.S.C. 5310(d)(2)(C), the Applicant certifies that allocations to subrecipients 49 U.S.C. 5310 funding or subsection 3012(b) funding will be distributed on a fair and equitable basis, and

e. As required by 49 U.S.C. 5310(d)(2)(B) and subsection 3012(b)(2) of SAFETEA-LU, the Applicant certifies that:

(1) The projects it has selected or will select for funding under that program were derived from a public transit-human services transportation plan that has been:

- (a) Locally developed, and
- (b) Coordinated, and

(2) That locally developed, coordinated plan was produced through a process that included:

- (a) Representatives of public, private, and nonprofit transportation providers,
- (b) Representatives of public, private, and nonprofit human services providers, and
- (c) Participation by the public.

2. As permitted by 49 U.S.C. 5310(d), the Federal Transit Administrator has selected certain requirements of 49 U.S.C. 5307 to be appropriate for the Elderly Individuals and Individuals with Disabilities Formula Grant Program authorized by 49 U.S.C. 5310, and the Elderly Individuals and Individuals with Disabilities Pilot Program authorized by subsection 3012(b) of SAFETEA-LU, 49 U.S.C. 5310 note, of which some require certifications. Therefore, as specified under 49 U.S.C. 5307(d)(1), the State or State organization Applicant certifies that:

a. As required by 49 U.S.C. 5307(d)(1)(A), it and each subrecipient has or will have the:

- (1) Legal capacity to carry out its proposed projects,
- (2) Financial capacity to carry out its proposed projects,
- (3) Technical capacity to carry out its proposed projects,
- (4) Safety aspects of its proposed projects, and
- (5) Security aspects of its proposed projects,

b. As required by 49 U.S.C. 5307(d)(1)(B), it and each subrecipient has or will have satisfactory continuing control over the use of project equipment and facilities,

c. As required by 49 U.S.C. 5307(d)(1)(C), it and each subrecipient will maintain the project equipment and facilities adequately,

d. As required by 49 U.S.C. 5307(d)(1)(E), when carrying out a procurement under the Elderly Individuals and Individuals with Disabilities Formula Grant Program authorized by 49 U.S.C. 5310, or the Elderly Individuals and Individuals with Disabilities Pilot Program authorized by subsection 3012(b) of SAFETEA-LU, 49 U.S.C. 5310 note, it and each subrecipient will:

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- (1) Use competitive procurement (as defined or approved by FTA),
 - (2) Not use exclusionary or discriminatory specifications in its procurements,
 - (3) Comply with applicable Buy America laws, and
 - (4) Comply with the general provisions for FTA programs of 49 U.S.C. 5323, and
 - (5) Comply with the third party procurement requirements of 49 U.S.C. 5325,
- e. As required by 49 U.S.C. 5307(d)(1)(G), it and each subrecipient:
- (1) Has or will have the amount of funds required for the local share,
 - (a) As required by 49 U.S.C. 5310(c), and
 - (b) Subsections 3012(b)(3) and (4) of SAFETEA-LU, if applicable,
 - (2) Will provide the local share funds from approved non-Federal sources except as permitted by Federal law, and
 - (3) Will provide the local share funds when needed, and
- f. As required by 49 U.S.C. 5307(d)(1)(H), it and each subrecipient will comply with:
- (1) The requirements of 49 U.S.C. 5301(a) for public transportation systems that:
 - (a) Maximize the safe, secure, and efficient mobility of people,
 - (b) Minimize environmental impacts, and
 - (c) Minimize transportation-related fuel consumption and reliance on foreign oil,
 - (2) The requirements of 49 U.S.C. 5301(d) for special efforts to:
 - (a) Design public transportation for elderly individuals and individuals with disabilities, and
 - (b) Provide public transportation for elderly individuals and individuals with disabilities, and
 - (3) The requirements of 49 U.S.C. 5303 – 5306 for:
 - (a) Metropolitan and State Planning, and
 - (b) Private enterprise participation.

GROUP 18. NONURBANIZED AREA FORMULA PROGRAM FOR STATES

You must select the following certifications and assurances in Group 18 if you apply on behalf of your Applicant for Nonurbanized Area Formula Program funding, 49 U.S.C. 5311(b). Your Applicant itself is ultimately responsible for compliance with its certifications and assurances even though a subrecipient, lessee, third party contractor, or other participant may participate in that project, unless FTA determines otherwise in writing. Consequently, we strongly encourage your Applicant to take the appropriate measures including, but not limited to, obtaining sufficient documentation from each subrecipient, to assure the validity of all certifications and assurances it has made.

Only a State or a State organization acting as the Recipient on behalf of a State (State) may be a direct recipient of this Nonurbanized Area Formula Program funding. Separate certifications and assurances have been established in Group 22 for an Indian tribe that is an Applicant for Tribal Transit Program funding, 49 U.S.C. 5311(c)(1).

The following certifications and assurances apply to each State or State organization serving as the Applicant for funding under the Nonurbanized Area Formula Program authorized under 49 U.S.C. 5311. The Applicant assures that:

1. It has or will have the necessary legal, financial, and managerial capability to:

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- a Apply, receive and disburse 49 U.S.C. 5311(c)(1) funding, and
- b. Carry out each project, including the:
 - (1) Safety aspects of its proposed projects, and
 - (2) Security aspects of its proposed projects,
- 2. It has or will have satisfactory continuing control over the use of project equipment and facilities,
- 3. The project equipment and facilities will be adequately maintained,
- 4. As required by 49 U.S.C. 5311(b)(2)(C)(i), its program has provided for a fair distribution of Federal funding authorized for 49 U.S.C. 5311 within the State, including Indian reservations within the State,
- 5. As required by 49 U.S.C. 5311(b)(2)(C)(ii), its program provides or will provide the maximum feasible coordination of public transportation service to receive funding under 49 U.S.C. 5311 with transportation service assisted by other Federal sources,
- 6. The projects in its Nonurbanized Area Formula Program are included in:
 - a. The Statewide Transportation Improvement Program, and
 - b. To the extent applicable, a metropolitan Transportation Improvement Program,
- 7. It has or will have the amount of funds required for the local share, as required by 49 U.S.C. 5311(g), and
 - (1) Will provide the local share funds from approved non-Federal sources except as permitted by Federal law, and
 - (2) Will provide the local share funds when needed, and
- 8. As required by 49 U.S.C. 5311(f), each fiscal year:
 - a. It will spend at least fifteen (15) percent of its 49 U.S.C. 5311 funding available that fiscal year to develop and support intercity bus transportation within the State, with eligible activities including:
 - (1) Planning and marketing for intercity bus transportation,
 - (2) Capital grants for intercity bus shelters,
 - (3) Joint-use stops and depots,
 - (4) Operating grants through purchase-of-service agreements, user-side subsidies, and demonstration projects, and
 - (5) Coordinating rural connections between small public transportation operations and intercity bus carriers, or
 - b. It will provide to the Federal Transit Administrator a certification of the State's chief executive officer that:
 - (1) After consulting with the affected intercity bus service providers about the intercity bus needs of the State,
 - (2) The State's intercity bus service needs are being met adequately.

GROUP 19. JOB ACCESS AND REVERSE COMMUTE (JARC) FORMULA GRANT PROGRAM

You must select the following certifications and assurances in Group 19 if you apply on behalf of your Applicant for Job Access and Reverse Commute (JARC) Formula Grant funding, 49 U.S.C. 5316. Your Applicant is ultimately responsible for compliance with its certifications and assurances even though a subrecipient, lessee, third party contractor, or other participant may participate in that project, unless FTA determines otherwise in writing. Consequently, we

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strongly encourage your Applicant to take the appropriate measures including, but not limited to, obtaining sufficient documentation from each subrecipient, to assure the validity of all certifications and assurances it has made.

The following certifications and assurances apply to each Applicant for and subrecipient of funding under the Job Access and Reverse Commute (JARC) Formula Grant funding authorized under 49 U.S.C. 5316.

1. The Applicant certifies that:

a. As required by 49 U.S.C. 5316(d)(4), it will make awards of JARC funding on a competitive basis following:

(1) An areawide solicitation in cooperation with the appropriate metropolitan planning organization for applications for funding under 5316(c)(1)(A) (see 49 U.S.C. 5316(d)(1)), and

(2) A statewide solicitation for applications for JARC funding under 49 U.S.C. 5316(c)(1)(B) or 49 U.S.C. 5316(c)(1)(C), (see 49 U.S.C. 5316(d)(2)) and

b. As required by 49 U.S.C. 5316(f)(2), any allocations to subrecipients of funding authorized under 49 U.S.C. 5316 will be distributed on a fair and equitable basis,

c. As required by 49 U.S.C. 5316(g)(3):

(1) The projects it has selected or will select for funding under that program were derived from a public transit-human services transportation plan that has been:

(a) Locally developed, and

(b) Coordinated,

(2) That locally developed, coordinated plan was produced through a process that included:

(a) Representatives of public, private, and nonprofit transportation providers,

(b) Representatives of public, private, and nonprofit human services providers, and

(c) Participation by the public, and

d. As required by 49 U.S.C. 5316(g)(2), before it transfers funds to a project funded under 49 U.S.C. 5316, that project has been or will have been coordinated with private nonprofit providers of services, and

e. As required by 49 U.S.C. 5316(c)(3), before using funds apportioned for projects serving an area other than that for which funding was apportioned under 49 U.S.C. 5316(c)(1)(B) or (C):

(1) The State's chief executive officer, or his or her designee, will have certified that all the JARC program objectives of 49 U.S.C. 5316 are being met in the area from which the funding would be derived,

(2) If the State has a statewide program for meeting the JARC program objectives of 49 U.S.C. 5316, the funds can be used for projects anywhere in the State.

2. Under 49 U.S.C. 5316(f)(1), the requirements of 49 U.S.C. 5307 apply to the JARC Program, authorized under 49 U.S.C. 5316. Therefore, as specified under 49 U.S.C. 5307(d)(1), the Applicant certifies that

a. As required by 49 U.S.C. 5307(d)(1)(A), it and each subrecipient has or will have the:

(1) Legal capacity to carry out its proposed projects,

(2) Financial capacity to carry out its proposed projects,

(3) Technical capacity to carry out its proposed projects,

(4) Safety aspects of its proposed projects, and

(5) Security aspects of its proposed projects,

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- b. As required by 49 U.S.C. 5307(d)(1)(B), it and each subrecipient has or will have satisfactory continuing control over the use of project equipment and facilities,
- c. As required by 49 U.S.C. 5307(d)(1)(C), it and each subrecipient will maintain the project equipment and facilities adequately,
- d. As required by 49 U.S.C. 5307(d)(1)(D), it and each subrecipient will ensure that the following individuals will be charged not more than fifty (50) percent of the peak hour fare for transportation during non-peak hours using or involving project facilities or equipment supported under 49 U.S.C. 5316:
 - (1) Elderly individuals,
 - (2) Individuals with disabilities, or
 - (3) Individuals presenting a Medicare card issued to himself or herself pursuant to title II or title XVIII of the Social Security Act (42 U.S.C. 401 *et seq.* or 42 U.S.C. 1395 *et seq.*),
- e. As required by 49 U.S.C. 5307(d)(1)(E), when carrying out a procurement under the JARC Program, 49 U.S.C. 5316, it will:
 - (1) Use competitive procurement (as defined or approved by FTA),
 - (2) Not use exclusionary or discriminatory specifications in its procurements,
 - (3) Comply with applicable Buy America laws,
 - (4) Comply with the general provisions for FTA programs of 49 U.S.C. 5323, and
 - (5) Comply with the third party procurement requirements of 49 U.S.C. 5325,
- f. As required by 49 U.S.C. 5307(d)(1)(F), it and each subrecipient has complied with or will comply with 49 U.S.C. 5307(c) because it:
 - (1) Has informed or will inform the public of the amount of its JARC Program funds available under 49 U.S.C. 5316, and the projects it proposes to undertake,
 - (2) Has developed or will develop, in consultation with interested parties including private transportation providers, the projects proposed to be funded,
 - (3) Has published or will publish a list of its projects in a way that affected citizens, private transportation providers, and local elected officials will have an opportunity to examine and submit comments on the proposed projects and its performance,
 - (4) Has provided or will provide an opportunity for a public hearing to obtain the views of citizens on the proposed projects,
 - (5) Has assured or will assure that the proposed projects provide for coordination of transportation services assisted under 49 U.S.C. 5336 with federally assisted transportation services supported by a Federal government source other than U.S. DOT,
 - (6) Has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final list of projects, and
 - (7) Has made or will make the final list of projects available to the public,
- g. As required by 49 U.S.C. 5307(d)(1)(G), it and each subrecipient:
 - (1) Has or will have the amount of funds required for the local share,
 - (2) Will provide the local share funds from approved non-Federal sources except as permitted by Federal law, and
 - (3) Will provide the local share funds when needed,
- h. As required by 49 U.S.C. 5307(d)(1)(H), it and each subrecipient will comply with:
 - (1) The requirements of 49 U.S.C. 5301(a) for public transportation systems that:
 - (a) Maximize the safe, secure, and efficient mobility of people,
 - (b) Minimize environmental impacts, and
 - (c) Minimize transportation-related fuel consumption and reliance on foreign oil,

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- (2) The requirements of 49 U.S.C. 5301(d) for special efforts to:
 - (a) Design public transportation for elderly individuals and individuals with disabilities, and
 - (b) Provide public transportation for elderly individuals and individuals with disabilities, and
- (3) The requirements of 49 U.S.C. 5303 – 5306 for:
 - (a) Metropolitan and State Planning, and
 - (b) Private enterprise participation, and
- i. As required by 49 U.S.C. 5307(d)(1)(I), it and each subrecipient has a locally developed process to solicit and consider public comment before:
 - (1) Raising a fare, or
 - (2) Implementing a major reduction of public transportation.

GROUP 20. NEW FREEDOM PROGRAM

You must select the following certifications and assurances in Group 20 if you apply on behalf of your Applicant for New Freedom Program funding, 49 U.S.C. 5317. Your Applicant is ultimately responsible for compliance with its certifications and assurances even though a subrecipient, lessee, third party contractor, or other participant may participate in that project, unless FTA determines otherwise in writing. Consequently, we strongly encourage your Applicant to take the appropriate measures including, but not limited to, obtaining sufficient documentation from each subrecipient, to assure the validity of all certifications and assurances it has made.

1. The Applicant certifies that:

- a. As required by 49 U.S.C. 5317(d)(4), it will make awards of New Freedom funding on a competitive basis following:
 - (1) An areawide solicitation in cooperation with the appropriate metropolitan planning organization for applications for funding under 5317(c)(1)(A) (see 49 U.S.C. 5317(d)(1)), and
 - (2) A statewide solicitation for applications for JARC funding under 49 U.S.C. 5317(c)(1)(B) or 49 U.S.C. 5317(c)(1)(C), (see 49 U.S.C. 5317(d)(2)),
- b. As required by 49 U.S.C. 5317(e)(2), any allocations to subrecipients of funding authorized under 49 U.S.C. 5317 will be distributed on a fair and equitable basis,
- c. As required by 49 U.S.C. 5317(f)(3):
 - (1) The projects it has selected or will select for funding under that program were derived from a public transit-human services transportation plan that has been:
 - (a) Locally developed, and
 - (b) Coordinated,
 - (2) That locally developed, coordinated plan was produced through a process that included:
 - (a) Representatives of public, private, and nonprofit transportation providers,
 - (b) Representatives of human services public, private, and nonprofit providers, and
 - (c) Participation by the public, and
- d. As required by 49 U.S.C. 5316(f)(2), before it transfers funds to a project funded under 49 U.S.C. 5336, that project has been or will have been coordinated with private nonprofit providers of services.

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2. As permitted by 49 U.S.C. 5317(e)(1), the Federal Transit Administrator has selected certain requirements of 49 U.S.C. 5310 and 49 U.S.C. 5307 to be appropriate for the New Freedom Program, of which some require certifications. Therefore, as specified under 49 U.S.C. 5307(d)(1), the Applicant certifies that:

- a. As required by 49 U.S.C. 5307(d)(1)(A), it and each subrecipient has or will have the:
 - (1) Legal capacity to carry out its proposed projects,
 - (2) Financial capacity to carry out its proposed projects,
 - (3) Technical capacity to carry out its proposed projects,
 - (4) Safety aspects of its proposed projects, and
 - (5) Security aspects of its proposed projects,
- b. As required by 49 U.S.C. 5307(d)(1)(B), it and each subrecipient has or will have satisfactory continuing control over the use of project equipment and facilities,
- c. As required by 49 U.S.C. 5307(d)(1)(C), it and each subrecipient will maintain the project equipment and facilities adequately,
- d. As required by 49 U.S.C. 5307(d)(1)(E), when carrying out a procurement under the New Freedom Program authorized by 49 U.S.C. 5317, it and each subrecipient will:
 - (1) Use competitive procurement (as defined or approved by FTA),
 - (2) Not use exclusionary or discriminatory specifications in its procurements,
 - (3) Comply with applicable Buy America laws, and
 - (4) Comply with the general provisions for FTA programs of 49 U.S.C. 5323, and
 - (5) Comply with the third party procurement requirements of 49 U.S.C. 5325,
- e. As required by 49 U.S.C. 5307(d)(1)(G), it and each subrecipient:
 - (1) Has or will have the amount of funds required for the local share,
 - (2) Will provide the local share funds from approved non-Federal sources except as permitted by Federal law, and
 - (3) Will provide the local share funds when needed, and
- f. As required by 49 U.S.C. 5307(d)(1)(H), it will comply with:
 - (1) The requirements of 49 U.S.C. 5301(a) for public transportation systems that:
 - (a) Maximize the safe, secure, and efficient mobility of people,
 - (b) Minimize environmental impacts, and
 - (c) Minimize transportation-related fuel consumption and reliance on foreign oil,
 - (2) The requirements of 49 U.S.C. 5301(d) for special efforts to:
 - (a) Design public transportation for elderly individuals and individuals with disabilities, and
 - (b) Provide public transportation for elderly individuals and individuals with disabilities, and
 - (3) The requirements of 49 U.S.C. 5303 – 5306 for:
 - (a) Metropolitan and State Planning, and
 - (b) Private enterprise participation.

GROUP 21. PAUL S. SARBANES TRANSIT IN PARKS PROGRAM

You must select the following certifications and assurances in Group 21 if you apply on behalf of your Applicant for Paul S. Sarbanes Transit in Parks Program (Parks Program) funding, 49 U.S.C. 5320.

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The following certifications apply to each Applicant for funding under the Paul S. Sarbanes Transit in Parks Program (Parks Program) authorized under 49 U.S.C. 5320:

1. As required by 49 U.S.C. 5320(e)(D), the Applicant assures that it will consult with the appropriate Federal land management agency during the planning process.

2. As permitted by 49 U.S.C. 5320(i), the Federal Transit Administrator has selected certain requirements of 49 U.S.C. 5307 to be appropriate for the Parks Program, of which some require certifications. Therefore as specified under 49 U.S.C. 5307(d)(1), the Applicant certifies that:

a. As required by 49 U.S.C. 5307(d)(1)(A), it has or will have the:

- (1) Legal capacity to carry out its proposed projects,
- (2) Financial capacity to carry out its proposed projects,
- (3) Technical capacity to carry out its proposed projects,
- (4) Safety aspects of its proposed projects, and
- (5) Security aspects of its proposed projects,

b. As required by 49 U.S.C. 5307(d)(1)(B), it has or will have satisfactory continuing control over the use of project equipment and facilities,

c. As required by 49 U.S.C. 5307(d)(1)(C), it will maintain the project equipment and facilities adequately,

d. As required by 49 U.S.C. 5307(d)(1)(E), when carrying out a procurement under the Parks Program, 49 U.S.C. 5320, it will:

- (1) Use competitive procurement (as defined or approved by FTA),
- (2) Not use exclusionary or discriminatory specifications in its procurements,
- (3) Comply with applicable Buy America laws, and
- (4) Comply with the general provisions for FTA programs of 49 U.S.C. 5323, and
- (5) Comply with the third party procurement requirements of 49 U.S.C. 5325,

e. As required by 49 U.S.C. 5307(d)(1)(F) and 49 U.S.C. 5320(e)(2)(C), it has complied with or will comply with the requirements of 49 U.S.C. 5307(c). Specifically, it:

- (1) Has made available, or will make available, to the public information on the amounts available for the Parks Program, 49 U.S.C. 5320, and the projects it proposes to undertake,
- (2) Has developed or will develop, in consultation with interested parties including private transportation providers, projects to be financed,
- (3) Has published or will publish a list of proposed projects in a way that affected citizens, private transportation providers, and local elected officials have the opportunity to examine the proposed projects and submit comments on the proposed projects and the performance of the Applicant,
- (4) Has provided or will provide an opportunity for a public hearing to obtain the views of citizens on the proposed projects,
- (5) Has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final list of projects, and
- (6) Has made or will make the final list of projects available to the public,

f. As required by 49 U.S.C. 5307(d)(1)(G), it:

- (1) Has or will have the amount of funds required for the local share,
- (2) Will provide the local share funds from approved non-Federal sources except as permitted by Federal law, and
- (3) Will provide the local share funds when needed,

g. As required by 49 U.S.C. 5307(d)(1)(H), it will comply with:

- (1) The requirements of 49 U.S.C. 5301(a) for public transportation systems that:

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- (a) Maximize the safe, secure, and efficient mobility of people,
 - (b) Minimize environmental impacts, and
 - (c) Minimize transportation-related fuel consumption and reliance on foreign oil,
- (2) The requirements of 49 U.S.C. 5301(d) for special efforts to:
 - (a) Design public transportation for elderly individuals and individuals with disabilities, and
 - (b) Provide public transportation for elderly individuals with disabilities, and
- (3) The requirements of 49 U.S.C. 5303 – 5306 for:
 - (a) Metropolitan and State Planning, and
 - (b) Private enterprise participation, and
- h. As required by 49 U.S.C. 5307(d)(1)(I), it has a locally developed process to solicit and consider public comment before:
 - (1) Raising a fare, or
 - (2) Implementing a major reduction of public transportation.

GROUP 22. TRIBAL TRANSIT PROGRAM

You must select the following certifications and assurances in Group 22 if you apply on behalf of your Applicant for Tribal Transit Program funds, 49 U.S.C. 5311(c)(1).

As permitted by 49 U.S.C. 5311(c)(1) the Federal Transit Administrator has established terms and conditions for direct grants funded under FTA's Tribal Transit Program authorized under 49 U.S.C. 5311(c)(1) for Indian tribal governments. To ensure compliance with those requirements, the Indian tribal government serving as the Applicant certifies and assures that:

- 1. It has or will have the necessary legal, financial, and managerial capability to:
 - a. Apply, receive and disburse 49 U.S.C. 5311(c)(1) funding, and
 - b. Carry out each project, including the:
 - (1) Safety aspects of its proposed projects, and
 - (2) Security aspects of its proposed projects,
- 2. It has or will have satisfactory continuing control over the use of project equipment and facilities,
- 3. The project equipment and facilities will be adequately maintained,
- 4. Its project will achieve maximum feasible coordination with transportation service assisted by other Federal sources,
- 5. It will:
 - a. Have a procurement system that complies with U.S. DOT regulations, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," 49 C.F.R. part 18, specifically 49 CFR 18.36, or
 - b. Inform FTA promptly that its procurement system does not comply with those U.S. DOT regulations, and
- 6. It will comply with the certifications, assurances, and agreements in:
 - a. Group 08 (Bus Testing),
 - b. Group 09 (Charter Bus Agreement),
 - c. Group 10 (School Transportation Agreement),
 - d. Group 11 (Demand Responsive Service),
 - e. Group 12 (Alcohol Misuse and Prohibited Drug Use), and

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f. Group 14 (National Intelligent Transportation Systems Architecture and Standards).

GROUP 23. TIFIA PROJECTS

You must select the following certifications and assurances in Group 23 if you apply on behalf of your Applicant for Transportation Infrastructure Finance and Innovation Act (TIFIA) credit assistance authorized under 23 U.S.C. chapter 6.

The following certifications apply to each Applicant for funding under the Transportation Infrastructure Finance and Innovation Act (TIFIA) Program authorized under 23 U.S.C. chapter 6:

1. Federal transit law, specifically 49 U.S.C. 5323(o) requires an Applicant for TIFIA credit assistance funded under 23 U.S.C. chapter 6 and its project to comply with 49 U.S.C. 5307. As required by 49 U.S.C. 5307(d)(1), the Applicant certifies that:

- a. As required by 49 U.S.C. 5307(d)(1)(A), it has or will have the:
 - (1) Legal capacity to carry out its proposed projects,
 - (2) Financial capacity to carry out its proposed projects,
 - (3) Technical capacity to carry out its projects,
 - (4) Safety aspects of its proposed projects, and
 - (5) Security aspects of its proposed projects,
- b. As required by 49 U.S.C. 5307(d)(1)(B), it has or will have satisfactory continuing control over the use of project equipment and facilities,
- c. As required by 49 U.S.C. 5307(d)(1)(C), it will maintain the project equipment and facilities adequately,
- d. As required by 49 U.S.C. 5307(d)(1)(D), it will ensure that the following individuals will be charged not more than fifty (50) percent of the peak hour fare for transportation during non-peak hours using or involving project facilities or equipment supported under 23 U.S.C. chapter 6:
 - (1) Elderly individuals,
 - (2) Individuals with disabilities, or
 - (3) Individuals presenting a Medicare card issued to himself or herself pursuant to title II or title XVIII of the Social Security Act (42 U.S.C. 401 *et seq.* or 42 U.S.C. 1395 *et seq.*),
- e. As required by 49 U.S.C. 5307(d)(1)(E), when carrying out a procurement supported with TIFIA funding under 23 U.S.C. chapter 6, it will:
 - (1) Use competitive procurement (as defined or approved by FTA),
 - (2) Not use exclusionary or discriminatory specifications in its procurements,
 - (3) Comply with applicable Buy America laws, and
 - (4) Comply with the general provisions for FTA programs of 49 U.S.C. 5323, and
 - (5) Comply with the third party procurement requirements of 49 U.S.C. 5325,
- f. As required by 49 U.S.C. 5307(d)(1)(F), it has complied or will comply with 49 U.S.C. 5307(c) because it:
 - (1) Has informed or will inform the public of the amounts of its TIFIA credit assistance available under 23 U.S.C. chapter 6, and the projects it proposes to undertake,
 - (2) Has developed or will develop, in consultation with interested parties including private transportation providers, the projects it proposes to fund,
 - (3) Has published or will publish a list of its projects in a way that affected citizens,

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- private transportation providers, and local elected officials will have an opportunity to examine and submit comments on the proposed projects and its performance,
- (4) Has provided or will provide an opportunity for a public hearing to obtain the views of citizens on the proposed projects,
 - (5) Has assured or will assure that the proposed projects provide for coordination of transportation services assisted under 49 U.S.C. 5336 with federally assisted transportation services supported by a Federal government source other than U.S. DOT,
 - (6) Has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final list of projects, and
 - (7) Has made or will make the final list of projects available to the public,
- g. As required by 49 U.S.C. 5307(d)(1)(G), it:
- (1) Has or will have the amount of funds required for the local share,
 - (2) Will provide the local share funds from approved non-Federal sources except as permitted by Federal law, and
 - (3) Will provide the local share funds when needed,
- h. As required by 49 U.S.C. 5307(d)(1)(H), the Applicant will comply with:
- (1) The requirements of 49 U.S.C. 5301(a) for public transportation systems that:
 - (a) Maximize the safe, secure, and efficient mobility of people,
 - (b) Minimize environmental impacts, and
 - (c) Minimize transportation-related fuel consumption and reliance on foreign oil,
 - (2) The requirements of 49 U.S.C. 5301(d) for special efforts to:
 - (a) Design public transportation for elderly individuals and individuals with disabilities, and
 - (b) Provide public transportation for elderly individuals and individuals with disabilities, and
 - (3) The requirements of 49 U.S.C. 5303 – 5306
 - (a) Metropolitan and State Planning, and
 - (b) Private enterprise participation,
- i. As required by 49 U.S.C. 5307(d)(1)(I), it has a locally developed process to solicit and consider public comment before:
- (1) Raising a fare, or
 - (2) Implementing a major reduction of public transportation,
- j. As required by 49 U.S.C. 5307(d)(1)(J), if it serves an urbanized area with a population of at least 200,000:
- (1) Each fiscal year it will spend at least one (1) percent of its funding attributed to 49 U.S.C. 5307 for public transportation security projects, or
 - (2) That fiscal year, it will certify that such expenses for transportation security projects are not necessary,
 - (3) Public transportation security projects include:
 - (a) Increased lighting in or adjacent to a public transportation system (including bus stops, subway stations, parking lots, and garages),
 - (b) Increased camera surveillance of an area in or adjacent to that system,
 - (c) Emergency telephone line or lines to contact law enforcement or security personnel in an area in or adjacent to that system, and
 - (d) Any other project intended to increase the security and safety of an existing or planned public transportation, and

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k. As required by required by 49 U.S.C. 5307(d)(1)(K), if it serves an urbanized area with a population of at least 200,000:

(1) Each fiscal year, it or all the Recipients of 49 U.S.C. 5307 funding in its urbanized area will spend at least one (1) percent of that funding for transit enhancements, as defined at 49 U.S.C. 5302(a),

(2) It will include in its quarterly report for the fourth quarter of the preceding Federal fiscal year a list of the projects during that Federal fiscal year using those 49 U.S.C. 5307 funds, and

(3) The report of its transit enhancement projects is or will be incorporated by reference and made part of its certifications and assurances.

2. Federal transit law at 49 U.S.C. 5323(o) requires an Applicant for TIFIA credit assistance funded under 23 U.S.C. chapter 6 and its project to comply with 49 U.S.C. 5309. As required by 49 U.S.C. 5309(g)(2)(B)(iii), 5309(g)(3)(B)(iii), and 5309(i)(2)(C), the Applicant certifies that it will not seek reimbursement for interest and other financing costs incurred in connection with the Project unless:

a. It is eligible to receive Federal funding for those expenses, and

b. Its records demonstrate that it has used reasonable diligence in seeking the most favorable financing terms underlying those costs, to the extent FTA may require.

GROUP 24. DEPOSITS OF FEDERAL FINANCIAL FUNDING TO STATE INFRASTRUCTURE BANKS

We request that you select the following certifications and assurances in Group 24 if you apply for 49 U.S.C. chapter 53 funding on behalf of a State Applicant that intends to deposit the funding in a State Infrastructure Bank (SIB). Unless we determine otherwise in writing, the State Applicant itself is ultimately responsible for compliance with its certifications and assurances even though the SIB and a subrecipient may participate in a project financed with our funds deposited in the SIB. Consequently, we encourage the Applicant to take appropriate measures to obtaining sufficient documents from the SIB and each subrecipient, to assure the validity of all certifications and assurances the State Applicant has made.

The following certifications apply to each Applicant for funding under the State Infrastructure Bank Program authorized under 23 U.S.C. 610. The State organization, serving as the Applicant for funding for its State Infrastructure Bank (SIB) Program, assures the agreement of both its SIB and each recipient of SIB funding (subrecipient) that each public transportation project financed with SIB funds will be administered in accordance with:

1. The applicable Federal laws establishing the various SIB programs since 1995:

a. Section 1602 of SAFETEA-LU, now codified in 23 U.S.C. 610, or

b Section 1511 of TEA-21, 23 U.S.C. 181 note, or

c. Section 350 of the National Highway System Designation Act of 1995, as amended, 23 U.S.C. 181,

2. The Cooperative Agreement establishing the State's SIB program between:

a. The State Applicant and Federal parties (FHWA, FRA, and FTA), or

b. The State Applicant and Federal parties (FHWA and FTA), APPENDIX A

3. The Grant Agreement with the State Applicant that provides FTA funding for the SIB, except that any provision of the FTA Master Agreement incorporated by reference into that Grant Agreement will not apply if it conflicts with any provision of:

- a. Section 1602 of SAFETEA-LU, now codified in 23 U.S.C. 610,
- b. Section 1511 of TEA-21, 23 U.S.C. 181 note, or section 350 of the National Highway System Designation Act of 1995, as amended, 23 U.S.C. 181 note, or
- c. Federal guidance pertaining to the SIB Program,
- d. The Cooperative Agreement establishing the State's SIB Program, or
- e. The FTA Grant Agreement,

4. As required by 49 U.S.C. 5323(o), Federal transit laws, specifically 49 U.S.C. 5307 and 49 U.S.C. 5309, apply to any project under 49 U.S.C. chapter 53 that receives SIB support or financing under 23 U.S.C. 610 (or any support from 23 U.S.C. 601 – 608.). Therefore:

a. To comply with 49 U.S.C. 5307, specifically 49 U.S.C. 5307(d)(1), the Applicant certifies that:

- (1) As required by 49 U.S.C. 5307(d)(1)(A), it has or will have the:
 - (a) Legal capacity to carry out its proposed projects,
 - (b) Financial capacity to carry out its proposed projects,
 - (c) Technical capacity to carry out its proposed projects,
 - (d) Safety aspects of its proposed projects, and
 - (e) Security aspects of its proposed projects,
- (2) As required by 49 U.S.C. 5307(d)(1)(B), it has or will have satisfactory continuing control over the use of project equipment and facilities,
- (3) As required by 49 U.S.C. 5307(d)(1)(C), it will maintain the project equipment and facilities adequately,
- (4) As required by 49 U.S.C. 5307(d)(1)(D), it will ensure that the following individuals will be charged not more than fifty (50) percent of the peak hour fare for transportation during non-peak hours using or involving project facilities or equipment supported under 23 U.S.C. chapter 6:
 - (a) Elderly individuals,
 - (b) Individuals with disabilities, or
 - (c) Individuals presenting a Medicare card issued to himself or herself pursuant to title II or title XVIII of the Social Security Act (42 U.S.C. 401 *et seq.* or 42 U.S.C. 1395 *et seq.*),
- (5) As required by 49 U.S.C. 5307(d)(1)(E), when carrying out a procurement supported by the SIB program, 23 U.S.C. 610, it will:
 - (a) Use competitive procurement (as defined or approved by FTA),
 - (b) Not use exclusionary or discriminatory specifications in its procurements,
 - (c) Comply with applicable Buy America laws, and
 - (d) Comply with the general provisions for FTA programs of 49 U.S.C. 5323, and
 - (e) Comply with the third party procurement requirements of 49 U.S.C. 5325,
- (6) As required by 49 U.S.C. 5307(d)(1)(F), it has complied with or will comply 49 U.S.C. 5307(c) because it:
 - (a) Has informed or will inform the public of the amounts of its SIB funding under 23 U.S.C. 610, and the projects it proposes to undertake,
 - (b) Has developed or will develop, in consultation with interested parties including private transportation providers, the projects proposed to be funded,
 - (c) Has published or will publish a list of its projects in a way that affected citizens,

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- private transportation providers, and local elected officials will have an opportunity to examine and submit comments on the proposed projects and its performance,
- (d) Has provided or will provide an opportunity for a public hearing to obtain the views of citizens on the proposed projects,
 - (e) Has assured or will assure that the proposed projects provide for coordination of transportation services assisted under 49 U.S.C. 5336 with federally assisted transportation services supported by a Federal government source other than U.S. DOT,
 - (f) Has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final list of projects, and
 - (g) Has made or will make the final list of projects available to the public,
- (7) As required by 49 U.S.C. 5307(d)(1)(G), it:
- (a) Has or will have the amount of funds required for the local share,
 - (b) Will provide the local share funds from approved non-Federal sources except as permitted by Federal law, and
 - (c) Will provide the local share funds when needed,
- (8) As required by 49 U.S.C. 5307(d)(1)(H), the Applicant will comply with:
- (a) The requirements of 49 U.S.C. 5301(a) for public transportation systems that:
 - 1 Maximize the safe, secure, and efficient mobility of people,
 - 2 Minimize environmental impacts, and
 - 3 Minimize transportation-related fuel consumption and reliance on foreign oil,
 - (b) The requirements of 49 U.S.C. 5301(d) for special efforts to:
 - 1 Design public transportation for elderly individuals and individuals with disabilities, and
 - 2 Provide public transportation for elderly individuals and individuals with disabilities, and
 - (c) The requirements of 49 U.S.C. 5303 – 5306 for:
 - 1 Metropolitan and State Planning, and
 - 2 Private enterprise participation,
- (9) As required by 49 U.S.C. 5307(d)(1)(I), it has a locally developed process to solicit and consider public comment before:
- (a) Raising a fare, or
 - (b) Implementing a major reduction of public transportation,
- (10) As required by 49 U.S.C. 5307(d)(1)(J), if it will be using 49 U.S.C. 5307 funds and it serves an urbanized area with a population of at least 200,000:
- (a) Each fiscal year, it will spend at least one (1) percent of its 49 U.S.C. 5307 funding for public transportation security projects, or
 - (b) That fiscal year, it will certify that such expenses for transportation security projects are not necessary,
 - (c) Public transportation security projects include:
 - 1 Increased lighting in or adjacent to a public transportation system (including bus stops, subway stations, parking lots, and garages),
 - 2 Increased camera surveillance of an area in or adjacent to that system,
 - 3 Emergency telephone line or lines to contact law enforcement or security personnel in an area in or adjacent to that system, and
 - 4 Any other project intended to increase the security and safety of an existing or planned public transportation project, and

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(11) As required by 49 U.S.C. 5307(d)(1)(K), if it will be using 49 U.S.C. 5307 funds and it serves an urbanized area with a population of at least 200,000:

(a) Each fiscal year, it or all the Recipients of 49 U.S.C. 5307 funding in its urbanized area will spend at least one (1) percent of that funding for transit enhancements, as defined in 49 U.S.C. 5302(a),

(b) It will include in its quarterly report for the fourth quarter of the preceding Federal fiscal year a list of the projects during that Federal fiscal year using those 49 U.S.C. 5307 funds, and

(c) The report of its transit enhancement projects is or will be incorporated by reference and made part of its certifications and assurances.

b. To comply with 49 U.S.C. 5309, specifically 49 U.S.C. 5309(g)(2)(B)(iii), 5309(g)(3)(B)(iii), and 5309(i)(2)(C), the Applicant certifies that it will not seek reimbursement for interest and other financing costs incurred in connection with the Project unless:

(1) It is eligible to receive Federal funding for those expenses, and

(2) Its records demonstrate that it has used reasonable diligence in seeking the most favorable financing terms underlying those costs, to the extent FTA may require.

3. Federal guidance that may be issued and amendments thereto, unless FTA has provided written approval of an alternative procedure or course of action.

**FEDERAL FISCAL YEAR 2012 CERTIFICATIONS AND ASSURANCES
ADMINISTRATION FOR FEDERAL TRANSIT ASSISTANCE PROGRAMS**

The Applicant agrees to comply with applicable provisions of Categories 01 – 24.

Category	Description
01.	Assurances Required For Each Applicant.
02.	Lobbying Certification.
03.	Procurement Compliance.
04.	Protections for Private Providers of Public Transportation.
05.	Public Hearing.
06.	Acquisition of Rolling Stock for Use in Revenue Service.
07.	Acquisition of Capital Assets by Lease.
08.	Bus Testing.
09.	Charter Service Agreement.
10.	School Transportation Agreement.
11.	Demand Responsive Service.
12.	Alcohol Misuse and Prohibited Drug Use.
13.	Interest and Other Financing Costs.
14.	Intelligent Transportation Systems.
15.	Urbanized Area Formula Program.
16.	Clean Fuels Grant Program.
17.	Elderly Individuals and Individuals with Disabilities Formula Program and Pilot Program.
18.	Nonurbanized Area Formula Program for States.
19.	Job Access and Reverse Commute (JARC) Program.
20.	New Freedom Program.
21.	Paul S. Sarbanes Transit in Parks Program.
22.	Tribal Transit Program.
23.	TIFIA Projects.
24.	Deposits of Federal Financial Assistance to a State Infrastructure Banks.

**FEDERAL FISCAL YEAR 2012 FTA
CERTIFICATIONS AND ASSURANCES SIGNATURE PAGE**

(Required of all Applicants for FTA assistance and all FTA Grantees with an active capital or formula project)

AFFIRMATION OF APPLICANT

Name of Applicant: Hays County, Texas

Name and Relationship of Authorized Representative: Bert Cobb, M.D., County Judge
BY SIGNING BELOW, on behalf of the Applicant, I declare that the Applicant has duly authorized me to make these certifications and assurances and bind the Applicant's compliance. **Thus, the Applicant agrees to comply with all Federal statutes, regulations, executive orders, and directives, and with the certifications and assurances as indicated on the foregoing page applicable to each application it makes to the Federal Transit Administration (FTA) in Federal Fiscal Year 2012.**

FTA intends that the certifications and assurances the Applicant selects on the other side of this document, as representative of the certifications and assurances in this document, should apply, as provided, to each project for which the Applicant seeks now, or may later, seek FTA assistance during Federal Fiscal Year 2012.

The Applicant affirms the truthfulness and accuracy of the certifications and assurances it has made in the statements submitted herein with this document and any other submission made to FTA, and acknowledges that the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. 3801 *et seq.*, and implementing U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR part 31 apply to any certification, assurance or submission made to FTA. The criminal fraud provisions of 18 U.S.C. 1001 apply to any certification, assurance, or submission made in connection with a Federal public transportation program authorized in 49 U.S.C. chapter 53 or any other statute

In signing this document, I declare under penalties of perjury that the foregoing certifications and assurances, and any other statements made by me on behalf of the Applicant are true and correct.

Signature _____ Date: _____

Name Bert Cobb, M.D., Hays County Judge
Authorized Representative of Applicant

**AFFIRMATION OF APPLICANT'S ATTORNEY
(Attorney's Signature is Optional)**

For (Name of Applicant): _____

As the undersigned Attorney for the above named Applicant, I hereby affirm to the Applicant that it has authority under State, local, or tribal government law, as applicable, to make and comply with the certifications and assurances as indicated on the foregoing pages. I further affirm that, in my opinion, the certifications and assurances have been legally made and constitute legal and binding obligations on the Applicant.

I further affirm to the Applicant that, to the best of my knowledge, there is no legislation or litigation pending or imminent that might adversely affect the validity of these certifications and assurances, or of the performance of the project.

Signature _____ Date: _____

Name _____
Attorney for Applicant

Each Applicant for FTA financial assistance and each FTA Grantee with an active capital or formula project must provide an Affirmation of Applicant's Attorney pertaining to the Applicant's legal capacity. The Applicant may enter its signature in lieu of the Attorney's signature, provided the Applicant has on file this Affirmation, signed by the attorney and dated this Federal fiscal year.

B. LOBBYING CERTIFICATION REQUIRED FOR EACH APPLICATION EXCEEDING \$100,000

(TxDOT requires this form to be completed by all Applicants)

An Applicant that submits, or intends to submit this fiscal year, an application for Federal assistance exceeding \$100,000 **from all Federal sources** must provide the following certification. FTA may not provide Federal assistance for an application exceeding \$100,000 until the Applicant provides this certification by selecting Category II on the Signature Page.

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

- A. As required by U.S. DOT regulations, "New Restrictions on Lobbying," at 49 CFR 20.110, the Applicant's authorized representative certifies to the best of his or her knowledge and belief that for each application for a Federal assistance exceeding \$100,000:
- (1) No federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement; and
 - (2) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Lobbying Certification", in accordance with its instructions; and
 - (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclosure accordingly.
- B. The Applicant understands that this certification is a material representation of fact upon which reliance is placed and that submission of this certification is a prerequisite for providing Federal assistance for a transaction covered by 31 U.S.C. 13 52. The Applicant also understands that any person who fails to file a 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.

Bert Cobb, M.D.
Legal Name of Applicant

Signature of Certifying Official

Title County Judge

Date: _____

Approved by OMB
0348-0046

LOBBYING CERTIFICATION

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure)

1. Type of Federal Action: <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance		2. Status of Federal Action: <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post award		3. Report Type: <input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change For Material Change Only: year _____ quarter _____ date of last report _____	
4. Name and Address of Reporting Entity: Name: _____ Address: _____ <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier, if known: _____ Congressional District, if known: _____			5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: Congressional District, if known: _____		
6. Federal Department/Agency: _____			7. Federal Program Name/Description: CFDA Number, if applicable: _____		
8. Federal Action Number, If known: _____			9. Award Amount, if known: _____		
10.a. Name and Address of Lobbying Registrant: <i>(if individual, Last Name, First Name, MI):</i> (attach Continuation Sheet(s) SF-LLL-A, if necessary)			10.b. Individual Performing Services <i>(including address if different from No. 10.a.)</i> <i>(Last Name, First Name, MI):</i>		
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annual and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.			Signature: _____ Print Name: _____ Title: _____ Telephone: _____ Date: _____		
FEDERAL USE ONLY:					Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)

INSTRUCTIONS FOR COMPLETION OF SF-LLL, LOBBYING CERTIFICATION

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make a payment to any lobbying entity 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 a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action. (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form; print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

C. DEBARMENT AND SUSPENSION (NONPROCUREMENT)

(TxDOT requires this form to be completed by all Applicants)

Applicability to Contracts

2 CFR Part 180 and Part 1200, prohibits FTA recipients and sub-recipients from contracting for goods and services from organizations that have been suspended or debarred from receiving Federally-assisted contracts. As part of their applications each year, recipients are required to submit a certification to the effect that they will not enter into contracts \$25,000 and over with suspended or debarred contractors and that they will require their contractors (and their subcontractors) to make the same certification to them.

- (1) The Subrecipient certifies to the best of its knowledge and belief, that it and its principals, including its first tier subrecipients:
 - (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded or disqualified from covered transactions by any Federal department or agency;
 - (b) Have not within a three-year period preceding its latest application or proposal been convicted of or had a civil judgment rendered against any of 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 any Federal or State antitrust statute; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making any false statement, or receiving stolen property;
 - (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local);
 - (d) Have not within a three-year period preceding this certification had one or more public transactions (Federal, State, or local) terminated for cause or default.
- (2) The Subrecipient certifies that it and its principals, including its first tier subrecipients will assure that each lower tier participant involved in the Project is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded or disqualified from participation in this transaction by any Federal department or agency;
- (3) The Subrecipient certifies that if, later, it or its principals, including any of its first tier subrecipients, become aware of any information contradicting the statements of subparagraphs (1)(2), it will promptly provide any necessary information to FTA;
- (4) Where the Subrecipient is unable to certify to any of the statements in this certification, such Subrecipient shall attach an explanation to this certification.

Signature of Certifying Official

Hays County Judge
Title

Date

D. LOWER TIER PARTICIPANT DEBARMENT CERTIFICATION

(TxDOT requires this form to be completed by all Applicants)

Pursuant to 2 CFR Part 180 and Part 1200, Subrecipients are required to pass this requirement on to subcontractors seeking subcontracts \$25,000 or over. Thus, the terms "lower tier covered participant" and "lower tier covered transaction" include both contractors and subcontractors and contracts and subcontracts.

Bert Cobb, M.D., Hays County Judge
_____, being duly sworn or under penalty of perjury
(insert name of certifying official)

under the laws of the United States, certifies that neither

Hays County, Texas, nor its principals are presently:
(insert name of lower tier participant)

- debarred, suspended, proposed for debarment,
- declared ineligible,
- or voluntarily excluded from participation in this transaction by any Federal department or agency

Where the above identified lower tier participant is unable to certify to any of the above statements in this certification, such prospective participant shall indicate below to whom the exception applies, the initiating agency, and dates of action.

Exceptions will not necessarily result in denial of award, but will be considered in determining contractor responsibility. Providing false information may result in criminal prosecution or administrative sanctions.

EXCEPTIONS:

Signature of Certifying Official

Title: Hays County Judge -

Date: _____

E. U.S. DEPARTMENT OF LABOR SPECIAL SECTION 5333(B) CERTIFICATION

(TxDOT requires this form to be completed by ALL §5311 and JARC Subrecipients)

The following language shall be made part of the contract of assistance with the State or other public body charged with allocation and administration of funds provided under 49 U.S.C. Section 5311:

A. General Application

The Public Body agrees that, in the absence of waiver by the Department of Labor, the terms and conditions of this warranty, as set forth below, shall apply for the protection of the transportation related employees of any employer providing transportation services assisted by the Project ("Recipient"), and the transportation related employees of any other surface public transportation providers in the transportation service area of the Project.

The Public Body shall provide to the Department of Labor and maintain at all times during the Project an accurate, up-to-date listing of all existing transportation providers which are eligible Recipients of transportation assistance funded by the Project, in the transportation service area of the Project, and any labor organizations representing the employees of such providers.

Certification by the Public Body to the Department of Labor that the designated Recipients have indicated in writing acceptance of the terms and conditions of the warranty arrangement will be sufficient to permit the flow of Section 5311 funding in the absence of a finding of non-compliance by the Department of Labor.

B. Standard Terms and Conditions

- (1) The Project shall be carried out in such a manner and upon such terms and conditions as will not adversely affect employees of the Recipient and of any other surface public transportation provider in the transportation service area of the Project. It shall be an obligation of the Recipient and any other legally responsible party designated by the Public Body to assure that any and all transportation services assisted by the Project are contracted for and operated in such a manner that they do not impair the rights and interests of affected employees. The term "Project," as used herein, shall not be limited to the particular facility, service or operation assisted by Federal funds, but shall include any changes, whether organizational, or otherwise, which are a result of the assistance provided. The phrase "as a result of the Project," shall when used in this arrangement, include events related to the Project occurring in anticipation of, during, and subsequent to the Project and any program of efficiencies or economies related thereto; provided, however, that volume rises and falls of business, or changes in volume and character of employment brought about by causes other than the Project (including any economies or efficiencies unrelated to the Project) are not within the purview of this arrangement.

An employee covered by this arrangement, who is not dismissed, displaced or otherwise worsened in his position with regard to his employment as a result of the Project, but who is dismissed, displaced or otherwise worsened solely because of the total or partial termination of the Project, discontinuance of Project services, or exhaustion of Project funding shall not be deemed eligible for a dismissal or displacement allowance within the meaning of paragraphs (6) and (7) of the Model agreement or applicable provisions of substitute comparable arrangements.

- (2)(a) Where employees of a Recipient are represented for collective bargaining purposes, all Project services provided by that Recipient shall be provided under and in accordance with any collective bargaining agreement applicable to such employees which is then in effect.
- (2)(b) The Recipient or legally responsible party shall provide to all affected employees sixty (60) days' notice of intended actions which may result in displacements or dismissals or rearrangements of the working forces. In the case of employees represented by a union, such notice shall be provided by certified mail through their representatives. The notice shall contain a full and adequate statement of the proposed changes, and an estimate of the number of employees affected by the intended changes, and the number and classifications of any jobs in the Recipient's employment available to be filled by such affected employees.

- (2)(c) The procedures of this subparagraph shall apply to cases where notices involve employees represented by a union for collective bargaining purposes. At the request of either the Recipient or the representatives of such employees negotiations for the purposes of reaching agreement with respect to the applications of the terms and conditions of this arrangement shall commence immediately. If no agreement is reached within twenty (20) days from the commencement of negotiations, any party to the dispute may submit the matter to dispute settlement procedures in accordance with paragraph (4) of this warranty. The foregoing procedures shall be complied with and carried out prior to the institution of the intended action.
- (3) For the purpose of providing the statutory required protections including those specifically mandated by 49 U.S.C. Section 5333(b)¹, the public Body will assure as a condition of the release of funds that the Recipient agrees to be bound by the terms and conditions of the National (Model) Section 5333(b) Agreement executed July 23, 1975, identified below², provided that other comparable arrangements may be substituted therefore, if approved by the Secretary of Labor and certified for inclusion in these conditions.
- (4) Any dispute or controversy arising regarding the application, interpretation, or enforcement of any of the provisions of this arrangement which cannot be settled by and between the parties at interest within thirty (30) days after the dispute or controversy first arises, may be referred by any such party to any final and binding disputes settlement procedure acceptable to the parties, or in the event they cannot agree upon such procedure, to the Department of Labor or an impartial third party designated by the Department of Labor for final and binding determination. The compensation and expenses of the impartial third party, and any other jointly incurred expenses, shall be borne equally by the parties to the proceeding and all other expenses shall be paid by the party incurring them.
- In the event of any dispute as to whether or not a particular employee was affected by the Project, it shall be his obligation to identify the Project and specify the pertinent facts of the Project relied upon. It shall then be the burden of either the Recipient or other party legally responsible for the application of these conditions to prove that factors other than the Project affected the employees. The claiming employee shall prevail if it is established that the Project had an effect upon the employee even if other factors may also have affected the employee.
- (5) The Recipient or other legally responsible party designated by the Public Body will be financially responsible for the application of these conditions and will make the necessary arrangements so that any employee covered by these arrangements, or the union representative of such employee, may file claim of violation of these arrangements with the Recipient within sixty (60) days of the date he is terminated or laid off as a result of the Project, or within eighteen (18) months of the date his position with respect to his employment is otherwise worsened as a result of the Project. In the latter case, if the events giving rise to the claim have occurred over an extended period, the 18-month limitation shall be measured from the last such event. No benefits shall be payable for any period prior to six (6) months from the date of the filing of any claim.
- (6) Nothing in this arrangement shall be construed as depriving any employee of any rights or benefits which such employee may have under existing employment or collective bargaining agreements, nor shall this arrangement be deemed a waiver of any rights or any union or of any represented employee derived from any other agreement or provision of federal, state or local law.
- (7) In the event any employee covered by these arrangements is terminated or laid off as a result of the Project, he shall be granted priority of employment or reemployment to fill any vacant position within the control of the Recipient for which he is, or by training or retraining within a reasonable period, can become qualified. In the event training or retraining is required by such employment or reemployment, the Recipient or other legally responsible party designated by the Public Body shall provide or provide for such training or retraining at no cost to the employee.
- (8) The Recipient will post, in a prominent and accessible place, a notice stating that the Recipient has received federal assistance under 49 U.S.C. Chapter 53 and has agreed to comply with the provisions of 49 U.S.C. Section 5333(b). This notice shall also specify the terms and conditions set

forth herein for the protection of employees. The Recipient shall maintain and keep on file all relevant books and records in sufficient detail as to provide the basic information necessary to the proper application, administration, and enforcement of these arrangements and to the proper determination of any claims arising thereunder.

- (9) Any labor organization which is the collective bargaining representative of employees covered by these arrangements, may become a party to these arrangements by serving written notice of its desire to do so upon the Recipient and the Department of Labor. In the event of any disagreement that such labor organization represents covered employees, or is otherwise eligible to become a party to these arrangements, as applied to the Project, the dispute as to whether such organization shall participate shall be determined by the Secretary of Labor.
- (10) In the event the Project is approved for assistance under 49 U.S.C. Chapter 53, the foregoing terms and conditions shall be made part of the contract of assistance between the federal government and the Public Body or Recipient of federal funds; provided, however, that this arrangement shall not merge into the contract of assistance, but shall be independently binding and enforceable by and upon the parties thereto, and by any covered employee or his representative, in accordance with its terms, nor shall any other employee protective agreement merge into this arrangement, but each shall be independently binding and enforceable by and upon the parties thereto, in accordance with its terms.

C. Waiver

As part of the grant approval process, either the Recipient or other legally responsible party designated by the Public Body may in writing seek from the Secretary of Labor a waiver of the statutory required protections. The Secretary will waive these protections in cases, where at the time of the requested waiver, the Secretary determines that there are no employees of the Recipient or of any other surface public transportation providers in the transportation service area who could be potentially affected by the Project. A 30-day notice of proposed waiver will be given by the Department of Labor and in the absence of timely objection, the waiver will become final at the end of the 30-day notice period. In the event of timely objection, the Department of Labor will review the matter and determine whether a waiver shall be granted. In the absence of waiver, these protections shall apply to the Project.

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- ¹ Such protective arrangements shall include, without being limited to, such provisions as may be necessary for (1) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective bargaining agreements or otherwise; (2) the continuation of collective bargaining rights; (3) the protection of individual employees against a worsening of their positions with respect to their employment; (4) assurances of employment to employees of acquired mass transportation systems and priority of reemployment of employees terminated or laid off; and (5) paid training and retraining programs. Such arrangements shall include provisions protecting individual employees against a worsening of their positions with respect to their employments which shall in no event provide benefits less than those established pursuant to 49 U.S.C. Section 11347 [the codified citation of Section 5(2)(f) of the Act of February 4, 1887 (24 Stat. 379), as amended].
 - ² For purposes of this warranty agreement, paragraphs (1); (2); (5); (15); (22); (23); (24); (26); (27); (28); and (29) of the Model Section 5333(b) Agreement, executed July 23, 1975 are to be omitted.



Department of Labor U.S.C. § 5333(b) Waiver Certification

Name of Agency : _____

1. **Who is the Grantee?** Subrecipient(s) of funds must be clearly identified.
2. **What is the amount of funding to be awarded?**
3. **What activities will be undertaken with the funds?** Provide a complete project description of the activities to be carried out under the project (i.e. what type of service will be provided).
4. **Where will the project be carried out?** Identify the location of the project in the geographic area, including jurisdictional boundaries such as counties or cities.
5. **What service provider will carry out the project?** If the applicant is not providing all of the service, identify subrecipients or contractors if known at the time of application.
6. **What other transit providers are in the service area?** Identify all transit providers who compete with, feed into, or provide service adjacent to the funded service or capital project. Please provide contact information.

Subcontractors:

Other Transit Providers:

7. **What labor organizations represent employees of the recipient, the subrecipients, and other transit providers in the service area?** Please identify the transit provider and the labor union's contact information.

- ☐ The attached information for the Department of Labor U.S.C. § 5333(b) Certification is true and correct. No additional changes are required.
- ☐ The attached information for the Department of Labor U.S.C. § 5333(b) Certification is incorrect. The correct information has been provided above. (Please provide the correct information under the appropriate section listed above.)

Authorized 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: Approve the reappointment of Randall Garst to the Hays County ESD #1 Board of Commissioners for an additional two year term, beginning January 1, 2012.

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

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

PREFERRED MEETING DATE REQUESTED: January 10, 2012

AMOUNT REQUIRED:

LINE ITEM NUMBER OF FUNDS REQUIRED:

REQUESTED BY: Commissioner Whisenant

SPONSORED BY: Commissioner Whisenant

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: Authorize Counsel to retain land surveying services associated with the Jacob's Well Natural Area project.

TYPE OF ITEM: CONSENT

PREFERRED MEETING DATE REQUESTED: January 10, 2012

AMOUNT REQUIRED: Not to Exceed \$25,000

LINE ITEM NUMBER OF FUNDS REQUIRED:

REQUESTED BY: CONLEY

SPONSORED BY: CONLEY

SUMMARY: Survey of the northern section, which was acquired via platted lots, would facilitate the ongoing Master Planning process.

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: Authorize the County Judge to submit an application to the Capital Area Council of Governments, FY2012 Homeland Security Grant Program (HSGP) for the Hays County Community Emergency Response Team (CERT) for funding in the amount of \$19,796.60.

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

PREFERRED MEETING DATE REQUESTED: January 10, 2012

AMOUNT REQUIRED: N/A

LINE ITEM NUMBER OF FUNDS REQUIRED:

REQUESTED BY: Turner/Hauff

SPONSORED BY: Cobb

SUMMARY:

The grant funds will be used for equipment, supplies and training for the Hays County Community Emergency Response Team (CERT). These funds will also support outreach, increased rehabilitation capabilities and safety compliance. Grant funds for the CERT program are requested annually. No match is required.



Capital Area Council of Governments Homeland Security Grant Program Project Worksheet—FY 2012

NOTE: This worksheet is saved and protected as a form; areas are navigated by tabbing from one text field to the next. To tab back to a previous field, press Shift + Tab. The boxes for text fields will expand if necessary as you type.

Applicant/Jurisdiction:	Hays County
Point of Contact:	Jeff Turner
Title:	Emergency Management Coordinator
Phone:	512-393-7300
Email:	Jeff.turner@co.hays.tx.us

1. Project Name *(Be concise, yet descriptive. Begin with the name of the jurisdiction/agency.)*

Hays County Citizen Corp 2012 Grant Project

2. Needs to be addressed by this project *(How does this project support preparedness to deal with acts of terrorism? If it supports preparedness to deal with other hazards, please explain.)*

Continuation and Expansion of Hays County CERT's response capabilities and responder membership.

3. Project Description *(How will the needs be met?)*

These grant funds will be utilized in the overall program of Hays Co. CERT. A van is continuing to be upgraded into a support vehicle which will be utilized in the performance of all phases of CERT activations. Portions of these funds will be for the continued development of this support vehicle project.

Portions of these funds will also be utilized in the continuation of programs which have been the backbone of the citizen corps. These funds will be used for community outreach, increased rehab capabilities and additional safety compliance.

4. New or Existing project? *(Select.)*

- ☐ New project
- ☒ Existing project (Describe how this is an enhancement, expansion, addition, etc. of an existing project in "Notes" field.)
- ☐ Emergency (Describe circumstances in "Notes" field.)

Notes

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5. Regional Impact *(Identify the investment strategies addressed by the project. How does this project enhance regional preparedness to deal with acts of terrorism? If it supports preparedness to deal with other hazards, please explain.)*

The Hays Co. CERT program will be available to assist region wide upon request. The capabilities which this

team can bring to any incident includes high level of rehab capabilities to initial first responders, a trained and experienced wildland search and rescue tem (K-9 and mounted), shelter management teams, and a well staffed and trained resource tracking unit.

6. Project Scalability (Explain whether this project is being done as a single component or in phases.)

☐ One-time project

☒ Phased project (Describe previous funding in "Notes" field.)

Notes:

This project is an ongoing project where items are obtained over the life of the performance period.

7. Project Sustainability (Explain your jurisdiction's plan for sustaining this project—maintenance, upgrades, calibration, etc.)

Continued operational budget from Hays County fund the day to day operations of the CERT team.

8. Budget (Include as much detail as possible):

The expenditure categories are Equipment, Planning, Organization, Training, and Exercises. These may be chosen from the drop-down list (the default is "Equipment.").

Management and Administration (M&A) Limits – a maximum of up to 3% of project funds requested may be retained and used solely for the management and administration purposes associated with the grant.

Item	AEL Code (if available)	Category (Select)	Quantity	Unit cost	Total (Calculated)
2000 watt Honda Generator	10GE-00-GENR	Equipment	1	1200.00	\$ 1200.00
10x10 Canopies/Tents	19SS-00-SHEL	Equipment	2	400.00	\$ 400.00
Lease Space to store equipment	19SS-00-SHEL	Equipment	1	600.00	\$ 600.00
Training/Exercises	21GN-00-TRNG	Training	1	1750.00	\$ 1750.00
Incident Support Trailer	12TR-00-TEQP	Equipment	1	7400.00	\$7400.00
Ice Machine	21GN-00-CCEQ	Equipment	1	1981.00	\$1981.00
Bulldog Twin Portable Light Tree	03OE-00-LTPA	Equipment	1	175.00	\$175.00
CERT Baseball Caps	21GN-00-CCEQ	Equipment	50	15.26	\$763.00
CERT Hard Hats	21GN-00-CCEQ	Equipment	75	18.50	\$1388.00
CERT SAR Long Sleeve T-Shirts	21GN-00-CCEQ	Equipment	25	12.52	\$313.00
Admin Supplies/Support	21GN-00-CCEQ	Equipment	1	750.00	\$750.00
HAM TV Transmitter/Camera	04MD-01-VCAM	Equipment	1	2500.00	\$2500.00
		Equipment			\$ 0.00
		Equipment			\$ 0.00
		Equipment			\$ 0.00
		Equipment			\$ 0.00
		Equipment			\$ 0.00
		Equipment			\$ 0.00
M&A (if applicable, not to exceed 3%)					\$576.60
Total (Right click \$ field. Select "Update Field.")					19796.60

9. Is this project part of a multi-jurisdiction project? (Check box if "Yes.") ☒

If "Yes," list the other participating jurisdictions.

Jurisdiction
All Jurisdictions in Hays County

10. Disciplines Involved in the Project (Please indicate the percentage of funds expected to be allocated in each discipline. Use all disciplines that apply):

Discipline	Percentage of Project \$
Agriculture	0.00%
Law Enforcement	0.00%
Emergency Medical Services - Non-Fire Based	0.00%
Emergency Medical Services - Fire Based	0.00%
Fire Service	0.00%
Hazardous Materials	0.00%
Public Works	0.00%
Public Safety Communications	0.00%
Health Care	0.00%
Emergency Management Agency	100.0%
Public Health	0.00%
Governmental Administrative	0.00%
Cyber Security	0.00%
Not for Profit/Non-Profit	0.00%
Regional Transit System	0.00%

11. Risk Assessment for this Project (Please use the following fields to assess the risk of terrorism to the area in which this project will be implemented—region, jurisdiction, area, facility, etc.):

Criteria	Rank
Threat: What is the likelihood of an attack occurring? (Unlikely = 1; Very likely = 10)	5.00
Vulnerability: What is the relative exposure to an attack? (Little or no exposure = 1, Very vulnerable = 10)	5.00
Consequence: What is the expected impact of an attack? (No significant effects = 1, Major effects = 10)	8.00
Total Risk (Right click bottom field in "Rank" column. Select "Update Field.")	18.00

12. Signature of Authorizing Chief Official

This signature certifies that the requestor understands the requirements, procedures, and deliverables, coinciding with this request for funding and has the authority to represent the governing body of this organization.

_____ Authorizing Chief Official	_____ January 10, 2012 Date
_____ Judge Bert Cobb, M.D. Printed Name	_____ County Judge Title

Signature of Project Manager

The following person is authorized to receive direction, manage work performed, complete and sign required reports, and otherwise act on behalf of the jurisdiction for this project.

_____ Project Manager	_____ January 10, 2012 Date
_____ Jeff Turner Printed Name	_____ Emergency Management Coordinator Title

13. Check box if letters of support are attached. ☐

Instructions

Capital Area Council of Governments Grant Project Worksheet—FY 2012

Applicant organization/jurisdiction and Point of Contact

Enter the name of the applicant. Enter name of the Point of Contact, or person completing the worksheet, and appropriate contact information.

1. Project Name

Please provide a unique name that will easily identify the project. Begin the name with your jurisdiction's name.

2. Needs to be addressed by this project

Explain the benefit(s) to be gained by this project. Be concise but comprehensive. This should justify the expenditure of funds.

3. Project Description

Describe the scope of this project. Include a description of what project funds will pay for—equipment, services, personnel, etc.. Relate project activities to the identified needs—outline the expected achievements or mitigation if implemented, and/or potential negative impacts that will occur if the project is not implemented. For Citizen Corps, strike teams, etc., please indicate the number of members.

4. New or Existing Project and Notes

Please identify whether this is a new or existing project, and if the project is intended to address an emergency need. If new, a brief summary of the entire program should be provided in the Notes field. Why and how the project is an emergency should also be explained in the Notes field, if applicable.

5. Regional Impact

Describe the benefit to the region as a result of this project. Does it facilitate regional response, interoperable communications, enhance mutual aid capabilities, bring jurisdictions to similar equipment standards, etc.?

6. Project Scalability and Notes

Please identify whether this is a one-time project, or may be part of a phased project. If applicable, a brief summary of other phases of the project should be provided in the Notes field.

7. Project Sustainability and Notes

Explain how your jurisdiction will ensure that this project continues to provide value after the initial expenditure of funds. This includes maintenance, upgrades, calibration of equipment, training, etc.

8. Budget

Enter proposed budget info to the extent that it is available. Be conservative in your estimates but do not overstate anticipated costs. Select the expenditure category from the drop-down list (The default is "Equipment."). The totals for each line and for the project are calculated. When all costs are entered, right-click on the \$ field (bottom right) and select "Update Field" to calculate the totals.

9. Multi-jurisdiction Project

Check the box if this project is part of a multi-jurisdiction project and list the other participating jurisdictions in the space provided. Each of the participating jurisdictions must complete a separate project worksheet if they are to receive funding.

10. Disciplines Involved in the Project

Allocate the total budget across any and all disciplines that will be involved in the project, i.e., law enforcement, EMS, general government, etc.

11. Risk Assessment for this Project

The state is requiring that projects be prioritized based upon terrorism-related risk. CAPCOG has determined that this prioritization will be applied at the jurisdiction level, not across the region as a whole. For the purpose of this assessment, the three criteria identified in federal and state guidance documents will be used. For each of the criteria, enter the value that best reflects the degree to which the proposed project will mitigate the effects of terrorism. Please remember that this scoring is based upon the area within which the proposed project will be implemented. If this project is strictly limited to a particular jurisdiction or facility, base your answers on that jurisdiction/facility. If the project will be regional in its scope, use the entire region as the basis for your assessment.

When all criteria have been scored, right click on the "Total" field (bottom right) and select "Update Field" to calculate the totals. This figure should be compared to the other projects being submitted by your jurisdiction to arrive at the prioritization of your jurisdiction's projects. As part of the process for developing a prioritized list of projects for the region, it may be compared to the score for other projects.

12. Signatures

Signature of the authorizing chief official is required before the project is submitted to CAPCOG. This can be the county judge, mayor, city manager, chief executive officer or someone authorized to do so by one of the above. The project manager and the contact for the project worksheet may be the same individual.

13. Letters of Support

Letters from organizations supporting the project may be attached to this form. Letters must be no more than two (2) pages in length and clearly identify the organization that is supporting the project.

Note: The State Administrative Agency is expected to require additional information prior to approval of projects. This information will be requested only for those projects that have some expectation of being funded.

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: Authorize the County Judge to submit an application to the Capital Area Council of Governments (CAPCOG), FY2012 Homeland Security Grant Program (HSGP) for the Hays County Regional Inter-Operable Communications Project for funding in the amount of \$347,264.50.

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

PREFERRED MEETING DATE REQUESTED: January 10, 2012

AMOUNT REQUIRED: N/A

LINE ITEM NUMBER OF FUNDS REQUIRED:

REQUESTED BY: Turner/Hauff

SPONSORED BY: Cobb

The grant funds will be used for the Inter Subsystem Interface (ISSI) interoperable communication equipment. This interoperable communication project will enhance communications throughout the CAPCOG region. Hays County Responders will have the ability to communicate seamlessly to all ten counties in the CAPCOG region and also other jurisdictions outside the CAPCOG region. No match required.



Capital Area Council of Governments Homeland Security Grant Program Project Worksheet—FY 2012

NOTE: This worksheet is saved and protected as a form; areas are navigated by tabbing from one text field to the next. To tab back to a previous field, press Shift + Tab. The boxes for text fields will expand if necessary as you type.

<u>Applicant/Jurisdiction:</u>	Hays County		
<u>Point of Contact:</u>	Jeff Turner		
<u>Title:</u>	Emergency Management Coordinator		
<u>Phone:</u>	512-393-7300		
<u>Email:</u>	jeff.turner@co.hays.tx.us		

1. Project Name *(Be concise, yet descriptive. Begin with the name of the jurisdiction/agency.)*

Hays County (Regional) Inter-Operable Communications Project – ISSI Equipment

2. Needs to be addressed by this project *(How does this project support preparedness to deal with acts of terrorism? If it supports preparedness to deal with other hazards, please explain.)*

This interoperable communications project will enhance communications throughout the Capitol Area Council of Governments region by allowing a non-proprietary interface that enables RF subsystems (RFSSs) built by different manufacturers to be connected together into wide-area networks. The wide-area network connections using Inter RF Subsystem Interface (ISSI) provide an extended coverage area for subscriber units (SUs) that are roaming. The extended coverage area is important for public safety first responders that provide assistance in other jurisdictions during an emergency response – whether natural or man-made.

3. Project Description *(How will the needs be met?)*

Installation of the Inter Subsystem Interface (ISSI) system.

4. New or Existing project? *(Select.)*

- ☒ New project
- ☐ Existing project (Describe how this is an enhancement, expansion, addition, etc. of an existing project in "Notes" field.)
- ☐ Emergency (Describe circumstances in "Notes" field.)

Notes

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5. **Regional Impact** (Identify the investment strategies addressed by the project. How does this project enhance regional preparedness **to deal with acts of terrorism**? If it supports preparedness to deal with other hazards, please explain.)?)

With the installation of the Inter Subsystem Interface (ISSI) system, Hays County responders will have the ability to communicate seamlessly to all ten counties in the CapCOG region. This interface will bridge the Lower Colorado River Authority (LCRA) 900/700 MHz system to the GATRRS 800 MHz system. The added benefit will be the ability to communicate with other jurisdictions outside the CAPCOG region as well. As required by the CapCOG RIC-P (Regional Interoperability Communications Plan) the ISSI System will enable Hays County to be P-25 compliant without the huge financial cost or financial burden to other County governments as with other systems. Interoperability will be achieved within the CapCOG region, as well as other regions in the State of Texas. With the ISSI System, Hays County will be able to leverage new technologies and capitalize on enhanced regional interoperability, and have the ability to partner with other surrounding and regional counties, as well as the City of Austin to be able to receive additional federal grant funds to upgrade digital P25 radio infrastructure. Hays County will then be able to link into the Austin (GATRR) system without a cumbersome system of patches. With the installation of the ISSI System, Hays County will meet P25 standards-based regional radio system. This system will meet, or exceed, interoperability levels established by the US Department of Homeland Security and the State of Texas.

☐ Phased project (Describe previous funding in "Notes" field.)[illegible]

Hays County thought its agreement with the LCRA, will allow the LCRA to sustain the operations and maintenance of this system by allowing them to maintain and upgrade as needed.

Management and Administration (M&A) Limits – a maximum of up to 3% of project funds requested may be retained and used solely for the management and administration purposes associated with the grant.

Total (Right click \$ field. Select "Update Field.")

\$347264.50

9. Is this project part of a multi-jurisdiction project? (Check box if "Yes.") ☒

If "Yes," list the other participating jurisdictions.

Jurisdiction
Fayette County
All GATRRS Participants throughout the CAPCOG Region
Lower Colorado River Authority (LCRA)

10. Disciplines Involved in the Project (Please indicate the percentage of funds expected to be allocated in each discipline. Use all disciplines that apply):

Discipline	Percentage of Project \$
Agriculture	0.00%
Law Enforcement	0.00%
Emergency Medical Services - Non-Fire Based	0.00%
Emergency Medical Services - Fire Based	0.00%
Fire Service	0.00%
Hazardous Materials	0.00%
Public Works	0.00%
Public Safety Communications	100.00%
Health Care	0.00%
Emergency Management Agency	0.00%
Public Health	0.00%
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Cyber Security	0.00%
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Regional Transit System	0.00%

11. Risk Assessment for this Project (Please use the following fields to assess the risk of terrorism to the area in which this project will be implemented—region, jurisdiction, area, facility, etc.):

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Vulnerability: What is the relative exposure to an attack? (Little or no exposure = 1, Very vulnerable = 10)	10.00
Consequence: What is the expected impact of an attack? (No significant effects = 1, Major effects = 10)	10.00
Total Risk (Right click bottom field in "Rank" column. Select "Update Field.")	30.00

12. Signature of Authorizing Chief Official

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_____ Authorizing Chief Official	_____ January 10, 2012 Date
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Phone (512) 393-2205 Fax (512) 393-2282

AGENDA ITEM:

08-4-47 Constellation Subdivision (14 Lots). Consider variance from Hays County Road standards; discussion and possible action to approve final plat.

TYPE OF ITEM: ACTION

PREFERRED MEETING DATE REQUESTED: January 10, 2012

AMOUNT REQUIRED: N/A

LINE ITEM NUMBER OF FUNDS REQUIRED: N/A

REQUESTED BY: Clint Garza

SPONSORED BY: Commissioner Ray Whisenant

SUMMARY:

The Constellation Subdivision is a 14 Lot subdivision located off FM 150 in precinct 4. Preliminary plan was approved in 2008 and over the last few years, the developer has been working on the roadway and drainage improvements in lieu of submitting fiscal surety. The construction of the street and drainage improvements is now complete with the exception of the width of rock entrance. Hays County Rules require the entrance be at least 18 feet wide plus shoulders; however the distance is 18 feet. As this is not in compliance with Hays County regulations staff was informed the developer wishes to be granted a variance from these rules. Included in back-up is a copy of the conditions, covenants, and restrictions for the new lots. The language in the CC&R's prohibits the transfer of any portion of the roadway to Hays County without the road being brought up to Hays County regulations, at the expense of the developer or neighborhood association prior to transfer.

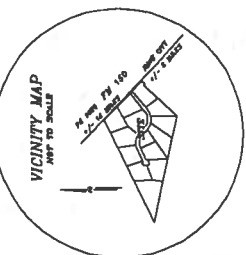
The developer's intent for the property was a sustainable community therefore each lot is plat and deed restricted from drilling individual wells for residential use. The proposed wastewater in the division will be served by individual on-site sewage facilities.

CONSTELLATION A SUBDIVISION IN HAYS COUNTY, TEXAS

SCALE 1" = 100'
AUGUST, 2001

LEGEND

- 1) RECORD INFORMATION
- 2) LOT AREA
- 3) LOT AREA IN FEET
- 4) LOT AREA IN ACRES
- 5) LOT AREA IN SQUARE FEET
- 6) LOT AREA IN SQUARE METERS
- 7) LOT AREA IN HECTARES
- 8) LOT AREA IN SQUARE KILOMETERS
- 9) LOT AREA IN SQUARE MILES
- 10) LOT AREA IN SQUARE YARDS
- 11) LOT AREA IN SQUARE FEET
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- 13) LOT AREA IN HECTARES
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- 99) LOT AREA IN SQUARE MILES
- 100) LOT AREA IN SQUARE YARDS



DATE: 08/01/01
BY: [Signature]

DATE: 08/01/01
BY: [Signature]

Lot	Bearing	Distance
L1	S 44°12'00" E	64.15'
L2	N 46°42'00" W	27.81'
L3	S 50°42'00" E	33.07'
L4	N 62°57'00" E	41.50'
L5	N 78°57'00" E	54.50'
L6	N 63°57'00" E	37.57'
L7	S 62°57'00" W	69.50'
L8	S 78°57'00" W	30.20'
L9	S 46°42'00" E	121.62'

TOTAL NO. LOTS	12
TOTAL AREA LOTS	20.21 ACRES
TOTAL AREA ROAD	1.90 ACRES
TOTAL COMMON AREA	3.75 ACRES
TOTAL AREA	25.86 ACRES
PROPOSED LAND USE	RESIDENTIAL
AVERAGE LOT AREA	1.68 ACRES
NO. LOTS BETWEEN 2 AC. AND 3 AC.	1
NO. LOTS LARGER THAN 3 AC. AND SMALLER THAN 10 AC.	0
ELECTRIC SERVICE	P. E. C.
TELEPHONE SERVICE	VERIZON
WATER SUPPLY	RAINWATER COLLECTION
WASTEWATER	CLASS 1 INDIVIDUAL ON-SITE SEWAGE FACILITIES

Curve	Radius (Feet)	Chord (Feet)	Angle (Degrees)	Area (Square Feet)
1	100.00	100.00	180.00	31415.93
2	200.00	200.00	180.00	125663.71
3	300.00	300.00	180.00	282743.34
4	400.00	400.00	180.00	502654.82
5	500.00	500.00	180.00	785398.16
6	600.00	600.00	180.00	1130973.36
7	700.00	700.00	180.00	1550390.40
8	800.00	800.00	180.00	2043648.30
9	900.00	900.00	180.00	2610747.06
10	1000.00	1000.00	180.00	3251687.78
11	1100.00	1100.00	180.00	3966470.46
12	1200.00	1200.00	180.00	4755095.10
13	1300.00	1300.00	180.00	5627561.70
14	1400.00	1400.00	180.00	6583870.26
15	1500.00	1500.00	180.00	7625020.78
16	1600.00	1600.00	180.00	8751023.26

- NOTES:
- 1) THESE LOTS ARE NOT LOCATED IN THE EXTRAJURISDICTION OF ANY MUNICIPALITY.
 - 2) ACCORDING TO THE NATIONAL FLOOD INSURANCE RATE MAP COMMUNITY PANEL NO. 4800000000, DATED SEP. 2, 2005, PORTIONS OF THIS TRACT ARE LOCATED IN ZONE A AND IS CONTAINED WITHIN THE BOUNDARIES OF THE DRAINAGE EASEMENT SHOWN HEREIN.
 - 3) THIS SUBDIVISION IS NOT WITHIN THE BOUNDARIES OF THE EDWARDS ADJUTER RECHARGE ZONE.
 - 4) THIS SUBDIVISION IS WITHIN THE BOUNDARIES OF THE CONTRIBUTING ZONE OF THE BARTON CREEK SEGMENT OF THE EDWARDS ADJUTER.
 - 5) THIS SUBDIVISION IS IN THE BOUNDARIES OF THE VIMBERLEY INDEPENDENT SCHOOL DISTRICT.
 - 6) ALL CHANGERS SHALL BE 10' MINIMUM DIAMETER.
 - 7) THE FOLLOWING PUBLIC UTILITY EASEMENTS ARE HEREBY GRANTED:
 - a) 10' ALONG ALL ROAD RIGHT-OF-WAYS, AND
 - b) 10' ALONG ALL OTHER LOT LINES.
 - 8) THE REQUIREMENT CONCERNING CONSTRUCTION STANDARDS FOR MAILBOXES INSTALLED WITHIN THE BOUNDARIES OF THIS TRACT SHALL BE THE SAME AS SET FORTH IN THE ORDINANCE, SHALL APPLY TO THIS SUBDIVISION, AS DEFINED IN THE ORDINANCE.
 - 9) WATER SERVICE FOR THESE LOTS WILL BE INDIVIDUAL RAINWATER COLLECTION SYSTEMS AND HAYS COUNTY SHALL HAVE NO OBLIGATION WHATSOEVER TO PROVIDE WATER TO THESE LOTS.
 - 10) ALL FUTURE OWNERS OF PROPERTY WITHIN THIS SUBDIVISION, BY PURCHASING SUCH PROPERTY, ACKNOWLEDGE AND AGREE THAT HAYS COUNTY SHALL HAVE NO OBLIGATION WHATSOEVER TO REPAIR OR ACCEPT MAINTENANCE OF THE ROADS SHOWN WITHIN THIS SUBDIVISION UNLESS THE COUNTY STANDARDS IN EFFECT AT THE TIME THE ROADS TO THE COUNTY STANDARDS IN EFFECT AT THE TIME.
 - 11) EROSION/SEDIMENTATION CONTROL IS REQUIRED FOR ALL CONSTRUCTION, INCLUDING SINGLE FAMILY LOTS.
 - 12) BENCHMARK INFORMATION IS BASED ON NOV. 1998 AND TIED TO BN "4800" LISTED ON TOWN PANEL 4800000000, DATED FEB. 25, 1998.

CONSTELLATION

A SUBDIVISION IN HAYS COUNTY, TEXAS

STATE OF TEXAS
COUNTY OF HAYS

KNOW ALL MEN BY THESE PRESENTS: WE, HECTOR BONILLA AND JENNIFER LEIDICH, OWNERS OF A RECORD 25.06 ACRE TRACT OF LAND, OUT OF THE JESUSA PEREZ SURVEY IN HAYS COUNTY, TEXAS, AS CONVEYED TO US BY DEED DATED JANUARY 23, 2008, AND RECORDED IN VOLUME 3319, PAGE 849, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS, SAVE AND EXCEPT THAT CERTAIN ONE-HALF (1/2) INTEREST CONVEYED TO LUIS EDUARDO TEJADO BARCENA, BY DEED DATED FEBRUARY 4, 2008 AND RECORDED IN VOLUME 3325, PAGE 504, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS, DO HEREBY SUBDIVIDE 25.06 ACRES OF LAND TO BE KNOWN AS "CONSTELLATION" IN ACCORDANCE WITH THE PLAT SHOWN HEREON, SUBJECT TO ANY AND ALL EASEMENTS AND RESTRICTIONS HERETOFORE GRANTED AND DO HEREBY DEDICATE TO THE OWNERS OF THE PROPERTY THE USE OF THE STREETS AND EASEMENTS SHOWN HEREON.

IN WITNESS WHEREOF: HECTOR BONILLA AND JENNIFER LEIDICH
HAS CAUSED THESE PRESENTS TO BE EXECUTED, AND THERE UNTO DULY AUTHORIZED THIS _____ DAY OF _____ A.D. 2011.

HECTOR BONILLA
OWNER

DATE

JENNIFER LEIDICH
OWNER

DATE

STATE OF TEXAS
COUNTY OF HAYS

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED
HECTOR BONILLA, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO
THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE
SAME FOR THE PURPOSES AND CONSIDERATION THEREIN STATED.

NOTARY PUBLIC IN AND FOR _____
COUNTY, TEXAS
COMMISSION EXPIRES _____
PRINT NAME _____

STATE OF TEXAS
COUNTY OF HAYS

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED
JENNIFER LEIDICH, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO
THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT SHE EXECUTED THE
SAME FOR THE PURPOSES AND CONSIDERATION THEREIN STATED.

NOTARY PUBLIC IN AND FOR _____
COUNTY, TEXAS
COMMISSION EXPIRES _____
PRINT NAME _____

STATE OF TEXAS
COUNTY OF HAYS

KNOW ALL MEN BY THESE PRESENTS: I, LUIS EDUARDO TEJADO BARCENA, OWNER OF ONE-HALF (1/2) INTEREST IN A RECORD 25.06 ACRE TRACT OF LAND, OUT OF THE JESUSA PEREZ SURVEY IN HAYS COUNTY, TEXAS, AS CONVEYED TO ME BY DEED DATED FEBRUARY 4, 2008, AND RECORDED IN VOLUME 3325, PAGE 504, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS, DO HEREBY SUBDIVIDE MY ONE-HALF (1/2) INTEREST IN 25.06 ACRES OF LAND TO BE KNOWN AS "CONSTELLATION" IN ACCORDANCE WITH THE PLAT SHOWN HEREON, SUBJECT TO ANY AND ALL EASEMENTS AND RESTRICTIONS HERETOFORE GRANTED AND DO HEREBY DEDICATE TO THE OWNERS OF THE PROPERTY THE USE OF THE STREETS AND EASEMENTS SHOWN HEREON.

IN WITNESS WHEREOF: LUIS EDUARDO TEJADO BARCENA
HAS CAUSED THESE PRESENTS TO BE EXECUTED, AND THERE UNTO DULY AUTHORIZED THIS _____ DAY OF _____ A.D. 2011.

LUIS EDUARDO TEJADO BARCENA
OWNER

DATE

STATE OF TEXAS
COUNTY OF HAYS

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED
LUIS EDUARDO TEJADO BARCENA, KNOWN TO ME TO BE THE PERSON WHOSE NAME
IS SUBSCRIBED TO THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT
HE EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATION THEREIN STATED.

NOTARY PUBLIC IN AND FOR _____
COUNTY, TEXAS
COMMISSION EXPIRES _____
PRINT NAME _____

HAYS COUNTY DEVELOPMENT NOTES:

RESIDENTIAL STRUCTURES IN THIS SUBDIVISION ARE RESTRICTED TO RAINWATER COLLECTION AS THE SOLE SOURCE OF WATER.

NO STRUCTURE IN THIS SUBDIVISION SHALL BE OCCUPIED UNTIL CONNECTED TO A PUBLIC SEWER SYSTEM OR TO AN IN-SITE WASTEWATER SYSTEM WHICH HAS BEEN APPROVED AND PERMITTED BY HAYS COUNTY DEVELOPMENT SERVICES.

NO CONSTRUCTION OR OTHER DEVELOPMENT WITHIN THIS SUBDIVISION MAY BEGIN UNTIL ALL HAYS COUNTY DEVELOPMENT PERMIT REQUIREMENTS HAVE BEEN MET.

JAMES (JOE) GARZA
HAYS COUNTY DEVELOPMENT SERVICES

DATE

JOHN POPE, P.E., C.F.M.
HAYS COUNTY DEVELOPMENT SERVICES
FLOODPLAIN ADMINISTRATION

DATE

STATE OF TEXAS
COUNTY OF HAYS

I, LIZ GONZALEZ, COUNTY CLERK OF HAYS COUNTY, TEXAS, DO HEREBY CERTIFY THAT ON
THE _____ DAY OF _____ A.D. 2011, THE COMMISSIONERS COURT OF HAYS COUNTY, TEXAS,
PASSED AN ORDER AUTHORIZING THE FILING FOR RECORD OF THIS PLAT, AND SAID ORDER HAS BEEN
ENTERED IN THE MINUTES OF SAID COURT IN BOOK _____, PAGE _____,
WITNESS MY HAND AND SEAL OF OFFICE, THIS THE _____ DAY OF _____ A.D. 2011.

ROBERT (BERT) COBB
COUNTY JUDGE
HAYS COUNTY, TEXAS

LIZ GONZALEZ
COUNTY CLERK
HAYS COUNTY, TEXAS

STATE OF TEXAS
COUNTY OF HAYS

I, LIZ GONZALEZ, COUNTY CLERK OF HAYS COUNTY, TEXAS, DO HEREBY CERTIFY THAT THE
FORGOING INSTRUMENT IN WRITING WITH ITS CERTIFICATE OF AUTHENTICATION WAS FILED FOR
RECORD IN MY OFFICE ON THE _____ DAY OF _____ A.D. 2011, AT _____ O'CLOCK
_____ M. IN THE PLAT RECORDS OF HAYS COUNTY, TEXAS, IN BOOK _____, PAGE(S) _____,
WITNESS MY HAND AND SEAL OF OFFICE, THIS THE _____ DAY OF _____ A.D. 2011.

LIZ GONZALEZ
COUNTY CLERK
HAYS COUNTY, TEXAS

DRIVEWAY NOTES

IN ORDER TO PROMOTE SAFE USE OF ROADWAYS AND PRESERVE THE CONDITIONS OF PUBLIC ROADWAYS, NO
DRIVEWAY CONSTRUCTED ON ANY LOT WITHIN THIS SUBDIVISION SHALL BE PERMITTED ACCESS INTO A
PUBLICLY DEDICATED ROADWAY UNLESS (a) A DRIVEWAY PERMIT HAS BEEN ISSUED BY THE FDOT
DEPARTMENT OF HAYS COUNTY AND (b) THE DRIVEWAY SATISFIES THE MINIMUM SPACING REQUIREMENTS FOR
DRIVEWAYS SET FORTH IN SECTIONS 7.4 AND 7.5 OF THE HAYS COUNTY SUBDIVISION REGULATIONS.

IN APPROVING THIS PLAT BY THE COMMISSIONERS COURT OF HAYS COUNTY, TEXAS, IT IS UNDERSTOOD
THAT THE BUILDING OF ALL STREETS, ROADS, AND OTHER PUBLIC THOROUGHFARES DELINEATED AND
SHOWN ON THIS PLAT, AND ALL BRIDGES AND CULVERTS NECESSARY TO BE CONSTRUCTED OR PLACED IN
SUCH STREETS, ROADS, OR PUBLIC THOROUGHFARES, OR IN CONNECTION THEREWITH SHALL BE THE
RESPONSIBILITY OF THE OWNER AND/OR DEVELOPER OF THIS TRACT OF LAND COVERED BY THIS PLAT
IN ACCORDANCE WITH THE PLANS AND SPECIFICATIONS PRESCRIBED BY THE COMMISSIONERS COURT OF
HAYS COUNTY, TEXAS AND THE COMMISSIONERS COURT OF HAYS COUNTY, TEXAS, ASSUMES NO OBLIGATION
TO BUILD STREETS, ROADS, OR OTHER PUBLIC THOROUGHFARES SHOWN ON THIS PLAT OR OF CONSTRUCTING
ANY BRIDGES OR CULVERTS IN CONNECTION THEREWITH.

CONSTRUCTION OF ROADWAY AND DRAINAGE IMPROVEMENTS MAY BEGIN ONCE THE HAYS COUNTY ROAD
DEPARTMENT HAS APPROVED CONSTRUCTION PLANS.

ENGINEER'S NOTE

I, THE UNDERSIGNED, A REGISTERED PROFESSIONAL ENGINEER IN THE STATE OF TEXAS,
HEREBY CERTIFY THAT THIS PLAT COMPLIES WITH THE ENGINEERING-RELATED
REQUIREMENTS OF THE SUBDIVISION AND DEVELOPMENT REGULATIONS OF HAYS COUNTY,
TEXAS, AS AMENDED, STORMWATER RESULTING FROM 100 YEAR STORM EVENT FOR AREAS
GREATER THAN 64 ACRES IS CONTAINED WITHIN THE DRAINAGE CASSETTE SHOWN HEREIN.

ERIN K. BANKS, P.E. NO. 84848
BANKS AND ASSOCIATES
620 CURRIE RANCH ROAD
VICKSBURG, TEXAS 77666
CROSS 847-0808

STATE OF TEXAS
COUNTY OF HAYS

KNOW ALL MEN BY THESE PRESENTS, THAT I, THE UNDERSIGNED, A
REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF TEXAS,
HEREBY CERTIFY THAT THIS PLAT COMPLIES WITH THE SURVEY RELATED
REQUIREMENTS OF THE HAYS COUNTY SUBDIVISION SPECIFICATIONS AND
FURTHER CERTIFY THAT THIS PLAT IS TRUE AND CORRECTLY MADE AND
IS PREPARED FROM AN ACTUAL SURVEY OF THE PROPERTY MADE UNDER
MY SUPERVISION ON THE GROUND AND THAT THE CORNER MONUMENTS WERE
PROPERLY PLACED UNDER MY SUPERVISION.

DANIEL B. (BOBBY) EDWARDS
REGISTERED PROFESSIONAL LAND SURVEYOR
STATE OF TEXAS NO. 5472
P.O. BOX 991
VICKSBURG, TEXAS 77666
512-847-3827

DATE

Banks & Associates

820 Currie Ranch Road
Wimberley, Texas 78676
(512) 801-9049
TBPE Firm F-2002

January 3, 2012

Jerry Borcharding, P.E.
Hays County Engineer
Transportation Department
San Marcos, Texas

RE: **Constellation Subdivision
Cosmos Lane
Hays County, Texas
Engineer's Concurrence Letter with Exceptions**

Dear Mr. Borcharding,
Cosmos Lane has been constructed in general accordance with the Roadway and Drainage Plans as approved by Hays County aside from the relocation of the western culvert to adjacent to the eastern culverts, construction of guardrail on the downstream side of the culverts and the lack of shoulders in the entrance. A variance is being requested by the developer for the width of the driveway entrance and lack of shoulder.

Please contact me if you have any questions or comments regarding this project at (512) 801-9049, or at erin.banks@vownet.net.

Sincerely,

Erin Banks

Erin Banks, P.E.
Principal



THE SEAL APPEARING
ON THIS DOCUMENT WAS
AUTHORIZED BY
ERIN K. BANKS,
PE 84248
1-3-12



OFFICE OF THE COUNTY ENGINEER
Jerry Borcharding, P.E.
P. O. Box 906 San Marcos, Texas 78667
(512) 393-7385 Fax (512) 393-7393

1/4/12

Honorable Bert Cobb, M.D.
111 E. San Antonio Street
San Marcos, Texas 78666

Subject: Constellation Subdivision

Dear Commissioners and Judge:

Constellation Subdivision is requesting that Hays County accept the construction of Cosmos Lane. Constellation Subdivision is a private subdivision and is not seeking inclusion in the county maintenance system. Erin Banks, P.E. has submitted a concurrence letter and as-built plans as required by Hays County. I have reviewed the file regarding this subdivision and have determined that all requirements have been met per Hays County specifications.

I recommend that Hays County accept the construction of Constellation Subdivision.

Respectfully,

A handwritten signature in cursive script, reading "Jerry H. Borcharding".

Jerry Borcharding, P.E.
Road Engineer Superintendent
Hays County Road & Bridge Department

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 sign a Data Sharing Agreement with the Texas Workforce Commission allowing interested Hays County Constables as law enforcement entities, Hays County Sheriff's Department and Office of the District Attorney to access information contained in Unemployment Insurance Records to aid them in serving outstanding warrants and citations.

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

PREFERRED MEETING DATE REQUESTED: January 10, 2012

AMOUNT REQUIRED: \$1,500/year + \$75.00 contract initiation fee.

LINE ITEM NUMBER OF FUNDS REQUIRED: Sheriff's Office Drug Forfeiture Fund – Criminal Investigations #053-618.00.5362

REQUESTED BY: Hays County Constables, Sheriff's Department, Office of the District Attorney

SPONSORED BY: Commissioner Whisenant, Pct. 4

SUMMARY: See attached information provided by Constables regarding need and cost.

DESCRIPTION OF Item: Discussion and possible action to authorize the County Judge to sign a Data Sharing Agreement with the Texas Workforce Commission allowing interested Hays County Constables as law enforcement entities, Hays County Sheriff's Department and Office of the District Attorney to access information contained in Unemployment Insurance Records to aid them in serving outstanding warrants and citations.

PREFERRED MEETING DATE REQUESTED: January 10, 2011

COUNTY AUDITOR

AMOUNT: \$1,500/year + \$75.00 contract initiation fee.

LINE ITEM NUMBER: Sheriff's Office Drug Forfeiture Fund – Criminal Investigations #053-618.00.5362

COUNTY PURCHASING GUIDELINES FOLLOWED: N/A

PAYMENT TERMS ACCEPTABLE: Yes

COMMENTS:

Bill Herzog

SPECIAL COUNSEL

CONTRACT TERMS ACCEPTABLE: _____

COMMENTS:

COUNTY JUDGE

Signature Required if Approved

DATE CONTRACT SIGNED: _____



CONSTABLE RON HOOD
Hays County, Precinct 4

195 Roger Hanks Parkway
Dripping Springs, TX 78620
www.co.hays.tx.us/Constable4

Office: (512) 858-7605
Fax: (512) 858-4799
Email: ron.hood@co.hays.tx.us



To: Hays County Commissioners

From: David Peterson, Constable Pct. 1
James Kohler, Constable, Pct. 2
Darrell Ayres, Constable, Pct. 3
Ron Hood, Constable Pct. 4
Matt Mancillas, Constable Pct. 5
Gary Cutler, Sheriff
Sherri Tibbe, District Attorney

Subj: Texas Workforce Commission

Date: December 14, 2011

As stated in previous Commissioner Court meetings, there are hundreds of outstanding warrants in the Constable and Sheriff's offices going uncollected due to the defendant's current locations being unknown. With the average fine for an outstanding warrant ranging between \$150.00 to well over \$1000.00, the estimated fine amounts for these warrants are in the hundreds of thousands of dollars. Fines due to the county, but are going uncollected.

The Texas Workforce Commission

The Texas Workforce Commission (TWC) is the state government agency charged with overseeing and providing workforce development services to employers and job seekers of Texas.

Typical information collected by the TWC consist of the: name of the employee, the employee's Social Security Number (SSN), the current name of the reporting employer, the current employer's address, and the reporting period for which the employment report covers (i.e. 1st quarter of the year, 2nd quarter of the year, etc.).

Access to Information Contained in Unemployment Insurance Records

The information maintained by the Texas Workforce Commission, as administrator of the unemployment insurance program, is confidential and not subject to public disclosure. There is an exception to this confidentiality requirement for public officials, who need this information for the administration or enforcement of a law.

The availability of the TWC records to the Hays County Constable's, Sheriff, and District Attorney Offices, would enhance our ability to locate individuals regarding the execution of these outstanding warrants, along with the service of other civil/criminal citations.

Costs/Rate Schedule for online access to wage records

<u>Number of Monthly Transactions</u>	<u>Monthly Charge</u>	<u>Yearly Cost</u>
1-10,000	\$125.00	\$1500.00
10,001-25,000	\$320.00	\$3840.00
25,001-50,000	\$630.00	\$7560.00
50,001-75,000	\$950.00	\$11,400.00
75,001-100,000	\$1250.00	\$15,000.00

A search for a single SSN may require two (2) or more transactions.

Note: There is a one-time \$75.00 contract initiation fee charged to all new contracts.

The cost for access to the TWC records database is minimal when you realize that it will pay for itself with the successful service of just one or two outstanding warrants.

On-line Access: *Data Sharing Agreements*

A Data Sharing Agreement between the TWC and the Agency Department Head(s) must be on file and approved by the TWC before access is granted.

As noted, the minimal cost for access to the TWC records is \$1500.00 per authorized agency. To minimize this cost, the TWC will authorize the Hays County Administrator (County Judge) to sign the "Data Sharing Agreement" with the TWC, for a total cost of \$1500.00 (plus the \$75.00 contract initiation fee). The County Administrator will then be allowed to assign, up to a maximum of ten (10) authorized individuals to have access to the TWC records.

For more information contact:

Margo Kaiser
Texas Workforce Commission
Open Records Unit
101 E. 15th Street Rm. 266
Austin, Texas 78778
gov.requests@twc.state.tx.us
512-936-0479 wk.
512 463-2990 fax

Information Required to Initiate or Renew a TWC Data Sharing Contract

THIS FORM IS NOT THE CONTRACT. INFORMATION YOU PROVIDE WILL BE USED TO PREPARE A CONTRACT.

For renewals only: Contract # _____ with _____ expires _____

1. Are you a governmental agency? Yes ☐ No ☐ (to mark a box, double-click on it, click
Checked under Default value, click OK)

2. Is TWC data needed for the administration or enforcement of a law(s)? Yes ☐ No ☐

3. Organization Name: _____
Agency number (if state agency): _____
Street Address: _____
Mailing Address: _____
City, State, ZIP: _____
Tax Number: _____

4. What is the organization's authority to contract with TWC?
☐ Interlocal Cooperation Act (local government)
☐ Interagency Cooperation Act (state agency). Specify statutory authority to contract: _____
☐ federal
☐ other – specify _____

5. Contact Person (to communicate with TWC on contract matters; handles paperwork for setting up online users)

Name: _____
Title: _____
Phone Number: _____
Street Address: _____
Mailing Address: _____
City, State, ZIP: _____
Email: _____

6. Contract Signatory (individual who will sign the contract; must have authority to bind the organization)

Name: _____
Title: _____
Phone Number: _____
Street Address: _____
Mailing Address: _____
City, State, ZIP: _____
Email: _____

7. Invoice Recipient (individual to whom invoices should be addressed)

Name: _____
Title: _____
Phone Number: _____
Street Address: _____
Mailing Address: _____
City, State, ZIP: _____
Email: _____

8. Provide a brief but specific statement of purpose(s) for which your organization will use TWC data:

Purpose(s) will be included in the contract. Use of TWC data for any other purpose is prohibited.

Some common purposes given for use of TWC data:

- to assist in locating defendants, witnesses and fugitives in criminal cases
- to assist in locating persons with outstanding warrants
- to assist in locating probation absconders
- to assist in criminal investigations
- to assist in determining eligibility for income-based program such as indigent health care benefits, housing assistance, or court-appointed counsel (specify the program)

9. Are you requesting online access to TWC data?

Yes ☐ No ☐

If "Yes," select maximum number of online users (with annual subscription fee):

- | | |
|---|--|
| <input type="checkbox"/> max. 10 users @ \$1,500 | <input type="checkbox"/> max. 1,000 users* @ \$50,000 |
| <input type="checkbox"/> max. 25 users @ \$2,000 | <input type="checkbox"/> max. 2,000 users* @ \$100,000 |
| <input type="checkbox"/> max. 50 users* @ \$3,500 | <input type="checkbox"/> max. 3,000 users* @ \$150,000 |
| <input type="checkbox"/> max. 100 users* @ \$6,000 | <input type="checkbox"/> over 3,000 users* @ \$200,000 |
| <input type="checkbox"/> max. 500 users* @ \$25,000 | |

* If requesting over 25 users, attach a signed letter (on letterhead) from the person authorized to sign the contract, giving a detailed explanation of the need for the number requested.

10. If you are requesting online access, these questions help determine what information your users should be authorized to view:

Do you seek information that allows you to locate individuals?

Yes ☐ No ☐ (office use only: UI, WR)

Do you seek information that provides evidence of income?

Yes ☐ No ☐ (office use only: UI, WR)

Do you seek information that identifies an individual's co-workers?

Yes ☐ No ☐ (office use only: ER)

11. Are you requesting offline access to TWC data?

This means you will send SSNs or EINs to TWC for its staff to match with data.

Yes ☐ No ☐

12. If you require a particular offline data run, specify the data fields requested:

13. Desired length of contract: 1 year ☐ 2 years ☐ 3 years ☐

The contract can be terminated at any time on 30 days' written notice, so you may want to choose a 2-year or 3-year contract to avoid having to renew every year. The annual fee for online access is invoiced at the beginning of each year of the contract.

14. Maximum dollar amount of contract \$ _____

Yes ☐ No ☐

The contract would cover the remainder of the fiscal year for a prorated subscription fee, and the following 12 months of the contract would coincide with the fiscal year.

All statements and information on this form are true and correct to the best of my knowledge.

Signature of person designated above to sign the final contract

TEXAS WORKFORCE COMMISSION

Access to Information Contained in Unemployment Insurance Records

The information maintained by the Texas Workforce Commission (Agency), as administrator of the unemployment insurance program, is confidential and not subject to public disclosure. There is an exception to this confidentiality requirement for public officials who need the information for the administration or enforcement of a law. The public official must agree to maintain the confidentiality of the information obtained from the Agency.

The request from the public official must be made in writing on official letterhead. The request must identify the requester as a public official, must include a statement that the information requested is necessary for the administration or enforcement of a law, must list the specific purpose for which the information will be used, and must be signed. The requester must also sign an Agency confidentiality agreement.

Data Sharing Agreements

If the public official anticipates an ongoing need for access to Agency records, the Agency will prepare a contract to facilitate access. The contract can be for online access off-line access, or both.

Costs

There is a charge for providing information maintained as part of the Unemployment Insurance program.

Online Access

Effective May 1, 2010, the charge for online access to the Agency unemployment compensation information (including wage records, unemployment compensation benefits information, and employer tax information) will be based on a yearly subscription fee. The yearly subscription fee will be determined by the number of users authorized in the contract to access information online. Payment of the yearly fee must be received by TWC by the due date listed in the contract. The yearly fee will cover basic online access charges for a twelve calendar month period starting on the beginning date listed in the contract. There will no longer be quarterly billing based on usage.

Rate Schedule for online access to unemployment compensation information

Number of Authorized Users	Annual Subscription Rate
1-10	\$1,500
11-25	\$2,000
26-50*	\$3,500
51-100*	\$6,000
100-500*	\$25,000
501-1,000*	\$50,000
1,001-2,000*	\$100,000
2,001-3,000*	\$150,000
Over 3,000*	\$200,000

If a contractor wants more than 25 users a year, it must submit a written justification explaining why more than 25 users is needed and must obtain written approval of the number by TWC.

Rate Schedule for offline access to wage records

- \$110.00 per 1500 SSNs submitted for datasets of over 1499
- \$85.00 for submitted datasets of between 600 and 1499 SSNs
- \$35.00 per 150 SSNs submitted for datasets smaller than 600 SSNs
- \$10.00 for the first SSN and \$2.00 for each additional SSN submitted to a maximum of \$34.00 for data sets less than 150 SSNs.

Datasets must be submitted in electronic format, either on 3 ½" diskette or via e-mail, as an ASCII text file containing only SSNs in ascending order.

Rate Schedule for offline access to UI claims or employer information

For Claims Benefits information and Employer Record matches performed by Agency staff, the charge is \$10.00 for first SSN or EIN and \$2.00 for each additional SSN or EIN, for each request submitted.

Off-line access for special job runs other than those addressed above will be billed based on rate schedules developed by TWC applicable to the job runs.

Request a Contract

The contracting process begins with the submission of a contract information form. A copy of this form is attached.

If you have any questions, please feel free to contact the External Data Sharing Contracts Manager at 512-463-1607 or 512-936-2134, or at one of the following:

- External Data Sharing Contracts Manager
Texas Workforce Commission
101 E. 15th Street, Rm. 608
Austin, Texas 78778-0001
- ORcontracts.management@twc.state.tx.us
- fax: 512-463-1426

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 ratify grant application and authorize acceptance of a Texas Emissions Reduction Plan (TERP) Program Rebate Grant from the Texas Commission on Environmental Quality, in the amount of \$52,573.00.

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

PREFERRED MEETING DATE REQUESTED: January 10, 2012

AMOUNT REQUIRED: N/A

LINE ITEM NUMBER OF FUNDS REQUIRED:

REQUESTED BY: Borcharding/Hauff

SPONSORED BY: Cobb

SUMMARY:

In April, 2011 the Transportation Department purchased a new Freightliner haul truck as authorized in the FY11 Budget. Concurrent with the purchase transaction, an application was submitted by the Transportation Department to the Texas Commission on Environmental Quality (TCEQ), Texas Emissions Reduction Plan (TERP) program for a Rebate Grant, as this heavy equipment would qualify for such funding.

The TCEQ approved the rebate grant request and has electronically transferred funds to the County, in the amount of \$52,573.00. Requirements of the grant include twice a year reporting of usage of the vehicle for seven years, insurance coverage for the vehicle to repair or replace damaged equipment, should this occur, and rendering the replaced vehicle/engine inoperable so that it may not be re-utilized.

Action required includes ratification of the rebate grant application and acceptance of the funding provided by the TCEQ.

DESCRIPTION OF Item: Discussion and possible action to ratify grant application and authorize acceptance of a Texas Emissions Reduction Plan (TERP) Program Rebate Grant from the Texas Commission on Environmental Quality, in the amount of \$52,573.00.

PREFERRED MEETING DATE REQUESTED: January 10, 2011

COUNTY AUDITOR

AMOUNT: \$

LINE ITEM NUMBER:

COUNTY PURCHASING GUIDELINES FOLLOWED: N/A

PAYMENT TERMS ACCEPTABLE: N/A

COMMENTS: This will be unbudgeted revenue.

Bill Herzog

SPECIAL COUNSEL

CONTRACT TERMS ACCEPTABLE: _____

COMMENTS:

COUNTY JUDGE

Signature Required if Approved

DATE CONTRACT SIGNED: _____

Bryan W. Shaw, Ph.D., *Chairman*
Buddy Garcia, *Commissioner*
Carlos Rubinstein, *Commissioner*
Mark R. Vickery, P.G., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

August 15, 2011

Mr. Garry Ingalsbe
Hays County
2171 Yarrington Road
San Marcos, Texas 78666

Re: TERP Program Rebate Grant - Contract Number: 582-11-14136-3145

Dear Mr. Ingalsbe:

Enclosed is an original copy of the executed contract for your Rebate Grant under the Texas Commission on Environmental Quality (TCEQ) Texas Emissions Reduction Plan (TERP) Program. It is recommended that you keep a copy of this contract in a central file along with any other records pertaining to this project.

As a condition of receiving a grant, you have committed to monitoring and reporting the annual usage information for the Activity Life designated in the approved application forms. Please refer to your usage commitment in your executed contract. This legally binding commitment extends past the termination date listed in the grant agreement. The monitoring requirement begins at the time the grant-funded vehicle or equipment is put into use and disposition requirements in the grant agreement are completed. The monitoring requirement does not expire until the end of the Activity Life for each grant activity. Failure to meet these continuing monitoring and reporting requirements may lead to TCEQ action including, but not limited to, requiring you to repay grant funds.

If you submitted the Request for Reimbursement forms and required documentation for your completed grant activity with your grant application, your reimbursement request is currently under review for payment.

If you have not completed the grant activity, you may now proceed to do so. Once the grant activity is complete, you may submit the Request for Reimbursement forms and required documentation for payment. It is important to note that the purchases made under this Contract must be completed prior to the Contract Termination Date. If you need additional time to complete the purchases, you should contact TCEQ to request a contract extension. An extension must be completed prior to the current Termination Date.

Also enclosed is a step-by-step workbook providing direction on how to complete each part of the contract requirements. The workbook is for your use in requesting reimbursement for grant expenses and for reporting to us on the status and completion of your grant activity. Electronic versions of the forms in this workbook are available at <http://www.terpgrants.org>. The instructions in the workbook explain the deadlines for submission of forms.

Mr. Garry Ingalsbe
Page 2
August 15, 2011

The enclosed workbook also includes an example of the semi-annual usage monitoring forms for reporting to the TCEQ. We will provide you with further instructions for submitting the reports once the reimbursements are completed and the Activity Life begins.

Please refer to the enclosed information regarding your TERP grant contract and how to contact us with questions about your grant.

Sincerely,



Joe Walton, Manager
Implementation Grants Section
Air Quality Division
Texas Commission on Environmental Quality

JW/sm

Enclosures

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY (TCEQ)
GRANT AGREEMENT FOR
TEXAS EMISSIONS REDUCTION PLAN (TERP)
REBATE GRANT
SIGNATURE PAGE**

Application Number

2011-3-0461-RG

Contract Number
582-11-14136-3145

Legal Applicant Name (print/type):	Hays County
------------------------------------	-------------

Please note: The applicant must be the owner of the vehicle or equipment.

Grant Amount Requested (complete Form 8a or 8b to obtain amount):	\$ 52,573.00
---	--------------

Contract Period (Effective Date to Expiration Date)	Effective Date The Effective Date of this Contract is the date on which the Contract is signed by the last of the parties to sign.	Expiration Date February 28, 2013
---	---	--------------------------------------

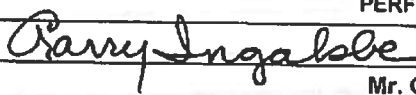
The TCEQ and the named PERFORMING PARTY, an eligible applicant as defined in the Notice of Rebate Grants (NRG), enter this Agreement for the purpose of providing grant funds to implement a portion of the Rebate Grant Program.

The PERFORMING PARTY agrees that this is a reimbursement grant and if found to be eligible, the TCEQ will provide reimbursement for eligible costs. The PERFORMING PARTY also agrees to the commitment of the following:

- to use the grant-funded vehicle/equipment in the eligible counties marked in the application for a five or seven-year activity life as selected in this application,
- that no less than 75 percent of the annual hours of operation of non-road equipment will occur within the eligible counties marked in the application; and,
- that no less than the percentage of annual miles for on-road vehicles marked in the application will occur within the eligible counties also marked in the application,
- and that no less than 75 percent of the annual miles will occur within the combination of the eligible counties and on the highways and roadways designated by the TCEQ; and,
- the vehicle, equipment, and/or engine being replaced will be properly disposed of in accordance with the contract.

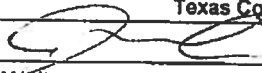
If these criteria are not met, the PERFORMING PARTY may have to return some or all of the grant funds. The PERFORMING PARTY agrees that the proposed activity is not required by any state or federal law, rule or regulation, memorandum of agreement, or legally binding document.

PERFORMING PARTY: By signing on this page you agree that you have read and agree to all the Contract Documents in this Agreement including this Signature Page, and the Terms and Conditions of the application. The Contract Documents are available on the TERP website, www.terpgrants.org. Your signature on this page also means that you have read and understand all information provided in this application and that to the best of your knowledge and belief the information is true and correct. Failure to sign the application or signing it with a false statement may make the submitted offer or any resulting contracts voidable.

Please sign in BLUE ink	PERFORMING PARTY
By (Authorized Signature)	
Printed Name (Include Mr. or Ms.)	Mr. Garry Ingalsbe
Title	Equipment Superintendent

Intentional falsification of these forms will be prosecuted to the extent allowed under the law and may be used as an adverse factor in future grant selection decisions.

Date of Signature (In Ink)	4-8-11
----------------------------	--------

	Texas Commission on Environmental Quality (TCEQ)
By (Authorized Signature)	
Printed Name	Joe Walton
Title	Manager, Implementation Grants Section
Date of Signature	8-4-11

*Do NOT alter forms. Applications and accompanying Contract Documents with altered language will be void.
This form is only valid for the application period ending July 29, 2011, or later if that period is extended.*

TCEQ Contact Information

Address: Texas Commission on Environmental Quality
Air Quality Division
Implementation Grants Section (REBATES), MC-204
P.O. Box 13087
Austin, TX 78711-3087

Phone: 1-800-919-TERP (8377)
Fax: (512) 239-6161
Web: www.terpgrants.org
Email: TERP@tceq.texas.gov

**TERP - REBATE GRANT
THIRD-PARTY PREPARER SIGNATURE PAGE**

This page is required in the application

Was this application prepared by a third party, including a consultant, dealer, or other person not employed by the applicant? Check either "yes" or "no" below.

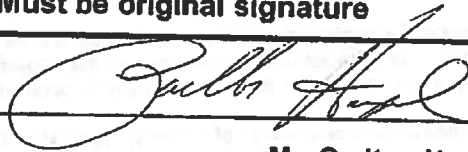
Yes	<input checked="checked" type="checkbox"/>	No	<input type="checkbox"/>
-----	--	----	--------------------------

If "yes" then the preparer must sign below. Please sign in BLUE ink.

I hereby certify that to the best of my knowledge and belief all information provided in this application and any attachments is true and correct, as represented to me by the applicant. I understand that failure to sign the application or signing it with a false statement may make the submitted offer or any resulting contracts voidable.

Must be original signature

Signature of Third-Party Preparer



Printed Name (Include Mr. or Ms.)

Mr. Carlton Hempel

Title

Vice President

Company Name

Freightliner of Austin

Address

1701 Smith Rd Austin TX 78721

Phone Number

512 389 0000

Intentional falsification of these forms will be prosecuted to the extent allowed under the law and may be used as an adverse factor in future grant approval decisions for applications involving the third-party preparer.

Date of Signature (in ink)

4-7-11

TERP - REBATE GRANT CONTRACT DOCUMENTS

This page is required in the application

By signing the Signature Page, I agree that the following documents comprise the entire Agreement between TCEQ and the PERFORMING PARTY (in order of precedence in the event of conflicts).

- TCEQ Grant Agreement, including the Signature Page, Third Party Preparer Signature Page, Contract Documents Page, TERP General Certifications, Application Forms 1, 2, 3, 4, 5, 6, 7a, 7b, 8a, 8b, 8c, 8d, 9, and 10.
- TERP Rebate Grant Agreement Terms and Conditions
- Notice of Rebate Grants (NRG)
- Guidelines for Emissions Reduction Incentive Grants (RG-388)
- The following, which may be delivered or issued after the Effective Date of the Agreement and are not attached here to: all other written documents amending, modifying or supplementing the Contract Documents pursuant to the Terms and Conditions.

All Contract Documents can be accessed at www.terpgrants.org or by calling 1-800-919-TERP (8377).

SIGNATURE PAGES

Below is a list of all the pages that require a signature. ALL forms must include original signatures in all signature blocks and should be signed in BLUE ink. No photocopies, faxes, scanned copies, or other copies of required signatures will be accepted. If a signature page is missing or has been altered, the application will be denied.

- Signature Page • Third Party Preparer Page • TERP General Certifications
- Form 10 (Vehicle/Equipment Certification)

TERP SUPPLEMENTAL FORMS

The supplemental forms must be submitted with all applications, however the forms will not be part of the contract document.

- Payee Identification Number Form
- Certification Regarding Child Support Obligations Form
- Survey Form (optional)
- W-9 Request for Taxpayer Identification Number and Certification Forms

TERP ATTACHMENTS

- Photocopy of the applicant's state or federal identification card (if applying as an individual or sole proprietor).
- On-Road Vehicles- A copy of the applicant's title, current vehicle registration, three color photographs showing (1) the entire vehicle, including the tires, (2) the engine, and (3) the registration and inspection sticker.
- On-Road vehicles exceeding 20,000 lbs. per axle- A copy of the applicant's annual overweight permit and/or proof of documentation that the vehicle has been permanently operating over 20,000 lbs. per axle for the previous two years.
- Non-Road Equipment- two photographs showing (1) the entire piece of equipment, including the tires, and (2) a close-up photo of the engine.

**TERP - REBATE GRANT
TERP GENERAL CERTIFICATIONS**

This page is required in the application

TERP General Certifications

This section serves to assure the TCEQ that you understand and agree to the statements. These provisions relate to the basic contract form which will be in force between the applicant and the TCEQ upon award of a grant. By signing this application, the applicant assures and certifies that:

- 1 **Legal Authority.** It possesses legal authority in the State of Texas to apply for the grant and that the applicant's governing body has authorized the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the authorized official to act in connection with the application and to provide such additional information as may be required.
- 2 **Uniform Grant Management Standards.** It will comply with the Uniform Grant Management Standards (UGMS), adopted by the Texas Office of the Governor, in accordance with Chapter 783, Texas Government Code.
- 3 **Procurement of Goods and Services.** In procuring goods and services, it will comply with Part II, Cost Principles for State and Local Governments and Other Affected Parties and Part III, State Uniform Administrative Requirements for Grants of the UGMS. All procurement transactions will be conducted in a manner providing full and open competition.
- 4 **Historically Underutilized Businesses (HUBs).** Qualified HUBs, as defined and designated under state law, shall have the maximum practicable opportunity to participate in the performance of the work arising out of this project.
- 5 **Conflict of Interest.** Applicant has not given, offered to give, nor intends to give at anytime hereafter, any economic opportunity, future employment, gift, loan gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted application.

Under Government Code § 2155.004, no person involved in the preparation of the Notice of Rebate Grants may have any financial interest in this application. If applicant is not eligible, then any contract resulting from this application shall be immediately terminated. Furthermore, under Section 2155.004, Government Code, the applicant certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate.
- 6 **Nondiscrimination.** It will comply with all State and Federal statutes relating to nondiscrimination.
- 7 **Grant Administration.** It will maintain an appropriate grant administration system to ensure that all terms, conditions, and specifications of the grant, including these certifications and assurances, are met.
- 8 **Audit.** Pursuant to Section 2262.003 of the Texas Government Code, the state auditor may conduct an audit or investigation of the vendor or any other entity or person receiving funds from the state directly under this contract or indirectly through a subcontract under this contract. The acceptance of funds by the applicant or any other entity or person directly under this contract or indirectly through a subcontract under this contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, the applicant or other entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit. Applicant will ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through the vendor and the requirement to cooperate is included in any subcontract it awards.
- 9 **Debt to the State.** It is not indebted to the state or have an outstanding tax delinquency. It further understands that the Texas Comptroller is precluded by law from paying a person who is indebted to the state or has a tax delinquency. The applicant must comply with all State and Federal tax laws and fee requirements and is solely responsible for filing all State and Federal tax and fee forms.
- 10 **Grant Contract.** It understands that a copy of the grant contract shall be available from the TCEQ, including a copy posted on the TCEQ's web site at www.terpgrants.org. It further understands that the TCEQ will not normally change the contract language to deal with individual requests from grant recipients.

Continued on next page ►

**TERP - REBATE GRANT
TERP GENERAL CERTIFICATIONS (cont.)**

This page is required in the application

- 11 Contracting with an Executive of a State Agency.** Under Government Code § 669.003, relating to contracting with an executive of a state agency, Applicant represents that no person who, in the past four years, served as an executive of the Texas Commission on Environmental Quality (TCEQ) or any other state agency, was involved with or has any interest in this Application. If Applicant employs or has used the services of a former executive head of TCEQ or other state agency, then Respondent shall provide the following information: Name of former executive, name of state agency, date of separation from state agency, position with Applicant, and date of employment with Applicant.
- 12 Debarment.** Applicant certifies that the applying entity and its principals are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state or local governmental entity and that Respondent is in compliance with the State of Texas statutes and rules relating to procurement and that Respondent is not listed on the federal government's terrorism watch list as described in Executive Order 13224. Entities ineligible for federal procurement are listed at <http://www.epls.gov>.
- 13 Hurricane Katrina and Other Natural Disasters.** Under Section 2155.006(b) of the Texas Government Code, a state agency may not accept a bid or award a contract, including a contract for which purchasing authority is delegated to a state agency, that includes proposed financial participation by a person who, during the five-year period preceding the date of the bid or award, has been: (1) convicted of violating a federal law in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005; or (2) assessed a penalty in a federal civil or administrative enforcement action in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005.

Under Section 2155.006 of the Texas Government Code, the bidder certifies that the individual or business entity named in this Application is not ineligible to receive the specified contract and acknowledges that any contract resulting from this IFB may be terminated and payment withheld if this certification is inaccurate.

Hays County

Name of Applicant

(Name as it appears on signature page)

4-8-11
Date

Garry Ingalsbe
Authorized Official Signature
(Person signing application)

Garry Ingalsbe
Print Name
(Authorized Official printed name)

**TERP - REBATE GRANT
FORM 1: CONTACT INFORMATION**

1. Authorized Official The person signing this application.

Name: (Mr. or Ms.) Mr. Garry Ingalsbe **Title:** Equipment Superintendent

Mailing Address: 2171 Yarrington Rd. San Marcos TX 78666
Street Address City State Zip

Physical Address: _____
(for express delivery) Street Address City State Zip

Contact Phone #s: 512 738 0751 **Fax:** _____

E-mail Address: _____ **Cell Phone #:** _____

2. Designated Project Representative The applicant or an employee of the applicant who will serve as the grant contact and will be responsible for receiving and submitting grant documents, including annual usage reports. This person may not be a consultant or dealer.

☒ Same as Authorized Official

Name: (Mr. or Ms.) _____ **Title:** _____

Mailing Address: _____
Street Address City State Zip

Physical Address: _____
(for express delivery) Street Address City State Zip

Contact Phone #s: _____ **Fax:** _____

E-mail Address: _____ **Cell Phone #:** _____

3. Financial Officer (If applicable)

☒ Same as Authorized Official

Name: (Mr. or Ms.) _____ **Title:** _____

Mailing Address: _____
Street Address City State Zip

Physical Address: _____
(for express delivery) Street Address City State Zip

Contact Phone #s: _____ **Fax:** _____

E-mail Address: _____ **Cell Phone #:** _____

4. Designated Location for Records Access and Review by the TCEQ or its Representative

☒ Same as Authorized Official

Physical Address: _____
Street Address City State Zip

**TERP - REBATE GRANT
FORM 2: GENERAL INFORMATION**

1. Describe Applicant's Primary Business Type: (i.e. transit system, gravel hauling, excavation, school, etc.)

Hauling gravel and equipment for Hays County

2. Date Business Founded/Started:

1848

Attach any materials (ex: brochure, website address) that provide general information about your business

3. Do you plan to assign your grant payments to a third party "Assignee":

☒ X

☐ YES

☐ NO

List the address that you wish to have the grant payments mailed to.

Mailing Address for Payments: Include individual or entity name, address, city, state, and zip code.

Freightliner of Austin

1701 Smith Rd

Austin

TX

78721

(Name)

(Address)

(City)

(State)

(Zip)

4. Small Business: Applications from qualified Small Businesses may receive special consideration under this program. To qualify, you must meet the following definition:

1. Owns and operates not more than two vehicles or pieces of equipment, at least one of which is;
 - a) an on-road diesel heavy-duty vehicle with a pre-1994 engine model; or
 - b) an non-road diesel-powered piece of equipment with an engine with uncontrolled emissions.

2. Must have owned the vehicle/equipment for 1 year for repower projects or 2 years for replacement projects.

Do you qualify as a "small business": _____ YES _____ ☒ X _____ NO

**TERP - REBATE GRANT
FORM 3: DISPOSITION**

REPLACEMENT ONLY: DISPOSITION OF VEHICLE/ENGINE BEING REPLACED

The old vehicle and engine must be scrapped (destroyed).

The applicant agrees to destroy and render permanently inoperable the old vehicle, including the engine within 90 days of receiving financial reimbursement. The applicant also agrees that TCEQ may inspect and otherwise verify the condition of the engine being replaced. If the applicant does not allow such verification, the TCEQ is not obligated to select the application for funding.

The applicant agrees to submit a copy of a Texas Nonrepairable Vehicle Title issued by the Texas Department of Motor Vehicles (TxDMV) for the vehicle replaced under this Agreement. The Texas Nonrepairable Vehicle Title must be submitted at the same time as the required disposition documentation to the TCEQ.

Destruction includes drilling a 3" hole or larger in the engine block (or otherwise destroying it) and cutting the frame rails in a wedge at least 75% of the way through (or perform other structural damage to the equipment) rendering it inoperable. Provide information regarding the scrappage activities and, if known, identify (name, address, and phone #) the company that will scrap the equipment.

Garry Ingalsbe Hays County 2171 Yarrington Rd San Marcos TX 78666 (512)738 0751 will handle disposition

REPOWER ONLY: DISPOSITION OF ENGINE BEING REPLACED

The applicant agrees to destroy and render permanently inoperable the old engine within 90 days of receiving financial reimbursement. The applicant also agrees that TCEQ may inspect and otherwise verify the condition of the engine being replaced. If the applicant does not allow such verification, the TCEQ is not obligated to select the application for funding.

 A. Old engine will be scrapped (destroyed).

Destruction includes drilling a 3" hole in or otherwise destroying the engine block. Provide information regarding the scrappage activities and, if known, identify (name, address, and phone #) the company that will scrap the equipment.

 B. Old engine will be sent to a remanufacturing facility.

The facility will be operated by or authorized by the original engine manufacturer to remanufacture the engine. The process will include removing all parts and using the old block to build a remanufactured engine with a new serial number.

 C. Not applicable, this is a verified low-NO_x emissions upgrade that is considered a repower.

Please provide any additional information for the selected disposition option:

Hays County will destroy the engine and cut the frame

Please note: If a grant is awarded, the applicant will be required to submit the following information with the final disposition of the vehicle/engine: to submit the following information with the final disposition of the vehicle/engine:

- Photographs depicting the vehicle/engine BEFORE and AFTER destroying/rendering it inoperable. Photographs must show the vehicle and engine identification numbers, and they must be clearly visible and readable.
- A photograph of the state inspection sticker for on-highway vehicles.
- ALL PHOTOS MUST BE IN COLOR

**TERP - REBATE GRANT
FORM 4: ACTIVITY INFORMATION**

1. Will the vehicle/equipment be used for commercial rental to other entities?

☐ YES ☒ NO

2. Was this activity included in a previous application to TCEQ?

☐ YES, explain: _____

☒ NO

Activities that were previously awarded a TERP grant and canceled by the grant recipient after opening of the grant application period are not eligible to receive funding.

3. Has the purchase or repower already been completed?

☐ YES

Date of purchase or repower: _____

☒ NO

If no, recipient has until the contract Expiration Date to make the purchase.

For replacement projects, the purchase may not have been made prior to the opening date of this application period. For repower projects, the cost may not have been incurred prior to 12 months of the application deadline.

4. Activity Type: (select one of the options)

(attach Forms 5, 6, 7a, & 8a)

(attach Forms 5, 6, 7b, 8b, 8c, 8d, 9, & 10)

☐ REPOWER: ON-ROAD VEHICLE

☒ REPLACEMENT: ON-ROAD VEHICLE

☐ REPOWER: NON-ROAD EQUIPMENT

☐ REPLACEMENT: NON-ROAD EQUIPMENT

Note: Subject to approval by TCEQ, a non-road engine emissions upgrade system verified by the EPA or CARB to result in a reduction in NO_x emissions of at least 25% may be considered a repower and should be applied for under that category.

5. Activity Life: The number of years you commit to using the vehicle/equipment in the eligible counties, and to monitor and report usage to the TCEQ.

Select One:

5 Years ☐

OR

7 Years ☒

Be sure to use the appropriate Rebate Table Amount when completing Forms 8a or 8b

6. Certification of Use:

This section must be completed even if odometer/hour meter is not working.

Is the odometer/hour meter working (Y/N):

y

ON-ROAD VEHICLE

NON-ROAD EQUIPMENT

Current Mileage: 648560

OR

Total hours on log/meter _____

The average annual mileage/operating hours of the vehicle/equipment being replaced over the preceding 2 years was:

Miles Per Year: 40000

OR

Hours Per Year: _____

The new equipment is expected to be operated:

Miles Per Year: 40000

OR

Hours Per Year: _____

7. Usage Description: Please describe what your typical driving route or site location will be if awarded a grant. Be specific (i.e. on-road vehicles: daily, weekly or monthly trips; cities traveled to and between; and highways/roadways traveled on OR non-road vehicles/equipment: sites and locations of operation).

Maintaining all roads in Hays County. IH35 and HWY 290 will be traveled daily

**TERP - REBATE GRANT
FORM 5: ANNUAL USAGE INFORMATION**

Reference the map in the instructions to assist with the completion of this section.

1. ON-ROAD USAGE ONLY: (Each year the percentage of miles the applicant operates in the qualifying counties must meet or exceed the percentage listed in section "A" below, or we will ask you to pay money back.)

The applicant must designate the percentage of the annual mileage that will occur in the eligible counties, which may not be less than 25 percent of the annual mileage. In addition to the percentage of annual miles in the eligible counties committed to by the applicant, the applicant must also commit to operating the vehicle at least 75 percent of the annual miles in a combination of the eligible counties and on one or more of the designated highways or roadways.

A. % OF ANNUAL USAGE SPENT OPERATING IN THE ELIGIBLE AREAS

Please note: This section may not equal 100% if travel is done in a county not listed below or if traveling between two areas not connected to each other. The total of section A will be used to determine which Rebate Table to use (see table instructions).

San Antonio (SAT) (Comal, Guadalupe, Wilson, Bexar)	%
Austin (AUS) (Williamson, Travis, Bastrop, Caldwell, Hays)	75 %
Dallas - Fort Worth Area (DFW) (Denton, Collin, Tarrant, Dallas, Rockwall, Kaufman, Ellis, Johnson, Parker)	%
Tyler-Longview (TYL) (Upshur, Gregg, Rusk, Smith, Harrison)	%
Houston-Galveston-Brazoria Area (HGB) (Brazoria, Fort Bend, Waller, Montgomery, Liberty, Chambers, Galveston, Harris)	%
Beaumont-Port Arthur Area (BPA) (Hardin, Orange, Jefferson)	%
1A - TOTAL	75 %

B. % OF ANNUAL USAGE SPENT ON HIGHWAYS BETWEEN THE ELIGIBLE AREAS

Please note: Only list the percentage of annual mileage on the designated highways or roadways when traveling outside/between the eligible areas listed above.

I-10 from the Texas/New Mexico border to the Texas/Louisiana border	
I-20 from I-10 to the Texas/Louisiana border	
I-30 from Rockwall County to the Texas/Arkansas border	
I-35 from the Texas/Mexico border to the Texas/Oklahoma border	
I-37 from the Gulf of Mexico to Bexar County	
I-45 from Montgomery County to Ellis County	
Hwy 59 from the Texas/Mexico border to the Texas/Arkansas border	
Hwy 79 from Williamson County to the Texas/Louisiana border	
Hwy 281 from the Texas/Mexico border to the Texas/Oklahoma border	
Hwy 77 from the Texas/Mexico border to Ellis County	
Hwy 290 from I-10 to Waller County	
1B - TOTAL	%

The total of both sections may not equal 100% if any travel occurs in a county or on a highway/roadway not listed above.

2. NON-ROAD USAGE ONLY:

The applicant must commit to use the equipment at least 75 percent of the annual hours of operation in the eligible counties that the applicant designates in the application. The total may not equal 100 percent if any operation occurs outside of the eligible counties.

A. % OF ANNUAL USAGE SPENT OPERATING IN THE ELIGIBLE AREAS

San Antonio (SAT) (Comal, Guadalupe, Wilson, Bexar)	%
Austin (AUS) (Williamson, Travis, Bastrop, Caldwell, Hays)	%
Dallas - Fort Worth Area (DFW) (Denton, Collin, Tarrant, Dallas, Rockwall, Kaufman, Ellis, Johnson, Parker)	%
Tyler-Longview (TYL) (Upshur, Gregg, Rusk, Smith, Harrison)	%
Houston-Galveston-Brazoria Area (HGB) (Brazoria, Fort Bend, Waller, Montgomery, Liberty, Chambers, Galveston, Harris)	%
Beaumont-Port Arthur Area (BPA) (Hardin, Orange, Jefferson)	%
2A - TOTAL	%

TERP - REBATE GRANT
FORM 6: VEHICLE / EQUIPMENT INFORMATION

On-Road Vehicles: Please indicate the type of vehicle and the gross vehicle weight rating (GVWR) below:

The weight listed for the vehicle may not exceed the maximum weight allowed by the Texas Department of Transportation (TxDOT), as listed on the Permissible Weight Table. In general, the maximum weight listed for the vehicle may not exceed 20,000 pounds (lbs.) per axle.

The gross combined weight (GCW) of the vehicle and trailer may be used for haul trucks or similar trucks that permanently operate in combination with a trailer and dump trucks that permanently pull a pup trailer. Equipment trailers pulled by a dump truck are not considered pup trailers. Check with the TCEQ if you are not sure whether your vehicle and trailer combination meet these conditions.

The TCEQ may, at its discretion, accept a weight over 20,000 lbs. per axle for vehicles operating under an annual over gross weight tolerance permit or other annual specialty permit issued by TxDOT for certain uses. **You must provide a copy of the annual permit and/or other documentation of permanent operation in the higher weight category.** Registration of the vehicle at a higher weight and/or a temporary overweight permit will not be sufficient documentation that the vehicle is permanently operated at the higher weight.

GVWR: Greater than 60,000 pounds

- ☒ Haul Truck (Tractor trailer & end-dump trucks.)
☐ Dump Truck with Pup Trailer (Must pull pup trailer 100% of the time. Attach pup trailer registration.)
☐ Dump Truck (4 or more axles and registered for over 60,000 lbs.)
☐ Cement Mixer Truck
☐ Other, please list: _____ GVWR: _____

GVWR: 33,001 - 60,000 pounds

- ☐ Dump Truck (regular tandem axle)
☐ Cement Mixer Truck
☐ Vacuum Truck
☐ Water Truck
☐ Tow Truck
☐ Other, please list: _____ GVWR: _____

GVWR: 26,001 - 33,000 pounds

- ☐ Other, please list: _____ GVWR: _____

GVWR: 19,501 - 26,000 pounds

- ☐ Other, please list: _____ GVWR: _____

GVWR: 16,001 - 19,500 pounds

- ☐ Other, please list: _____ GVWR: _____

GVWR: 14,001 - 16,000 pounds

- ☐ Other, please list: _____ GVWR: _____

GVWR: 10,001 - 14,000 pounds

- ☐ Other, please list: _____ GVWR: _____

GVWR: 8,501 - 10,000 pounds

- ☐ Other, please list: _____ GVWR: _____

Non-Road Equipment: Please indicate the type of equipment below:

- | | |
|--|---|
| <input type="checkbox"/> Excavator | <input type="checkbox"/> Tractor/Backhoe/Loader |
| <input type="checkbox"/> Crane | <input type="checkbox"/> Crawler Tractor |
| <input type="checkbox"/> Grader | <input type="checkbox"/> Skid Steer Loader |
| <input type="checkbox"/> Off-Highway Truck | <input type="checkbox"/> Off-Highway Tractor |
| <input type="checkbox"/> Crushing-Processing Equipment | <input type="checkbox"/> Forklift |
| <input type="checkbox"/> Rough Terrain Forklift | <input type="checkbox"/> Agricultural Tractor |
| <input type="checkbox"/> Rubber Tire Loader | <input type="checkbox"/> Combine |
| <input type="checkbox"/> Rubber Tire Dozer | <input type="checkbox"/> Terminal Tractor |

TERP - REBATE GRANT
FORM 7b: VEHICLE / EQUIPMENT INFORMATION
REPLACEMENT ONLY

Vehicle/Equipment Information	New Vehicle/Equipment	Vehicle/Equipment Being Replaced
a. Vehicle/Equipment Description (i.e., haul truck, dump truck, excavator, etc.)	Haul Truck	Haul Truck
<i>The replacement vehicle or equipment must be of the same type and use as the vehicle or equipment being replaced.</i>		
b. Fuel type	Diesel	Diesel
c. Vehicle/Equipment Make	Freightliner	Freightliner
d. Vehicle/Equipment Model/Model Number	CA113	FLD12064ST
e. Identification Number (VIN or serial #)	(if known)	1FU YDCYB0SH670210
f. Vehicle Model Year	2012	1995
g. Engine Horsepower Rating (hp)	450	370
<i>For non-road projects: the hp of the replacement equipment must be in the same or a lesser hp category as the equipment being replaced.</i>		
h. Gross Vehicle Weight Rating (Should not exceed 20,000 lbs. per axle)	63000	63000
<i>For on-road projects the replacement vehicle must be in the same weight category as the vehicle being replaced.</i>		
i. Engine Make	Detroit	Cummins
j. Engine Model	DD13	N14
k. Engine Identification Number	(if known)	11753895
l. Engine Manufacture Year	2011	1995
m. Engine Family Code (12-digit emissions code)	BDDXH12.8FED	N/A
n. Certified NO_x Emissions (g/bhp-hr)	0.2	
<p>Confirm the NO_x emission rate for the new engine. Be sure to check with your dealer to confirm the emissions of the new engine. The engine emissions can be verified by either looking up the engine family code (listed on the emissions label affixed to the engine); or when available finding the certified NO_x emissions on the label (normally listed in grams per brake horsepower-hour -- g/bhp-hr). For non-road engines you can use, the certified NO_x emissions Tier (the Tier levels correspond to the federal NO_x emissions standards). Use the certified emissions rate to determine the rebate grant amount from the rebate grant tables.</p>		
<p>The make, model, and manufacture year of the vehicle, equipment, and/or engine that you purchase may differ from the information originally listed in the application. However, in all cases, the engine purchased must be certified to the federal NO_x emissions standard within the same or a lower emission range from the rebate grant tables. Also, for non-road equipment, the engine must be of the same horsepower range as the one listed on the application, and for on-road vehicles, the vehicle must be of the same weight category as the one listed on the application. Finally, you may not substitute the vehicle, equipment, and/or engine that you are replacing with a different unit.</p>		

ALL INFORMATION MUST BE COMPLETE TO BE ELIGIBLE

**TERP - REBATE GRANT
FORM 8b: VEHICLE / EQUIPMENT COST**

REPLACEMENT ONLY

Applicants must request the lesser dollar amount of either the amount provided in the Maximum Rebate Grant Amount Tables or from the Incremental Cost Calculation. Financial reimbursements will be made on either the provided table amount or the actual amount spent on incremental costs, whichever amount is less. Documentation will be required for all incremental costs at the time of reimbursement, in accordance with the Terms and Conditions.

1. REBATE GRANT AMOUNT FROM TABLE (refer to the Instructions)	\$52,573.00
2. INCREMENTAL COST / COST TO APPLICANT (A + B - C - D = E and E x .80 = F)	
Refer to the Notice of Rebate Grants for a full list of eligible and ineligible expenses.	
A. Capital Cost - Equipment/Vehicle Purchase: Invoice cost or cash basis for the lease costs of the vehicle or equipment, including taxes, duty, protective in transit insurance, and freight charges. Do not include the cost of non-permanent optional attachments, not directly related to the primary function of the vehicle or equipment.	\$109,900.00
B. Other - Global Positioning System (GPS): - Purchase & Installation are optional The cost to purchase and install a GPS to track and log the location and use of the vehicle. Ongoing operational and maintenance charges may not be included. The GPS unit must be purchased from the vendor authorized and contracted with the TCEQ. (See the Information page for details.)	(+ADD) <div style="border: 1px solid black; height: 20px; width: 100%;"></div>
C. Scrappage value: (TCEQ will use a default scrap value of \$1,000)	(- SUBTRACT) -1,000.00
D. List the value of and explain any other financial assistance to be used for the purchase or lease such as tax credits or deductions, other grants or any public financial assistance. <i>This does not include the amount you finance through a bank or other third-party to purchase the equipment.</i>	(- SUBTRACT) <div style="border: 1px solid black; height: 20px; width: 100%;"></div>
E. Incremental Cost / Cost to Applicant (A+B-C-D= E) <i>multiply Box "E" by .80 to get the eligible project costs for Box "F"</i>	\$108,900.00 (x .80)
F. ELIGIBLE PROJECT COSTS May not exceed 80% of the applicant's cost [.80 x incremental cost (E)]	\$87,120.00

3. LOOK AT BOX 1 AND BOX 2F (ABOVE). WHICH ONE IS LESS? LIST THE LESSER AMOUNT OF BOX 1 OR 2F ON THE SIGNATURE PAGE. THIS WILL BE THE REBATE GRANT AMOUNT REQUESTED.

4. DEALER CONTACT INFORMATION (if known)			
Freightliner of Austin	Carlton Hempel	512 389 0000	
<small>Company</small>	<small>Contact Person</small>	<small>Phone #</small>	
1701 Smith Rd	Austin TX	78721	
<small>Address</small>	<small>City</small>	<small>State</small>	<small>Zip</small>

5. FINANCING OR LEASE TERMS FOR REPLACEMENT VEHICLE	
Reimbursement will not be authorized for pre-payment of future periodic financing or lease payments. A grant recipient will need to either ensure that sufficient payments will be made prior to the end of the grant term to use the grant amount or structure the financing or lease agreement to allow for an up-front payment in return for lower periodic payments. CHOOSE ONE.	
Purchase:	
<input checked="" type="checkbox"/> Cash Purchase	
<input type="checkbox"/> Regular Financing	
<input type="checkbox"/> Capital Lease Financing (equipment will be purchased and retained at the end of the lease).	
This option is limited to capital lease agreements with a binding commitment for the applicant to take ownership of the equipment. An option to buy at the end of the lease term, without this binding commitment, will not be considered under this option.	
Lease:	
<input type="checkbox"/> Equipment will be returned at the end of the lease. The lease must extend for at least the Activity Life.	
Explain financing or lease terms, including the length (months) of the lease or financing, below:	

**TERP - REBATE GRANT
FORM 8c: VEHICLE / EQUIPMENT COST
REPLACEMENT ONLY**

6. PRICE ANALYSIS FOR VEHICLE OR EQUIPMENT BEING PURCHASED

The price of the vehicle or equipment must be reasonable, as determined by whether the price exceeds the price normally charged for that type of vehicle or equipment absent the availability of a grant. This section **MUST** be completed to confirm that the price of the vehicle or equipment is reasonable. You must provide an original price quote from a dealership for the vehicle or equipment to be purchased or, if the purchase has already been made, a copy of the invoice or purchase order. In addition, you must check the applicable option below and provide the price comparison information required for that option. Governmental entities must follow competitive purchasing laws applicable to that entity in making a grant-funded purchase.

A. No Price Comparison Information is Required. If you check one of the following options, only one primary price quote must be provided. If the purchase has already been made, then a copy of the invoice or purchase order should be provided. No additional price comparison information is required unless requested by the TCEQ.

- (1) _____ The applicant is a governmental entity and will use competitive purchasing procedures or purchase from a cooperative purchasing program. Price information from a cooperative purchasing list or a written price quote must still be provided to show the expected cost.
- (2) ☒ The requested grant amount listed on the Signature Page does not exceed 60 percent of the vehicle or equipment cost.

B. Price Comparison Information is Required. If you did not check one of the options above, you must provide price comparison information as requested under at least one of the options listed below. **Machine-builder lists and/or manufacturer price-estimate forms are not acceptable price quotes.**

Check the applicable option and provide the requested information in addition to ONE PRIMARY PRICE QUOTE:

- (1) _____ Two additional original price quotes for the same make, model, and model year of vehicle or equipment from unrelated dealers.
- (2) _____ Price information from a current government-approved price/bid list or cooperative purchasing price/bid list for the same make, model, and model year of vehicle or equipment.
- (3) _____ At least two current advertised prices from internet sales sites or other public advertisements from different dealers for the same make, model, and model year of vehicle or equipment.
- (4) _____ Documentation of prices charged for at least two recent sales to non-TERP customers by the dealer for the same make, model, and model year of vehicle or equipment. This information may include invoices or purchase orders with the identifying customer information blacked out or other written documentation (sales report, sales list, etc.) from the dealer.
- (5) _____ No price comparison information is available. This option will be accepted only in unusual or special circumstances, such as with a unique type of vehicle or equipment available from only one source. An explanation of why no price comparison information is available must be provided below, along with a justification for why the price should be considered reasonable.

EXPLANATION

The TCEQ is not obligated to accept a price quote if the price does not appear to be reasonable. If the base and/or overall price on the primary price quote is higher than the price comparison information provided above, you must provide an explanation of why the price should be considered reasonable. If no price comparison information is available (option 5), you must explain why the information is not available and why the price being charged should be considered reasonable. The TCEQ is not obligated to accept the price listed and may deny an application where the price is determined unreasonable or may use a lower amount for determining the incremental cost for the grant. The TCEQ may use published national pricing/value guides and comparison with prices charged for other grants to determine if the price is reasonable.

**TERP - REBATE GRANT
FORM 8d: VEHICLE / EQUIPMENT COST
REPLACEMENT PROJECT PRICE QUOTE GUIDELINES**

This page is required with the application

Price quotes submitted with a grant application should follow the instructions outlined below. When requesting a price, applicants should provide these guidelines to the dealer to ensure that price quotes are prepared in accordance with the instructions.

The cost information listed on Form 8b, Section 2, should match the price quote.

Failure to provide price quotes meeting these requirements may result in denial of the application. The TCEQ may exclude portions of the costs from consideration based on a determination that those costs are not reasonable or necessary.

Machine-builder lists and/or manufacturer price-estimate forms will not be acceptable price quotes.

INSTRUCTIONS FOR REQUIRED PRICE QUOTES

1. Price quotes must be original and must have the applicant's name on the quote.
2. The dealer should sign and date the quote and provide contact information. In general, the price quote should be dated no more than three months prior to the application date.
3. The price quote should include specifications and prices for the standard vehicle or equipment options and additional equipment and options, to include, as applicable:
 - a. Specifications of the vehicle or equipment.
 - b. Base price for standard feature vehicle or equipment.
 - c. Itemized list and prices for factory-installed optional features.
 - d. Itemized list of and price for add-on equipment to be sold and installed by the dealer (i.e., dump bed, wet kit, etc.). Extra equipment sold and installed by a third party should not be included in the incremental cost. Also, non-permanent optional attachments, not directly required for the primary function of the vehicle or equipment, should not be included in the incremental cost. For example, a bucket may be included in the cost of an excavator, but an optional backhoe attachment for an agricultural tractor should not be included.
 - e. Additional fees and charges.
 - f. Taxes.

PURCHASE DOCUMENTS, IF THE VEHICLE/EQUIPMENT HAS ALREADY BEEN PURCHASED OR LEASED

If the vehicle or equipment has already been purchased, you must provide the purchase, lease, or financing agreement and/or invoice showing the price paid with the application.

TERP - REBATE GRANT
FORM 9: VEHICLE / EQUIPMENT OWNERSHIP AND CONDITION CERTIFICATION
REPLACEMENT ONLY

Certification of Ownership & Condition

1. By signing the application, and except where a waiver is requested under Section 2., the applicant certifies that the following requirements are met, where applicable:

- a. The Applicant's name must be on the vehicle title.
- b. The Applicant must have continuously owned the vehicle/equipment for the two years preceding the signature date on the application.
- c. The Applicant's name must have been listed on the front of the title for the two years preceding the signature date on the application. Lease-to-own agreements do not satisfy the ownership requirement.
- d. The vehicle must be registered in the applicant's name and have been continuously registered for operation in Texas for the two years preceding the signature date on the application. The applicant must provide current registration. If the vehicle was registered after November 30, 2010, the applicant must attach previous registration documents.
- e. The vehicle/equipment must have been used in Texas for the two years preceding the signature date on the application.
- f. The vehicle must have a current safety inspection.
- g. The vehicle/equipment must be in good operating condition and capable of performing the primary functions of the vehicle/equipment.

Date old vehicle/equipment was purchased:

1/4/1999

Location of purchase:

Austin TX

(i.e. City, State)

On-Road Only

Vehicle Title Issuance Date:

1/12/1999

Vehicle Registration Exp Date:
(attach current registration)

Exempt

Safety Inspection Sticker Exp. Date: 2/28/2012
(attach photo of current safety inspection sticker)

The applicant must attach current registration. If the vehicle was registered after November 30, 2010, the applicant must attach a copy of the previous registration.

2. Request for Waiver of Requirements (at TCEQ's discretion)

If the applicant requests consideration of one or more of the waivers outlined below, place a mark next to the waiver being requested and provide a detailed written request and documentation to show that a waiver is warranted. The TCEQ is not obligated to approve a waiver request. (attach separate sheet)

_____ The TCEQ may waive, case-by-case, the two-year ownership requirement when the ownership of the company has changed, the assets of the company have been purchased by another company, or the company has changed names or incorporation status. The vocation of the vehicle or equipment may not have changed. The applicant must attach a written explanation and documentation of the changes to the company. The previous company must have owned the vehicle for the two years preceding the application date.

_____ If the current vehicle title is not at least two years old, the applicant must provide copies of the previous title documents covering the two year period and listing the applicant on the front as the owner. If the previous title documents were lost or are otherwise not available, the applicant must provide a written explanation and provide evidence to show that the vehicle was owned by and titled to the applicant. Note that finance arrangements where the applicant's name is not listed as the owner on the front of the title until all payments are made do not meet the requirements.

_____ The TCEQ may waive, case-by-case, the requirement that an on-road vehicle have a current registration and safety inspection for on-road vehicles used exclusively for non-road purposes. The applicant must provide a detailed written summary of the use of the vehicle.

_____ The TCEQ may waive, case-by-case, the requirement that an on-road vehicle have been continuously registered for the preceding two years when the vehicle was used exclusively for non-road purposes or in agricultural activities and other vocations where seasonal use and periodic registration are standard practice for that vocation. The applicant must provide a detailed written summary of the use of the vehicle including dates and amount of use over the preceding two years to show that the vehicle has been in operation for the two year period. If the vehicle was operated using temporary or limited-time registrations, the applicant should provide copies of those registration documents. The TCEQ will not normally accept vehicles with periods of several months between the use of the vehicle and where those breaks in use are not justified by the vocation of the vehicle.

**TERP - REBATE GRANT
FORM 10: VEHICLE / EQUIPMENT CERTIFICATION**

REPLACEMENT ONLY

VEHICLE/EQUIPMENT CERTIFICATION

This form is to be completed and signed by a certified mechanic or a service agent qualified to assess the condition of the vehicle or equipment. The service agent may not be the consultant or an employee of the applicant, unless otherwise approved by the TCEQ.

INFORMATION ON THE VEHICLE BEING REPLACED

Vehicle Identification Number (VIN) or Serial Number:

1FUYDCYB0SH670210

Note: The VIN or Identification number must match the number listed on form 7a or 7b and the title/registration (if applicable).

SERVICE AGENT INFORMATION: *(do not complete if the vehicle/equipment is not operating)*

I, the undersigned, have inspected the vehicle/equipment noted above. The engine starts and runs properly and the vehicle/equipment is in good operating condition. In my professional opinion, the vehicle/equipment is able to perform the functions normally expected for this type of vehicle/equipment and could be expected to operate for an additional 5 to 7 years.

Printed Name:

Carlton Hempel

Name of Service Company:

Freightliner of Austin

Phone Number:

512 389 0000

Address:

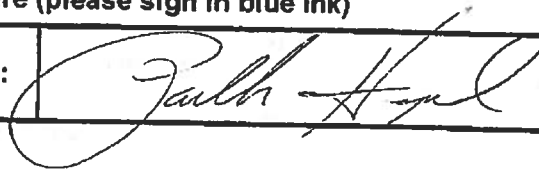
1701 Smith Rd Austin TX 78721

List qualifications to assess the condition of the vehicle or equipment (i.e., certified mechanic, license #, years of experience, etc.)

Vice President/Used Truck Manager 19 years of experience

Must be original signature (please sign in blue ink)

Service Agent Signature:



Date: (in ink)

4-7-11

When the vehicle described on this title is sold or transferred, the vehicle description below and the Texas Motor Vehicle Transfer Voluntary
Title Form on the reverse side may be voluntarily completed by the registered owner(s), detached, and mailed with a \$5.00 fee
Texas Department of Transportation, Vehicle Titles and Registration Division, P.O. Box 13175, Austin, TX 78711-3175

Title/Document Number /	Vehicle Identification Number	Year	Make	Body Style
----------------------------	-------------------------------	------	------	------------

25888 AT 0.254 1
HAYS COUNTY
111 E SAN ANTONIO ST # 304
SAN MARCOS, TX 78666-5635



TEXAS CERTIFICATE OF TITLE



ORIGINAL

VEHICLE TITLES AND REGISTRATION DIVISION

37293839

VEHICLE IDENTIFICATION NUMBER
1FUUDCYB0SH670210

YEAR
1995

MAKE OF VEHICLE
FRTL

BODY STYLE

TR

DATE TITLE ISSUED

01/12/1999

MODEL

MFG. CAPACITY
IN TONS

WEIGHT

LICENSE NUMBER

17800 985200

PREVIOUS OWNER

UNK UNK TX

OWNER

HAYS COUNTY
111 E SAN ANTONIO 304
SAN MARCOS, TX 78666

ODOMETER READING

EXEMPT

REMARK(S)

EXEMPT

X

SIGNATURE OF OWNER OR AGENT MUST BE IN INK

UNLESS OTHERWISE AUTHORIZED BY LAW, IT IS A VIOLATION OF STATE LAW TO SIGN
THE NAME OF ANOTHER PERSON ON A CERTIFICATE OF TITLE OR OTHERWISE GIVE FALSE
INFORMATION ON A CERTIFICATE OF TITLE.

DATE OF LIEN

1ST LIENHOLDER

NONE

1ST LIEN RELEASED

DATE

BY

AUTHORIZED AGENT

DATE OF LIEN

2ND LIENHOLDER

2ND LIEN RELEASED

DATE

BY

AUTHORIZED AGENT

DATE OF LIEN

3RD LIENHOLDER

3RD LIEN RELEASED

DATE

BY

AUTHORIZED AGENT

IT IS HEREBY CERTIFIED THAT THE PERSON HEREIN NAMED IS THE OWNER
OF THE VEHICLE DESCRIBED ABOVE WHICH IS SUBJECT TO THE ABOVE LIENS.

RIGHTS OF SURVIVORSHIP OWNERSHIP AGREEMENT
WE, THE HUSBAND AND WIFE WHOSE SIGNATURES APPEAR HEREIN,
HEREBY AGREE THAT THE OWNERSHIP OF THE VEHICLE DESCRIBED ON
THIS CERTIFICATE OF TITLE, SHALL FROM THIS DAY FORWARD BE HELD
JOINTLY AND, IN THE EVENT OF DEATH OF EITHER THE HUSBAND OR THE
WIFE, THE OWNERSHIP OF THE VEHICLE SHALL VEST IN THE SURVIVOR.

SIGNATURE (HUSBAND)

SIGNATURE (WIFE)

(WIFE SHOULD SIGN USING HER FULL NAME, SUCH AS
"MARY JANE DOE" INSTEAD OF "MRS. JOHN DOE.")

FORM 30-C REV. 11/97

DO NOT ACCEPT TITLE SHOWING ERASURE, ALTERATION, OR MUTILATION.

TITLE APPLICATION RECEIPT

00-4

COUNTY: HAYS

PLATE NO: 1083918

DOCUMENT NO: 10530140264091818

PREV DOC NO: 29120036169104446 P

OWNER NAME AND ADDRESS

HAYS COUNTY

111 E. SAN ANTONIO #304

SAN MARCOS, TX 78666

TAC NAME: LUANNE CARAWAY

DATE: 03/29/2010

TIME: 09:18AM

EMPLOYEE ID: DEBBIER

EFFECTIVE DATE: 03/29/2010

EXPIRATION DATE: /

TRANSACTION ID: 10530140264091818

REGISTRATION CLASS: EXEMPT-NOT FOR TITLE ONLY

PLATE TYPE: EXEMPT DOUBLE PLT

ORGANIZATION:

STICKER TYPE:

VEHICLE IDENTIFICATION NO: 1FUYYDCYB0SH670210

YR/MAKE: 1995/FRTL MODEL:

BODY STYLE: TR

VEHICLE CLASSIFICATION: TRK>1

EMPTY WT: 17800

CARRYING CAPACITY: 45200

UNIT NO:

BODY VEHICLE IDENTIFICATION NO:

GROSS WT: 63000 TONNAGE: 2.00 TRAILER TYPE:

PREV OWNER NAME: SAME

TRAVEL TRLR LNG/WDTH: 0

PREV CITY/STATE: SAN MARCOS, TX

INVENTORY ITEM(S)

YR

EXEMPT DOUBLE PLT

VEHICLE RECORD NOTATIONS

EXEMPT

PAPER TITLE

FEES ASSESSED

SALES TAX FEE

EXEMPT REGISTRATION

TOTAL

\$

\$

\$

0.00

0.00

0.00

SALES TAX CATEGORY: EXEMPT

ODOMETER READING: EXEMPT BRAND:

OWNERSHIP EVIDENCE: TEXAS TITLE

1ST LIEN

Date of Assignment/Sales Tax Date: 03/29/2010

Sales Price \$ 0.00

Less Trade In Allowance \$ 0.00

Taxable Amount \$ 0.00

Sales Tax Paid \$ 0.00

Less Other State Tax Paid \$ 0.00

Tax Penalty \$ 0.00

TOTAL TAX PAID \$ 0.00

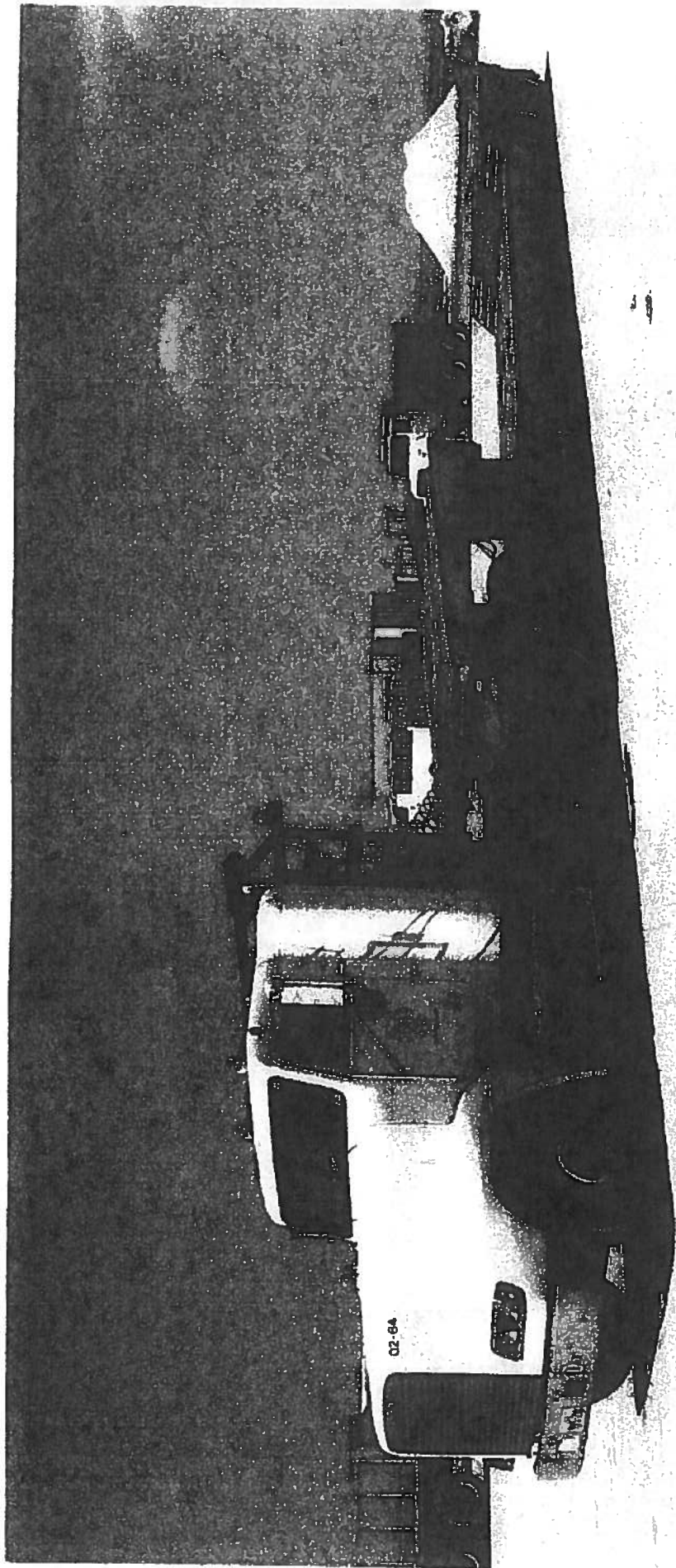
Batch No: 3014026401 Batch Count: 3

2ND LIEN

3RD LIEN

THIS RECEIPT TO BE CARRIED IN ALL COMMERCIAL VEHICLES.

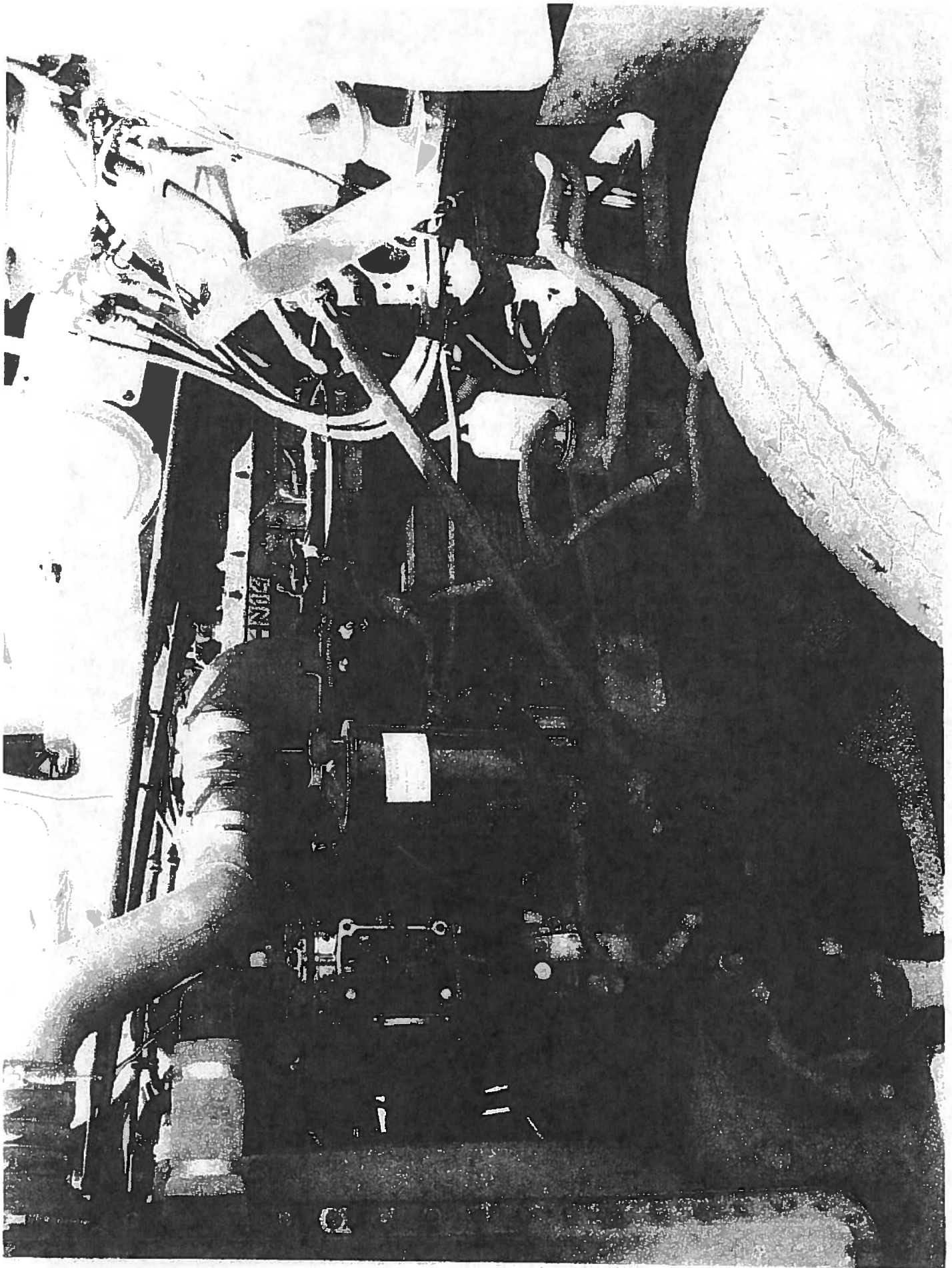
THIS RECEIPT IS YOUR PROOF OF APPLICATION FOR CERTIFICATE OF TITLE AND REGISTRATION.



12



2





FREIGHTLINER OF AUSTIN

1701 Smith Rd.
Austin, Texas 78721

Bus: 512-389-0000
FAX: 512-389-2663

INV.

BUYER'S ORDER

PURCHASER NAME Hays County		TELEPHONE 512 738 0751	
ADDRESS 2171 Yarrington Rd		CITY San Marcos	STATE TX
YEAR 2012	MAKE FRI	MODEL/BODY CA113	VIN Order
		ZIP CODE 78666	LICENSE PLATE

A DOCUMENT FEE IS NOT AN OFFICIAL FEE. A DOCUMENT FEE IS NOT REQUIRED BY LAW, BUT MAY BE CHARGED TO BUYER FOR HANDLING DOCUMENTS RELATING TO THE SALE. A DOCUMENT FEE MAY NOT EXCEED A REASONABLE AMOUNT AGREED TO BY THE PARTIES. THIS NOTICE IS REQUIRED BY LAW.

UN CARGO DOCUMENTAL NO ES UN CARGO OFICIAL. LA LEY NO EXIGE QUE SE IMPONGA UN CARGO DOCUMENTAL. PERO ESTE PODRIA COBRARSE A LOS COMPRADORES POR EL MANEJO DE LA DOCUMENTACION EN RELACION CON LA VENTA. UN CARGO DOCUMENTAL NO PUEDE EXCEDER UNA CANTIDAD RAZONABLE ACORDADA POR LAS PARTIES, ESTA NOTIFICACION SE EXIGE POR LEY.

Disclaimer of Warranties

The above described vehicle sold by Freightliner of Austin is sold as is, without either express or implied warranties of any kind by Freightliner of Austin, including warranties of merchantability or fitness, and Buyer will bear the entire expense of repairing or correcting any defects that presently exist or that may occur in the vehicle, unless a written warranty by, or service contract with Freightliner of Austin covering the describe vehicle is delivered to Buyer in conjunction with or within 90 days following the time of sale, but such vehicle or any of its component parts may be subject to warranty by the manufacturer thereof.

MILEAGE	TRADE-IN			LICENSE PLATE
YEAR	MAKE	MODEL/BODY	VIN	
MILEAGE	TRADE-IN			LICENSE PLATE
YEAR	MAKE	MODEL/BODY	VIN	

PAYOFF TO:	TOT/	109,900.00
ADDRESS:	Trade Allowanc	()
GOOD UNTIL:	Trading Difference	
QUOTED BY:	Sales Tax	
SHOW LEIN TO:	Dealer's Inventory Tax	
ADDRESS:	License Fee	
	Body Type:	Documentary Fee
	License Wt.:	Federal Excise Tax
	State Insp.:	TOTAL SALE PRICE
	License:	109,900.00
	Title:	Payoff on Trade
	Transfer:	Ext. Service Agreement
		Less Deposit
		Total Balance Due
		109,900.00

**The Dealer's Inventory Tax charge is intended to reimburse the dealer for ad valorem taxes on its motor vehicle inventory. The charge, which is paid by the dealer to the county tax assessor-collector, is not a tax imposed on a consumer by the government, and is not required to be charged by the dealer to the consumer.

The information you see on the window form for this vehicle is part of this contract. Information on the window form overrides any contrary provisions on the contract of sale.

La información que aparece en la ventanilla de este vehículo forma parte de este contrato. La información contenida en el formulario de la ventanilla anula cualquier provision que establezca lo contrario y que aparezca en el contrato de venta.

If a credit purchase, this is an offer to purchase only. Buyer offers to purchase vehicle on credit terms described herein and no contractual relationship is created. This order does not constitute an agreement for the extension of credit. Manufacturer/Distributor reserves the right to change the price of new vehicles to Seller without notice. In the event that the price to Seller of the new vehicle ordered hereunder is changed prior to delivery to Buyer, Buyer agrees and accepts that the cash delivered price will be changed accordingly. If the Buyer's used vehicle trade-in is not delivered to the Seller until delivery of the new vehicle, the trade-in will be reappraised at that time and Buyer agrees that such reappraised value shall determine the allowance, if any, made for the trade-in. Buyer agrees to deliver the original bill of sale and the title to any trade-in along with the delivery of the trade-in and further agrees to execute any and all documents necessary or required to transfer legal title and ownership to Seller or its assigns. Buyer warrants the trade-in to be his property and free and clear of all liens and encumbrances except as otherwise noted herein. Buyer further warrants that the trade-in has not been declared rebuilt salvage, reconditioned, nonrepairable, or flood damaged and that the emission systems have not been tampered with and are in the condition as originally manufactured, except for ordinary wear, unless so disclosed. Seller makes no representations, concerning fuel economy of the sale unit and any information posted on the sale unit or contained in literature relating to the same reflect the results of tests performed, required or prescribed by government agency, upon which Seller has relied. It is expressly agreed to and understood by Buyer and Seller that in the event of a non-credit transaction, Seller retains a security interest in the purchased vehicle until such time as Buyer has paid the Seller for the vehicle. Buyer agrees to all the above listed charges.

BUYER'S SIGNATURE:

SELLER'S SIGNATURE

DATE

AUSTIN TRUCK & EQUIPMENT, LTD. DBA FREIGHTLINER OF AUSTIN

TERP Rebate Grant Agreement TERMS AND CONDITIONS

ARTICLE 1. STATEMENT OF AGREEMENT

1.1. Statement of Agreement: **THIS AGREEMENT** is entered by the parties listed on the Signature Page for the purpose of providing a grant to financially assist the PERFORMING PARTY in implementing the Grant Activities. The Parties agree: The PERFORMING PARTY will conduct the Grant Activities required by this Agreement; TCEQ will reimburse authorized Allowable Costs subject to the Texas Uniform Grant Management Standards and the Agreement; the PERFORMING PARTY is not a vendor of goods and services under Texas Government Code Chapter 2251; If, during the Contract Period, the PERFORMING PARTY chooses to not complete the Grant Activities and withdraw from the obligations under this Agreement, the PERFORMING PARTY may terminate this Agreement by providing ten (10) days written notice to the TCEQ and returning any reimbursements already received.

1.2. Contract Period: The Effective Date of this Agreement is the date on which the Signature Page of the Contract Documents is signed by the last of the parties to sign. This Agreement will commence on the Effective Date and, for purposes of availability of funding and completion of TCEQ's obligations to reimburse the PERFORMING PARTY for authorized expenses, shall terminate on February 28, 2013, as provided on the Signature Page of the Contract Documents, or upon completion of all requirements, whichever is earlier, unless otherwise terminated by an act performed in accordance with the Contract Documents. However, certain reporting and other requirements as identified in the Contract Documents shall survive the termination of this Agreement. This Agreement shall immediately terminate at the end of any state fiscal year for which the Texas Legislature fails to appropriate and/or to provide sufficient funds in the subsequent fiscal year necessary to perform this Agreement. The PERFORMING PARTY agrees to performance in accordance with the Contract Documents beyond any event of termination and through the end of the Activity Life of any Grant Activity for which the PERFORMING PARTY has been reimbursed.

1.2.1. For replacement activities, the vehicle or piece of equipment being purchased under a rebate grant may not have been acquired prior to April 4, 2011, unless otherwise approved by the TCEQ.

1.2.2. For activities other than replacement activities, eligible costs submitted for reimbursement under a rebate grant may not have been incurred prior to July 31, 2010 and must be approved by the TCEQ.

1.3. Definitions:

1.3.1. *Activity* - the purchase of eligible rebuilt or remanufactured engines (repower) or eligible vehicles or equipment (replacement) for use in eligible counties, in accordance with the terms of the Contract Documents.

1.3.2. *Activity Life* - the period established by the TCEQ and designated in this Agreement, that is used to determine the emissions reductions and cost effectiveness of the activity. The start date for the Activity Life will be established by the TCEQ. The TCEQ will notify the PERFORMING PARTY in writing of the Activity Life start and end dates for each activity upon completion of all reimbursements under this Agreement and submission by the PERFORMING PARTY and acceptance by TCEQ of the final disposition verification forms, if required.

1.3.3. *Application* - the application for a rebate grant submitted by the PERFORMING PARTY and approved by the TCEQ, including the Signature Page, Third Party Preparer Signature Page, Forms 1, 2, 3, 4, 5, 6, 7a, 7b, 8a, 8b, 8c, 8d, 9, and 10, and any required Supplemental Forms, Attachments, or Certifications and conditions added to the application in order for it to be approved.

1.3.4. *Global Positioning System (GPS)* - A space-based, radio-positioning system nominally consisting of a minimum 24-satellite constellation that provides navigation and timing information to military and civilian users worldwide.

1.3.5. *Grant Equipment* - the equipment, real property, vehicles, qualifying fuel, infrastructure, processes and technology and the related goods and services in a Grant Activity for which the cost of purchase, lease, or utilization is reimbursed by the TCEQ under the Agreement. The term includes replacements for the Grant Equipment which is lost, stolen, or irreparably damaged.

1.3.6. *Minor Change* - a written document which provides for minor changes in the work in accordance with these General Conditions, but which does not involve a change in the Contract Amount or the Contract Period.

1.3.7. *NRG* - Notice of Rebate Grants.

1.3.8. *PERFORMING PARTY* - the Grantee(s) or legal Eligible Applicant(s) named in the Contract Documents.

1.3.9. *Project Life* - the period established by the TCEQ, based on the longest-running Activity Life of the Grant Activities under this Agreement, and used to determine the combined emissions reductions and cost-effectiveness for all of the activities funded under this Agreement.

1.3.10. *TCEQ* - the Texas Commission on Environmental Quality.

1.3.11. *TERP GPS Monitoring Service (TGMS)* - Equipment and services used to aid TCEQ and TERP Grantees in recording usage data.

1.3.12. *TERP GPS Monitoring Service (TGMS) Contractor* - The company, selected by TCEQ through the competitive bid process, which furnishes equipment, installation/removal, and report services, both online and by report generation, to aid TCEQ and TERP Grantees in recording usage data.

1.3.13. *Written Amendment* - a document signed by the PERFORMING PARTY and the TCEQ which authorizes an addition, deletion or revision in the work, or an adjustment in the Grant Amount or the Contract Period, issued on or after the Effective Date of the Agreement.

1.4. The PERFORMING PARTY hereby ratifies and attests to all representations in this Agreement and the Application and agrees to give written notice to the TCEQ within ten (10) days of any material change in these certifications or deliverables.

1.5. All representations, indemnifications, warranties and guarantees made in, required by, or given in accordance with the Contract Documents, as well as all continuing obligations indicated in the Contract Documents, will survive final payment, completion and acceptance of the Grant Activities and termination or completion of the Agreement.

1.6. The PERFORMING PARTY may substitute a different replacement vehicle, equipment, and/or engine for the unit listed in the Application, provided that, the substitute unit meets all eligibility and other requirements, is of the same weight category (on-road vehicles) or horsepower range (non-road equipment), has the same or better certified NO_x emissions rate, and will result in the same or better NO_x emissions reductions as the unit listed. The PERFORMING PARTY may not substitute different vehicles, equipment, and/or engines to be replaced for those listed in the Application, without the approval of the TCEQ.

1.7. Remedies Available to the TCEQ. In accordance with Chapter 2261 Texas Government Code, the following Schedule of Remedies applies in the event of any breach of the requirements of this Agreement; including the substandard performance of Grant Activities or other failure, material or otherwise, to conform to the requirements of the Agreement or applicable law:

1.7.1. reject substandard performance and request corrections without charge to the TCEQ;

1.7.2. issue notice of substandard performance or other non-conforming act or omission;

1.7.3. request and receive return of any over payments or inappropriate payments;

1.7.4. reject reimbursement request and suspend payment pending accepted revision of substandard performance or non-conformity;

1.7.5. suspend all or part of the Work and/or payments pending accepted revision of substandard performance or non-conformity;

1.7.6. reject reimbursement request and withhold and retain all or partial payments for recovery of administrative costs or to be returned to the TERP fund as authorized by state law;

1.7.7. terminate the Agreement, demand and receive: return of all equipment purchased with grant funds, return of all unexpended funds, and repayment of improperly expended funds; and/or

1.7.8. require payment of liquidated damages.

1.8. Cumulative Remedies. TCEQ may avail itself of any remedy or sanction provided in this Agreement or in law to recover any losses rising from or caused by the PERFORMING PARTY's substandard performance or any material non-conformity with the Agreement or the law. The remedies and sanctions available to either party in this contract shall not limit the remedies available to the parties under law.

1.9. *(Reserved)*

1.10. Amounts of costs stated in this Agreement are maximum amounts of reimbursement. By stating the amounts, TCEQ does not 1) guarantee payment of those amounts or 2) waive the requirements for reimbursement which must subsequently and continually be satisfied by the PERFORMING PARTY.

1.11. If the PERFORMING PARTY files for bankruptcy, the PERFORMING PARTY shall immediately notify TCEQ in writing AND send notification by certified mail directly to TCEQ Bankruptcy Program. The PERFORMING PARTY shall place TCEQ on distribution list for bankruptcy court documents. The PERFORMING PARTY'S notice to the bankruptcy program must include the appropriate project number(s).

1.12. Unless otherwise expressly agreed by the TCEQ, the PERFORMING PARTY must obtain and maintain a policy of insurance for the Activity Life which is sufficient to provide for replacement of Grant Equipment which is lost, stolen, or irreparably damaged. Any insurance proceeds received by or on behalf of the PERFORMING PARTY under an insurance policy due to the damage or destruction of a low emissions engine or other Grant Equipment must be utilized to acquire an equivalent or better low emissions engine or other Grant Equipment or be paid to the TCEQ. Failure to do so shall constitute a material breach of this Agreement. Governmental entities may use an established self-insurance program to satisfy this requirement. If requested by the TCEQ, the PERFORMING PARTY shall provide proof of insurance coverage. The TCEQ may approve alternative forms of insurance to comply with this requirement, including evidence of self-insurance. The TCEQ may also waive this requirement, at its sole discretion, for certain types of entities.

ARTICLE 2. ELIGIBLE COSTS

2.1. The TCEQ will reimburse the PERFORMING PARTY for those costs which are eligible for reimbursement in accordance with all requirements. Costs are considered eligible for reimbursement when the TCEQ, in its sole discretion, determines that the costs are the reasonable, necessary, actual, and allowable costs of Implementing the Grant Activities approved by the TCEQ in this Agreement. Costs must be Included In this Agreement to be eligible for reimbursement. Determinations of eligibility for reimbursement are solely within the discretion of the TCEQ.

2.1.1. Necessary costs include costs which are directly attributable to the implementation of the Grant Activities and must be included in this Agreement.

2.1.2. Unless expressly authorized by the TCEQ, necessary costs do not include:

2.1.2.1.the cost of money;

2.1.2.2.the interest charges on a purchase money loan, or on a deferred payment purchase agreement; or

2.1.2.3.the cost of converting from a lease to a purchase at the end of the lease period.

2.2. The PERFORMING PARTY agrees to follow all the requirements of the Uniform Grant Management Standards (UGMS) just as if PERFORMING PARTY were a covered local government grantee (except that the applicable cost principles are those listed as corresponding to PERFORMING PARTY's classification in UGMS, Part III State Uniform Administrative Requirements for Grants and Cooperative Agreements, Subpart C, _____.22 Allowable Costs, e.g., for-profit organization, private non-profit, etc.). The UGMS document is located on the internet at the following address:

<http://governor.state.tx.us/files/state-grants/UGMS062004.doc>

2.3. The cost plus a percentage of cost method of contracting for professional services is not allowable.

2.4. Unless expressly authorized by the TCEQ, eligible costs do not include:

2.4.1. amounts deducted from the true price of the purchase or lease acquisition of Grant Equipment whether as discounts, rebates, refunds or otherwise;

2.4.2. amounts which the PERFORMING PARTY owes or agrees to pay the vendor or contractor for any purpose other than the implementation of Grant Activities;

- 2.4.3. amounts in the charges which the vendor/contractor intends to return to the PERFORMING PARTY in the form of cash, goods, services, gifts, intangibles, discounts or any other items of value; and,
- 2.4.4. amounts which are reimbursed by other public sources or for which tax credits or other public financial incentives are received by the PERFORMING PARTY.
- 2.5. In order to be allowable, costs must be included in the Application and must satisfy the requirements of this Agreement, the UGMS, the TCEQ *Allowable Expenditure Guidelines*, state agency rules, all applicable state and federal laws, and the Notice of Rebate Grants under which the application was submitted.
- 2.6. Administrative costs and other internal costs of the PERFORMING PARTY, including but not limited to personnel expenses, internal salaries, indirect costs, and travel, are not allowable costs under this Agreement.
- 2.7. Any fees charged by a consultant for preparation of a grant application are the sole responsibility of the PERFORMING PARTY and are not an allowable cost under this Agreement. The cost basis for the grant may not include fees or other assistance charges, whether those costs are paid by the grantee or the vendor.
- 2.8. Unless otherwise approved in advance by the TCEQ, fees for a third-party consultant hired by the PERFORMING PARTY to manage and administer the grant-funded activities, including coordination of the work and submission of reports and paperwork to the TCEQ, will be considered administrative costs of the PERFORMING PARTY and are not allowable under this Agreement. This provision does not limit the ability of the vendor or installer to include reasonable and necessary costs for managing the work being performed in the price of the vehicle, equipment, or installation services.
- 2.9. All purchase decisions must be based on sound business practices and arm's length bargaining. It is generally considered acceptable for an applicant to accept assistance from a vendor or an agent of a vendor in preparing an application, as long as any decision by the applicant to purchase the grant-funded vehicle or equipment from that vendor is made independently and meets the other reasonableness provisions in the grant contract. However, if the consultant is paid directly by the applicant to complete the application documents and to act as the PERFORMING PARTY's agent for the grant process, purchases of grant-funded vehicles or equipment from an entity in which the consultant has an interest will not normally be considered appropriate by the TCEQ under the reasonableness requirements of the grant contract.
- 2.10. Amounts of costs stated in this Agreement are maximum amounts of reimbursement. By accepting this Agreement, TCEQ does not 1) guarantee payment of those amounts or 2) waive the requirements for reimbursement which must subsequently and continually be satisfied by the PERFORMING PARTY. The amount of costs for which reimbursement may be requested is the lesser of 1) the costs stated in the Application of this Agreement or 2) the actual eligible costs. Reimbursement

will not exceed the eligible rebate grant amount established by the TCEQ and included in this Agreement.

2.11. For any grant activity where the Grant Equipment will be acquired and used under a lease or lease-purchase agreement, the period of the lease agreement must extend for at least the Activity Life or, if the lease terminates before the end of the Activity Life, the lease agreement must include a binding commitment for the PERFORMING PARTY to pay any remaining costs and to take ownership of and title to the Grant Equipment. An option to buy at the end of the lease term, without a binding commitment on the part of the PERFORMING PARTY, shall not be sufficient to satisfy this provision.

ARTICLE 3. REIMBURSEMENT

3.1. Except as provided for under Section 3.3., below, to be eligible for reimbursement under this Agreement, a cost must have been incurred and paid by the PERFORMING PARTY prior to claiming reimbursement from TCEQ. A cost may not be considered incurred until the Grant Equipment and/or goods and services included under the cost have been received and accepted by the PERFORMING PARTY. The cost must have been paid by the PERFORMING PARTY prior to claiming reimbursement.

3.2. For replacement projects, the TCEQ will reimburse the PERFORMING PARTY for *the lesser dollar amount of either* 1) the eligible Maximum Rebate Grant Amount (from TERP Rebate Grant Form 7b) *or* 2) no more than eighty (80) percent of the eligible incremental costs for the purchase of the replacement vehicle or equipment under this Agreement.

3.3. Subject to approval by the TCEQ, the PERFORMING PARTY may assign the payments due from the TCEQ directly to the supplier, subcontractor, financing company, or other entity from which the goods or services were procured or financed by the PERFORMING PARTY. The Notice of Assignment section on the Request for Reimbursement (Form 1) must be properly completed and a Texas Application for Payee Identification Number (Form AP-152) must be completed and submitted with the Request for Reimbursement forms. Under this option, the PERFORMING PARTY must have incurred an obligation to pay Grant Equipment and/or goods and services costs. Sufficient supporting documentation must be submitted, as outlined in the form instructions, to document that the goods or services were received and that the payment amount is owed to the entity designated to receive the payment from the state.

3.4. In order to receive reimbursement for eligible expenses, the PERFORMING PARTY shall submit properly completed TCEQ Request for Reimbursement Forms, to be provided by the TCEQ. If the purchases have been made and the costs incurred prior to the submission of the rebate grant application, the PERFORMING PARTY may submit the reimbursement request with the application. Otherwise, the reimbursement request may also be submitted separate from the rebate grant application forms. To be eligible for reimbursement under this Agreement, expenses must have been incurred by the PERFORMING PARTY prior to the termination date of this Agreement. A final Request for Reimbursement form, indicating in the appropriate box that it is the final request, shall be submitted to the TCEQ by no later than forty-five (45) days after the termination date of this

Agreement. The TCEQ, in its sole discretion, may accept and pay a reimbursement request submitted after this deadline.

3.5. The Request for Reimbursement Forms must include a signed and executed Release of Claims, releasing all claims for payment of any funds due and payable by the TCEQ, upon TCEQ's payment of the reimbursement request.

3.6. In accordance with the terms of the Agreement, for any purchase, lease, lease-purchase, and deferred payment purchase, the PERFORMING PARTY must submit any supporting documentation required or requested by TCEQ. In order to be reimbursed for each payment, the PERFORMING PARTY is specifically required to submit the following supporting documents:

3.6.1. Canceled checks or wire transfers;

3.6.2. Written purchase and lease agreements;

3.6.3. Bills of Sale or Receipts for Delivery;

3.6.4. For deferred payment purchases and lease agreements, statements of account status showing the account in good standing and the equipment is in possession of the PERFORMING PARTY; and,

3.6.5. Other documentation requested by TCEQ in order to support the assertions in the request for reimbursement.

3.7. The PERFORMING PARTY must submit the Uniform Commercial Code (UCC) Financing Statement (Form UCC1) filing, if requested by the TCEQ. (The UCC allows a creditor to notify other creditors about a debtor's assets used as collateral for a secured transaction by filing a public notice (financing statement) with a particular filing office.)

3.8. The TCEQ may waive the requirement for submission of any supporting documents that are not applicable to the PERFORMING PARTY.

3.9. The TCEQ may at any time before or after reimbursement, as necessary in its sole discretion, request additional evidence concerning costs.

3.10. The TCEQ may at any time, in its sole discretion, in the best interests of the state establish additional criteria and requirements for reimbursement of costs.

3.11. The TCEQ is not obligated to make payment until the request for reimbursement is approved by the TCEQ. Further, the TCEQ reserves the right to suspend or withhold all or part of a payment or all payments as authorized by the Contract Documents.

3.11.1. The PERFORMING PARTY has a continuing obligation to satisfy the requirements for reimbursement. Neither a request for reimbursement nor TCEQ's payment of reimbursement nor any other action will establish an entitlement in the PERFORMING PARTY to payment from the TCEQ.

3.11.2. By paying a request for reimbursement, the TCEQ does not waive any requirements for the reimbursement of costs. The TCEQ may at any time before or after reimbursement, in its sole discretion, request additional evidence concerning costs. The TCEQ may audit the records of the PERFORMING PARTY and may also audit the PERFORMING PARTY'S performance as to the Grant Activities, and the administrative requirements. The PERFORMING PARTY shall return grant funding reimbursed for expenses that are later determined to be unallowable under the terms of this Agreement.

3.12. No entitlement. In accordance with this Agreement, the PERFORMING PARTY does not have an expectation or entitlement of continued receipt of financial assistance under this Agreement. Therefore, the PERFORMING PARTY waives any claim for damages arising from or resulting from TCEQ's termination of this Agreement for any reason.

3.13. The PERFORMING PARTY shall notify the TCEQ, in its Rebate Grants Request for Reimbursement Forms, of any financial incentive received by the PERFORMING PARTY which was not included in this Agreement, if that incentive will offset the cost of the proposed project, including tax credits or deductions, other grants, or any other public financial assistance. The TCEQ, in reimbursing the PERFORMING PARTY, may reduce the amount of authorized incremental costs eligible for reimbursement, by the value of any additional financial incentive received by the PERFORMING PARTY, without an Amendment to this Agreement.

3.14. The PERFORMING PARTY is not a "vendor" of goods and services within the meaning of Texas Government Code Chapter 2251. Therefore, the provisions for interest on payments under that statute do not apply to this Agreement.

ARTICLE 4. USE OF VEHICLES, EQUIPMENT, AND ENGINES BEING REPLACED

4.1. Unless otherwise authorized in advance by the TCEQ, the PERFORMING PARTY agrees to dispose of the vehicles, equipment, and engines being replaced under this Agreement by complete destruction or otherwise rendering permanently inoperable by drilling a hole through the engine block and cutting the frame rails or other structural components of the vehicle or equipment. Destruction of the engine may include sending the engine to a remanufacturing facility operated or authorized by the original engine manufacturer. The remanufacture of the engine must include removing all parts and using the old block to build a remanufactured engine with a new serial number.

4.2. Unless otherwise approved and accepted by the TCEQ, the vehicle or piece of equipment being replaced under a replacement activity must be in operating condition at the time the application is signed and submitted to the TCEQ.

4.3. The vehicles, equipment, and/or engines being replaced under this Agreement shall be destroyed within 90 days of the reimbursement payment being issued by the TCEQ for the replacement expenses. The TCEQ may grant an extension to this deadline without a change to this Agreement.

4.4. The PERFORMING PARTY shall submit on forms to be made available by the TCEQ information to verify the final disposition of the vehicles, equipment, and engines replaced under this Agreement. The final disposition information forms shall be submitted with the request for reimbursement or within 30 days after completion of the disposition, whichever occurs later. Unless otherwise agreed to by the TCEQ, the PERFORMING PARTY must submit photographs of the vehicles, equipment and/or engines being destroyed, both before and after the vehicles, equipment and/or engines are destroyed or rendered inoperable. Disposition will not be deemed to have occurred until TCEQ has approved the forms and supplemental documentation submitted by the PERFORMING PARTY. Such approval is at the sole discretion of TCEQ. The PERFORMING PARTY shall provide TCEQ with any clarification and additional documentation as requested by TCEQ to approve disposition.

4.5. In addition to the information required under Section 4.4, above, the PERFORMING PARTY shall submit a copy of a Texas Nonrepairable Vehicle Title issued by the Texas Department of Motor Vehicles (TxDMV) for the vehicle(s) replaced under this Agreement. The Texas Nonrepairable Vehicle Title must be submitted with (at the same time as) the required disposition documentation is submitted to the TCEQ. This title is available by submitting a completed form VTR-441 along with the required fee to the TxDMV. The VTR-441 Form is available at the following TxDMV web site address:

http://www.txdmv.gov/whatyouneed/forms/titles_registration.htm

4.6. Failure of the PERFORMING PARTY to comply with this special condition will constitute a material failure to conform to the requirements of this Agreement. The remedies available under Section 1.7, Terms and Conditions, of this Agreement may be invoked by the TCEQ for noncompliance with Section 4.5.

4.7. In determining the expenses eligible for reimbursement under this Agreement, the cost of replacement or repower activities shall be reduced by the value of any credit or other financial compensation received by the PERFORMING PARTY for the sale or other transfer of the scrapped vehicles, equipment, engines being replaced, or trade-in of engines for remanufacture, including the parts from those vehicles, equipment, or engines.

4.8. For on-road vehicle and non-road equipment replacement activities, the TCEQ may use a default scrappage value of \$1,000 in lieu of the actual value and in lieu of the PERFORMING PARTY reporting the value to the TCEQ.

4.8.1. If TCEQ does not use the above default scrappage value, the actual scrappage value or other value received for the old vehicle, equipment, or engine is considered a cost of performing the Grant Activities and as such must satisfy the cost guidelines of Article 3 of the General Conditions of this Agreement. The value received for the vehicle or equipment being replaced must be the result of arms-length bargaining with the entity disposing of the replaced vehicle or equipment and must reflect actual market value.

4.9. If the default value of Section 4.8. of this Article is not used by the TCEQ, the PERFORMING PARTY must list on the financial reporting forms any financial remuneration or other items or services of value received in exchange for the replaced vehicle or equipment including cash, goods, services (including the services provided by a consultant to assist in preparing and/or submitting a grant application), gifts, intangibles, discounts, or any other items of value.

ARTICLE 5. ACHIEVING EMISSIONS REDUCTIONS

5.1. The provisions of Section 386.055, Texas Health and Safety Code, apply to the emissions reductions generated over the Activity Life of each activity funded under this Agreement. The PERFORMING PARTY agrees that the emissions reductions generated by each activity over the Activity Life are transferred to the state implementation plan, or to the PERFORMING PARTY as provided under Section 386.056, Texas Health and Safety Code, and those reductions are permanently retired.

5.2. The PERFORMING PARTY agrees that if, during the Activity Life, the annual and total NO_x emissions reductions achieved within the areas specified in the Application by the Grant Activities do not meet the amounts calculated by the TCEQ, the TCEQ will be entitled to a return of the reimbursement funds, based on the failure to achieve expected emissions reductions.

5.2.1. The determination of whether the NO_x emissions reduction requirements have been met will be primarily based on the percentage of total annual usage of the Grant Equipment during the Activity Life (including qualifying fuel usage) within the eligible counties marked in the Approved Application or, for marine vessels, within the Texas Intracoastal Waterway and bays adjacent to the eligible counties marked in the Approved Application. The annual usage factor will be either miles, hours of operation, or fuel use, according to the usage commitment contained within the Approved Application.

5.3. Effective transferal of emissions reductions generated under this Agreement to the state implementation plan requires that TCEQ remain in contractual privity with the entity operating the grant equipment. TCEQ must retain the ability to enforce the Annual Usage commitments contained within the Application until the completion of the last Activity Life of the Grant Activities under this Agreement. Any act by the PERFORMING PARTY that impairs the TCEQ's ability to enforce the Annual Usage commitments contained within the Approved Application, including sale of the Grant Equipment, transfer of the Grant Equipment, loss of the Grant Equipment, sale of the PERFORMING PARTY's business interests, or liquidation of the PERFORMING PARTY's assets (including the Grant Equipment),

shall constitute a material breach of this Agreement and shall be considered evidence that the expected emissions reductions have not been achieved.

5.3.1. The decision by TCEQ on whether to require return of grant funds may include consideration of whether the Grant Equipment will continue to be used within the eligible counties, or in the case of marine equipment, within the Texas Intracoastal Waterway and bays adjacent to the eligible counties. If TCEQ, in its sole discretion, allows the assignment of this Agreement, the PERFORMING PARTY must obtain a binding agreement from a new owner of the Grant Equipment to continue to use the equipment subject to the terms of this Agreement related to use within the eligible counties for the percentage of use and total annual usage originally agreed to by the PERFORMING PARTY and to monitor and report on the annual usage.

5.4. TCEQ, at its sole discretion, may allow for the return of a pro-rata share of the reimbursement funds reflecting a partial failure to achieve the total NO_x emissions reductions calculated by the TCEQ and listed in the Application of this Agreement. This determination shall depend on factors including use of the grant equipment in a manner that maintained overall TERP eligibility, full completion of reimbursement and equipment disposition requirements, the PERFORMING PARTY's good-faith efforts to perform the grant activities during the Activity Life, and the PERFORMING PARTY's compliance with notification requirements of this Agreement (i.e., notification before sale of equipment).

5.5. The PERFORMING PARTY agrees that failure to adequately monitor the annual usage of Grant Equipment, failure to submit properly completed Monitoring Reports during the Project Life, and/or submitting Monitoring Reports with false, incorrect, or incomplete information constitutes a material breach of this agreement. This shall be considered evidence that the expected emissions reductions have not been achieved and the PERFORMING PARTY agrees that the TCEQ will be entitled to a return of the reimbursement grant funds, based on the failure to achieve expected emissions reductions within the Eligible Counties under General Conditions, Article 5.2, of this Agreement.

5.6. The PERFORMING PARTY agrees that failure to properly destroy or dispose of a vehicle, piece of equipment, marine vessel, locomotive, or engine replaced under this Agreement, in accordance with the destruction requirements or the provisions of an alternative disposition plan approved by the TCEQ will be considered evidence that the expected emissions reductions have not been achieved and shall require the return of the reimbursement grant funds, based on the failure to achieve expected emissions reductions within the Eligible Counties under General Conditions, Article 5.2, of this Agreement. This section shall also apply to a failure to provide properly completed documentation of final disposition of equipment as required by this Agreement.

5.7. For on-road vehicle activities, in order to maintain eligibility for the TERP program the PERFORMING PARTY agrees to operate the Grant Equipment over the Activity Life no less than the stated percentage of the annual usage within the eligible counties and on the designated highways and roadways marked in the Application and approved by the TCEQ. For other activities, in order to maintain eligibility for the TERP program, the PERFORMING PARTY agrees to operate the Grant Equipment over the Activity Life no less than the stated percentage of the annual usage within the

eligible counties marked in the Application and approved by the TCEQ. The PERFORMING PARTY agrees that failure to maintain eligibility constitutes a material breach of this Agreement and may be considered evidence that the expected emissions reductions have not been achieved.

5.7.1 For on-road vehicle activities, mileage occurring on the designated highways and roadways outside of the eligible counties shall only be credited towards the determination of overall eligibility of that grant activity. For that activity, only mileage occurring within the eligible counties designated in the Approved Application will be counted towards calculation of emissions reductions generated by that activity.

5.8. The TCEQ may authorize changes to the designated eligible counties of use.

5.9. Liquidated Damages. The parties agree that the actual damages that might be sustained by TCEQ by reason of the breach by the PERFORMING PARTY of its obligations under this Agreement are uncertain and would be difficult of ascertainment. Therefore, the parties agree that reasonable compensation for such breach will be the sum consisting of the total grant funds awarded reduced by a percentage reflecting the proportion of the Activity Life for which the PERFORMING PARTY has submitted timely and accurate usage reporting. Determination of timely and accurate usage reporting is in the sole discretion of TCEQ. The PERFORMING PARTY hereby promises to pay, and TCEQ hereby agrees to accept, such sum as liquidated damages, and not as a penalty, in the event of such breach.

5.10. The PERFORMING PARTY shall fully comply with all requirements of any agreements with third parties that have a security interest or similar interest in the Grant Equipment. Repossession, seizure, or any other event where the PERFORMING PARTY loses possession of the Grant Equipment shall be considered a material breach of this Agreement and may be considered evidence that the expected emissions reductions have not been achieved.

ARTICLE 6. ADDITIONAL TERMS AND CONDITIONS

6.1. Maintenance. The PERFORMING PARTY agrees to maintain the Grant Equipment as necessary to keep the Grant Equipment in good condition and functioning at optimum performance during the Activity Life. Upon the occurrence of a repairable malfunction of or damage to Grant Equipment which affects emissions reductions during the Activity Life, the PERFORMING PARTY will cause the Grant Equipment to be repaired and restored to the level of optimum performance.

6.2. Funds. This Agreement and all claims, suits or obligations arising under or related to this Agreement are subject to and limited to those funds which are both: 1) appropriated by the Texas Legislature for the purposes of this Agreement and 2) actually received and deposited into an account of the treasury dedicated to the TCEQ for the purposes of this Agreement. Any state funds provided are appropriated to TCEQ under the Appropriations Act (House Bill 1) of the 81st Texas Legislature and expenditure is authorized by Chapter 386, Texas Health and Safety Code.

6.3. Laws. This Agreement is subject to: (1) Chapter 386, Texas Health and Safety Code, (2) the Uniform Grant and Contract Management Act, Texas Government Code, Section 783.001 et seq., and the Uniform Grant and Contract Management Standards for State Agencies, 1 Texas Administrative Code, Section 5.141 et seq., (3) the Guidelines for the Emissions Reduction Incentive Grants (RG-388) and (4) Appropriations Act of the 81st Texas Legislature pertaining to appropriation of funds to TCEQ for grants, etc. and grants by state agencies; (5) Texas Government Code Chapter 2261 (pertaining to cost reimbursement contracts); (6) Chapter 391 Local Government Code and implementation rules and of the Governor's Office of Budget and Planning (pertaining to costs for entities defined as Councils of Government, etc); (7) Texas Government Code Section 556.0055 (pertaining to lobbying); (8) TCEQ Allowable Expenditure Guidelines (pertaining to allowable costs for cost reimbursement contracts and grants); (9) Rules and guidelines of the office of the Governor of Texas (implementing Local Government Code Chapter 391); (10) TCEQ rules and policies (pertaining to TCEQ contracts and grants); and (11) other applicable Federal and State rules and statutes.

6.4. Notice of Rebate Grants. This Agreement is subject to the criteria established in the Notice of Rebate Grants issued by the TCEQ and under which the rebate grant application was submitted, and any amendments thereto.

6.5. Debts. The TCEQ may offset against reimbursement payments, any amounts owed by the PERFORMING PARTY or its principals to the TCEQ or the State of Texas, whether owed under this program or otherwise.

6.6. Child Support. Under Section 231.006 of the Texas Family Code, a child support obligor who is more than 30 days delinquent in paying child support and a business entity in which the obligor is a sole proprietor, partner, shareholder, or owner with an ownership interest of at least 25 percent is not eligible to receive a state-funded grant or loan. By executing this Grant Agreement, the PERFORMING PARTY certifies that the individual or business entity named in this contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this Agreement may be terminated and payment may be withheld if this certification is inaccurate.

6.7. State Auditor's Office. The PERFORMING PARTY understands that acceptance of funds under this Agreement acts as acceptance of the authority of the State Auditor's Office, or any successor agency, to conduct an audit on investigation in connection with those funds. Under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the State Auditor's Office must provide the State Auditor with access to any information the State Auditor considers relevant to the investigation or audit. The PERFORMING PARTY agrees to cooperate fully with the State Auditor's Office or its successor in the conduct of the audit or investigation, including providing all records requested. The PERFORMING PARTY will ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through the PERFORMING PARTY and the requirement to cooperate is included in any subcontract it awards under this Agreement. The PERFORMING PARTY will include in all subcontracts for work under this Agreement a requirement that subcontractors will provide access to all relevant financial records including bank statements.

6.8. Lobbying. In accordance with the UGMS and State law, the PERFORMING PARTY shall not use funds provided under this Agreement to support lobbying or political activity either directly or indirectly.

6.9. Records. The PERFORMING PARTY shall maintain books, records, documents, and other evidence reasonably pertinent to performance of the Grant Activities and requirements of the Agreement, including the Agreement or amendments thereto. Records under this Article shall be maintained by the PERFORMING PARTY during performance of Grant Activity under this Agreement, for the Project Life as set forth in this Agreement, and for three (3) years after the ending date of the Project Life. If any litigation, claim, negotiation, audit, cost recovery, or other action (including actions concerning costs of items to which an audit exception has been taken) involving such records has been started before the expiration of the three year period, such records must be retained until completion of the action or resolution of all issues which arise from it, or until the end of the regular three year period, whichever is later.

6.10. Access to Records, Grant Equipment, and Vehicles, Equipment, and Engines Being Replaced. The PERFORMING PARTY shall allow access to all the material including bank statements and records by the TCEQ, the State of Texas, the State Auditor's Office, and any of their authorized representatives for the purpose of review, inspection, audit, excerpts, transcriptions, and/or copying. The PERFORMING PARTY shall provide appropriate facilities and equipment for such access and inspection. The PERFORMING PARTY shall allow access to all Grant Equipment, including equipment, vehicles, engines, retrofit systems, infrastructure, and other items to be reimbursed under this Agreement, by the TCEQ, the State of Texas, the State Auditor's Office, and any of their authorized representatives for the purpose of review, on-site inspection, and/or audit. In addition, the PERFORMING PARTY shall allow access to all vehicles, equipment, and engines being replaced under this Agreement.

6.11. Compliance with Laws. The PERFORMING PARTY shall give all notices and comply in all material respects with all Laws and Regulations applicable to furnishing and performance of the Grant Activities. Except where otherwise expressly required by applicable Laws and Regulations, TCEQ shall not be responsible for monitoring the PERFORMING PARTY's compliance with any Laws or Regulations.

6.12. Where applicable, the PERFORMING PARTY shall be responsible for requiring employees, contractors, and subcontractors to maintain and supervise all necessary safety precautions and programs in connection with the Grant Activities. The PERFORMING PARTY shall take all necessary safety precautions.

6.13. In performing the Grant Activities hereunder, the PERFORMING PARTY undertakes performance for its own benefit and not as agent for the TCEQ.

6.14. Waiver. Unless authorized in writing by the TCEQ in accordance with this Agreement, no waiver of any obligation of the PERFORMING PARTY shall bind the TCEQ. Any such authorized waiver shall not constitute a continuing waiver of the obligation.

6.15. Subject to the obligations and conditions set forth in this Agreement, title to real property and equipment acquired under this Agreement by the PERFORMING PARTY will vest upon acquisition in the PERFORMING PARTY.

6.16. Assignment. This Agreement will inure to the benefit of and be binding upon the successors and assigns of the respective parties hereto. This Agreement is not transferable or otherwise assignable by the PERFORMING PARTY without the written consent of the TCEQ and any attempted transfer without such consent is void.

6.17. Amending and Supplementing Contract Documents. The Contract Documents may be amended to provide for additions, deletions, and revisions in the Grant Activities or to modify the Terms and Conditions thereof in one or more of the following ways: a formal Written Amendment or a Minor Change.

6.18. Sovereign Immunity. The parties hereby agree that this Agreement does not waive the State's sovereign immunity relating to suit, liability, and the payment of damages. The parties further agree that all claims, suits, or obligations arising under or related to this Agreement are subject to and limited to the availability of funds appropriated by the Texas Legislature for that respective claim, suit, or obligation.

6.19. Governing Law and Venue. This Agreement shall be construed and interpreted in accordance with the laws of the state of Texas, excluding any choice of law rules which may direct the application of laws of another jurisdiction. Any action at law or inequity to enforce the terms and conditions of this agreement shall be brought in Travis County, Texas. This provision does not waive the TCEQ's sovereign immunity.

6.20. Savings. Any provision of the Contract Documents held to be void or unenforceable under any Laws or Regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon TCEQ and the PERFORMING PARTY, who agree that Contract Documents are reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

6.21. Indemnification. To the extent permitted by law, the PERFORMING PARTY agrees to indemnify and hold harmless the State of Texas and the TCEQ, including its employees and officers, against and from any and all liability, loss, or damage arising out of actions of the PERFORMING PARTY in the performance of this Agreement.

6.22. Standards and Measures for Performing Party's Performance. In accordance with Texas Government Code Chapter 2261, the TCEQ is required to monitor the PERFORMING PARTY's performance under this Agreement. The PERFORMING PARTY agrees that the standards and Contractor Evaluation criteria set forth in the NRG are appropriate standards and measures for the PERFORMING PARTY's performance during the Agreement.

6.23. Installation and Use of Identifying Mark, Tracking Device.

Identifying Mark

6.23.1. Upon request by TCEQ, the PERFORMING PARTY shall install, or permit TCEQ or its contractor to install, a prominently placed identifying mark on the equipment, identifying it as TERP-funded equipment and containing such other information as TCEQ shall specify. The PERFORMING PARTY may remove the mark upon the expiration of the required use period.

Tracking Device - Voluntary

6.23.2. The PERFORMING PARTY may voluntarily install a device for tracking the location and usage of the TERP-funded equipment during the Activity Life and maintaining monitoring services. GPS equipment and installation may be considered an allowable cost if the equipment and monitoring services are obtained from the designated TERP GPS Monitoring Service (TGMS) Contractor. Monitoring service charges are not reimbursable expenses.

6.23.3. Installation of a GPS tracking unit from the designated TGMS Contractor and maintenance of monitoring service through the designated TGMS Contractor, regardless of whether the purchase of the GPS tracking unit was reimbursed under the grant, shall waive the requirement of submission of written Monitoring Reports required under General Conditions, Article 5.3, of this Agreement.

6.23.4. Waiver of the written Monitoring Reports shall continue for such time as the PERFORMING PARTY maintains the GPS monitoring service. Termination of the GPS monitoring for any reason shall reinstate requirements for submission of written Monitoring Reports until such time as the GPS monitoring service is restored.

6.23.5. The PERFORMING PARTY shall not tamper with or disable the GPS equipment or allow others to tamper with or disable the GPS equipment. Evidence of tampering with or disabling the GPS equipment shall reinstate requirements for submission of written Monitoring Reports.

6.23.6. The PERFORMING PARTY shall review data collected by the GPS monitoring to ensure its accuracy.

6.23.7. On a semi-annual basis, the PERFORMING PARTY shall submit to TCEQ a certification of the accuracy of collected GPS data for each Grant Activity, using a form to be provided by TCEQ. Failure to submit this certification may be considered the PERFORMING PARTY's confirmation of the accuracy of the GPS data. If the PERFORMING PARTY detects data that it does not consider

accurate, the PERFORMING PARTY shall immediately notify TCEQ and the TGMS Contractor of the discrepancies.

Tracking Device - Mandatory

6.23.8. Under circumstances where TCEQ determines, at its sole discretion, that the PERFORMING PARTY is not meeting its commitments under this Agreement, and that the emissions reductions calculated in the Approved Application will not be met, TCEQ may require the PERFORMING PARTY to install, or permit TCEQ or its contractor to install, a device for tracking the location and usage of the TERP-funded equipment.

6.23.9. If the PERFORMING PARTY is required to install a tracking device under Section 6.25.8 above, the PERFORMING PARTY and TCEQ shall execute a separate GPS Monitoring Agreement that will specifically define the terms of usage of the tracking device and associated monitoring services.

6.23.10. The PERFORMING PARTY agrees that failure to install a tracking device upon TCEQ request will be considered evidence that the expected emissions reductions have not been achieved. In such instances, the PERFORMING PARTY agrees that the TCEQ will be entitled to a return of the reimbursement grant funds for the TERP equipment or vehicle(s), based on the failure to achieve expected emissions reductions within the Eligible Counties under General Conditions, Article 5.2, of this Agreement.

GPS Data

6.23.11. TCEQ recognizes that the PERFORMING PARTY may consider the information recorded and maintained by the tracking device to contain confidential trade secret information. Therefore, TCEQ shall not release any of the information submitted to TCEQ by the tracking device to any party outside TCEQ, except as required under the Public Information Act or other applicable law. TCEQ shall inform the PERFORMING PARTY of any Public Information Act request for the information and refer the request to the Office of the Attorney General for a ruling on whether the information contains protected trade secret information. TCEQ is not responsible for making arguments regarding trade secret status to the Attorney General, but the PERFORMING PARTY may do so.

6.24. By stating at any place in this Agreement that any particular non-compliance is a material breach, TCEQ does not limit the acts or omissions which may constitute a material breach.

6.25. The parties to this Agreement expressly agree that time is of the essence of this contract.

6.26. The terms include, included, including, includes when used in this Agreement shall mean "includes but not limited to".

ARTICLE 7. TERMINATION

7.1. Termination of this agreement under any circumstances shall not constitute a waiver of any rights or remedies that TCEQ may exercise under this agreement or otherwise as provided by law.

7.2. This Agreement may be terminated in whole or in part by the TCEQ for cause, including a material failure to comply with the requirements of the Contract Documents. Unless advance notice of intent to terminate will place funds of the state at increased risk, the TCEQ will provide written notice (delivered by certified mail, return receipt requested) of intent to terminate. The PERFORMING PARTY shall have twenty (20) calendar days from the date such notice is sent to cure performance deficiencies.

7.3. This Agreement may be terminated in whole or part by the TCEQ if any delay or failure of performance of the Grant Activities by either the PERFORMING PARTY or the TCEQ is caused by a *force majeure* event, as determined by the TCEQ in its sole discretion.

7.4. This Agreement may be terminated in whole or in part by the TCEQ for its convenience. Circumstances in which this may occur include without limitation the Texas Legislature's withdrawal of the appropriation for this project or the depletion of the Texas Emissions Reduction Plan Fund, which results in the unavailability of funds to complete this project. To the extent feasible, in the sole discretion of the TCEQ, the TCEQ will provide a minimum of ten (10) days written notice (delivered by certified mail, return receipt requested) of intent to terminate.

7.5. If after termination for the PERFORMING PARTY'S material failure to comply with the requirements of the Contract Documents, it is determined that the PERFORMING PARTY had not so failed, the termination shall be deemed to have been effected for the convenience of the TCEQ.

7.6. The PERFORMING PARTY acknowledges that certain requirements of this Agreement shall survive an event of termination. The PERFORMING PARTY agrees to performance of grant activities in accordance with the Contract Documents beyond the termination of this Agreement and through the end of the Activity Life of each Activity included in the Approved Application for which reimbursement has been requested. TCEQ reserves the right to assert any remedies available by law and under this contract for PERFORMING PARTY's performance of the grant activities for the length of the Activity Life of all grant activities.

7.7. In accordance with this Agreement, the PERFORMING PARTY does not have an expectation or entitlement of continued receipt of financial assistance under this Agreement. Therefore, the PERFORMING PARTY waives any claim for damages arising from or resulting from TCEQ's termination of this Agreement for any reason.

7.8. If, during the performance of the Grant Activities, the PERFORMING PARTY chooses to not complete the Grant Activities and withdraw from the obligations under this Agreement, the PERFORMING PARTY may terminate this Agreement by providing ten (10) days written notice to the TCEQ and returning any reimbursements already received.

— End of Terms and Conditions —

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: Discussion and possible action to authorize the County Judge to submit a letter to the Texas Department of Transportation regarding the environmental process for local governments working on State Highway projects.

CHECK ONE:	CONSENT	X ACTION	EXECUTIVE SESSION
	WORKSHOP	PROCLAMATION	PRESENTATION

PREFERRED MEETING DATE REQUESTED: 1/10/12

AMOUNT REQUIRED:

LINE ITEM NUMBER OF FUNDS REQUIRED:

REQUESTED BY:

SPONSORED BY: Conley

A proposed letter and SB 548 is attached. A draft of comments for attachment with the letter will be presented during Court.

Office of the Hays County Judge



Bert Cobb, M.D.

111 E. San Antonio St., Suite 300 • San Marcos, Texas 78666

January 10, 2012

Mark A. Marek, P.E.
Interim Director, Environmental Affairs Division
Texas Department of Transportation
125 E. 11th Street
Austin, Texas 78701-2483

Re: Proposed Environmental Rules for Transportation Projects

Dear Mr. Marek:

On behalf of Hays County, I am submitting the attached comments on the proposed environmental streamlining rules published in the Texas Register on December 2, 2011. Hays County is pleased with the progress that has been made on the proposed rules and we appreciate the staff addressing the comments and concerns expressed by the County on the original draft.

Hays County was very active during the last legislative session, working with Williamson County and the Texas Conference of Urban Counties, to secure passage of SB 548 and HB 630, specifically the provisions providing deadlines and guidelines for the environmental review of transportation projects.

We know from working with the Senators and the various committees that there was a clear intent to streamline the environmental review process and allow local entities like Hays County the opportunity to work with TxDOT to expedite the review and approval of environmental documents related to our priority road projects.

We are concerned that the proposed rules still do not adequately address the issues of deadlines and certainty in the environmental process for local governments funding major improvements to the State Highway System. The attached comments address our areas of concern and focus on several key areas we would request TxDOT address before the rules are adopted. Our major areas of concern are as follows:

- Open-ended procedures and the State's proposal to front-load the process
- The process and proposal to determine the fee paid by the local government sponsor
- Closure of the review process with real deadlines and a procedure for dispute resolution that does not also "stop the clock" on the deadlines

Thank you for the opportunity to comment on these important rules. If you have any questions regarding our comments, please let me know or contact Commissioner Will Conley at (512) 847-3159.

Sincerely,

Bert Cobb, M.D.
Hays County Judge

Attachment

cc: Commissioner Debbie Ingalsbe, Precinct 1
Commissioner Mark Jones, Precinct 2
Commissioner Will Conley, Precinct 3
Commissioner Ray Whisenant, Precinct 4
Mark Kennedy, Chief, Civil Division, Hays County District Attorney's Office

AN ACT

2 relating to the environmental review process for transportation
3 projects.

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

5 SECTION 1. Section 201.607, Transportation Code, is amended
6 by amending Subsection (a) and adding Subsection (c) to read as
7 follows:

8 (a) Not later than January 1, 1997, and every fifth year
9 after that date, the department and each state agency that is
10 responsible for the protection of the natural environment or for
11 the preservation of historical or archeological resources shall
12 examine and revise their memorandum of understanding that:

13 (1) describes the responsibilities of each agency
14 entering into the memorandum relating to the review of the
15 potential environmental, historical, or archeological effect of a
16 highway project;

17 (2) specifies the responsibilities of each agency
18 entering into the memorandum relating to the review of a highway
19 project;

20 (3) specifies the types of information the department
21 must provide to the reviewing agency and the period during which the
22 department must provide the information;

23 (4) specifies the period during which the reviewing
24 agency must review the highway project and provide comments to the

1 department, as negotiated by the department and the agency but
2 which may not exceed 45 days after the date the agency receives a
3 request for comments from the department; ~~and~~

4 (5) specifies that comments submitted to the
5 department later than the period specified under Subdivision (4)
6 will be considered by the department to the extent possible; and

7 (6) includes any other agreement necessary for the
8 effective coordination of the review of the environmental,
9 historical, or archeological effect of a highway project.

10 (c) The department by rule shall establish procedures
11 concerning coordination with agencies in carrying out
12 responsibilities under agreements under this section.

13 SECTION 2. (a) Chapter 201, Transportation Code, is
14 amended by adding Subchapter I-1 to read as follows:

15 SUBCHAPTER I-1. ENVIRONMENTAL REVIEW PROCESS

16 Sec. 201.751. DEFINITIONS. In this subchapter:

17 (1) "Day" means a calendar day.

18 (2) "Federal Highway Administration" means the United
19 States Department of Transportation Federal Highway
20 Administration.

21 (3) "Highway project" means a highway or related
22 improvement that is:

23 (A) part of the state highway system; or

24 (B) not part of the state highway system but
25 funded wholly or partly by federal money.

26 (4) "Local government sponsor" means a political
27 subdivision of the state that:

1 (A) elects to participate in the planning,
2 development, design, funding, or financing of a highway project;
3 and

4 (B) is a municipality or a county, a group of
5 adjoining counties, a county acting under Chapter 284, a regional
6 tollway authority operating under Chapter 366, a regional mobility
7 authority operating under Chapter 370, a local government
8 corporation, or a transportation corporation created under Chapter
9 431.

10 Sec. 201.752. STANDARDS. (a) The commission by rule shall
11 establish standards for processing an environmental review
12 document for a highway project. The standards must increase
13 efficiency, minimize delays, and encourage collaboration and
14 cooperation by the department with a local government sponsor, with
15 a goal of prompt approval of legally sufficient documents.

16 (b) The standards apply regardless of whether the
17 environmental review document is prepared by the department or a
18 local government sponsor. The standards apply to work performed by
19 the sponsor and to the department's review process and
20 environmental decision.

21 (c) The standards must address, for each type of
22 environmental review document:

23 (1) the issues and subject matter to be included in the
24 project scope prepared under Section 201.754;

25 (2) the required content of a draft environmental
26 review document;

27 (3) the process to be followed in considering each

1 type of environmental review document; and

2 (4) review deadlines, including the deadlines in
3 Section 201.759.

4 (d) The standards must include a process for resolving
5 disputes arising under this subchapter, provided that the dispute
6 resolution process must be concluded not later than the 60th day
7 after the date either party requests dispute resolution.

8 (e) For highway projects described in Section 201.753(a),
9 the standards may provide a process and criteria for the
10 prioritization of environmental review documents in the event the
11 department makes a finding that it lacks adequate resources to
12 timely process all documents it receives. Standards established
13 pursuant to this subsection must provide for notification to a
14 local government sponsor if processing of an environmental review
15 document is to be delayed due to prioritization, and must ensure
16 that the environmental review document for each highway project
17 will be completed no later than one year prior to the date planned
18 for publishing notice to let the construction contract for the
19 project, as indicated in a document identifying the project under
20 Section 201.753(a)(1) or a commission order under Section
21 201.753(a)(2).

22 Sec. 201.753. ENVIRONMENTAL REVIEW LIMITED TO CERTAIN
23 PROJECTS. (a) A local government sponsor or the department may
24 prepare an environmental review document for a highway project only
25 if the highway project is:

26 (1) identified in the financially constrained portion
27 of the approved state transportation improvement program or the

1 financially constrained portion of the approved unified
2 transportation program; or

3 (2) identified by the commission as being eligible for
4 participation under this subchapter.

5 (b) Notwithstanding Subsection (a), a local government
6 sponsor may prepare an environmental review document for a highway
7 project that is not identified by the commission or in a program
8 described by Subsection (a) if the sponsor submits with its notice
9 under Section 201.755 a fee in an amount established by commission
10 rule, but not to exceed the actual cost of reviewing the
11 environmental review document.

12 (c) A fee received by the department under Subsection (b)
13 must be deposited in the state highway fund and used to pay costs
14 incurred under this subchapter.

15 Sec. 201.754. SCOPE OF PROJECT. If an environmental review
16 document is prepared by a local government sponsor, the local
17 government sponsor must prepare a detailed scope of the project in
18 collaboration with the department before the department may process
19 the environmental review document.

20 Sec. 201.755. NOTICE TO DEPARTMENT. (a) A local
21 government sponsor may submit notice to the department proposing
22 that the local government sponsor prepare the environmental review
23 document for a highway project.

24 (b) The notice must include:

25 (1) the project scope prepared under Section 201.754;
26 and

27 (2) a request for classification of the project.

1 Sec. 201.756. LOCAL GOVERNMENT SPONSOR RESPONSIBILITIES. A
2 local government sponsor that submits notice under Section 201.755
3 is responsible for preparing all materials for:

- 4 (1) project scope determination;
5 (2) environmental reports;
6 (3) the environmental review document;
7 (4) environmental permits and conditions;
8 (5) coordination with resource agencies; and
9 (6) public participation.

10 Sec. 201.757. DETERMINATION OF ADMINISTRATIVELY COMPLETE
11 ENVIRONMENTAL REVIEW DOCUMENT. (a) A local government sponsor's
12 submission of an environmental review document must include a
13 statement from the local government sponsor that the document is
14 administratively complete, ready for technical review, and
15 compliant with all applicable requirements.

16 (b) Not later than the 20th day after the date the
17 department receives a local government sponsor's environmental
18 review document, the department shall either:

- 19 (1) issue a letter confirming that the document is
20 administratively complete and ready for technical review; or
21 (2) decline to issue a letter confirming that the
22 document is administratively complete and ready for technical
23 review, in accordance with Section 201.758.

24 Sec. 201.758. DEPARTMENT DECLINES TO CONFIRM THAT DOCUMENT
25 IS ADMINISTRATIVELY COMPLETE. (a) The department may decline to
26 issue a letter confirming that an environmental review document is
27 administratively complete and ready for technical review only if

1 the department sends a written response to the local government
2 sponsor specifying in reasonable detail the basis for its
3 conclusions, including a listing of any required information
4 determined by the department to be missing from the document.

5 (b) If the department provides notice under Subsection (a),
6 the department shall undertake all reasonable efforts to cooperate
7 with the local government sponsor in a timely manner to ensure that
8 the environmental review document is administratively complete.

9 (c) The local government sponsor may resubmit any
10 environmental review document determined by the department under
11 Section 201.757 not to be administratively complete, and the
12 department shall issue a determination letter on the resubmitted
13 document not later than the 20th day after the date the document is
14 resubmitted.

15 Sec. 201.759. REVIEW DEADLINES. (a) The following
16 deadlines must be included in the standards adopted under Section
17 201.752:

18 (1) the department shall issue a classification letter
19 not later than the 30th day after the date the department receives
20 notice from a local government sponsor under Section 201.755;

21 (2) for a project classified as a programmatic
22 categorical exclusion, the environmental decision must be rendered
23 not later than the 60th day after the date the supporting
24 documentation is received by the department;

25 (3) for a project classified as a categorical
26 exclusion, the environmental decision must be rendered not later
27 than the 90th day after the date the supporting documentation is

1 received by the department;

2 (4) for a project that requires the preparation of an
3 environmental assessment:

4 (A) the department must provide all department
5 comments on a draft environmental assessment not later than the
6 90th day after the date the draft is received by the department; and

7 (B) the department must render the environmental
8 decision on the project not later than the 60th day after the later
9 of:

10 (i) the date the revised environmental
11 assessment is submitted to the department; or

12 (ii) the date the public involvement
13 process concludes;

14 (5) the department must render the environmental
15 decision on any reevaluation not later than the 120th day after the
16 date the supporting documentation is received by the department;
17 and

18 (6) for a project that requires the preparation of an
19 environmental impact statement, the department shall render the
20 environmental decision not later than the 120th day after the date
21 the draft final environmental impact statement is submitted.

22 (b) Review deadlines under this section specify the date by
23 which the department will render the environmental decision on a
24 project or the time frames by which the department will make a
25 recommendation to the Federal Highway Administration, as
26 applicable.

27 (c) A deadline that falls on a weekend or official state

1 holiday is considered to occur on the next business day.

2 Sec. 201.760. SUSPENSION OF TIME PERIODS. The computation
3 of review deadlines under Section 201.759 does not begin until an
4 environmental review document is determined to be administratively
5 complete, and is suspended during any period in which:

6 (1) the document that is the subject of the review is
7 being revised by or on behalf of the local government sponsor in
8 response to department comments;

9 (2) the highway project is the subject of additional
10 work, including a change in design of the project, and during the
11 identification and resolution of new significant issues; or

12 (3) the local government sponsor is preparing a
13 response to any issue raised by legal counsel for the department
14 concerning compliance with applicable law.

15 Sec. 201.761. AGREEMENT BETWEEN LOCAL GOVERNMENT SPONSOR
16 AND DEPARTMENT. Notwithstanding any provision of this subchapter
17 or any other law, a local government sponsor and the department may
18 enter into an agreement that defines the relative roles and
19 responsibilities of the parties in the preparation and review of
20 environmental review documents for a specific project. For a
21 project for which an environmental decision requires the approval
22 of the Federal Highway Administration and to the extent otherwise
23 permitted by law, the Federal Highway Administration may also be a
24 party to an agreement between a local government sponsor and the
25 department under this section.

26 Sec. 201.762. REPORTS TO COMMISSION AND LEGISLATURE.
27 (a) Not later than June 30 and December 31 of each year, the

1 department shall submit a report to the commission at a regularly
2 scheduled commission meeting identifying projects being processed
3 under the procedures of this subchapter and the status of each
4 project, including:

5 (1) how the project was classified for environmental
6 review;

7 (2) the current status of the environmental review;

8 (3) the date on which the department is required to
9 make an environmental decision under applicable deadlines;

10 (4) an explanation of any delays; and

11 (5) any deadline under Section 201.759 missed by the
12 department.

13 (b) Not later than December 1 of each year, the department
14 shall submit a report to the members of the standing legislative
15 committees with primary jurisdiction over matters related to
16 transportation regarding the implementation of this subchapter,
17 including a status report for the preceding 12-month period that
18 contains the information described in Subsection (a).

19 (c) The department shall post copies of the reports required
20 under this section on its Internet website and shall provide a copy
21 of the report required by Subsection (b) to each member of the
22 legislature who has at least one project covered by the report in
23 the member's district.

24 (d) The department shall make available on its Internet
25 website and update regularly the status of projects being processed
26 under this subchapter.

27 (b) The Texas Transportation Commission shall adopt rules

1 to implement Subchapter I-1, Chapter 201, Transportation Code, as
2 added by this Act, not later than March 1, 2012.

3 (c) Subchapter I-1, Chapter 201, Transportation Code, as
4 added by this Act, applies only to a notice of a local government
5 sponsor proposing the sponsor's preparation of an environmental
6 review document that is received by the Texas Department of
7 Transportation on or after September 1, 2011. Submissions to the
8 Texas Department of Transportation received before September 1,
9 2011, are governed by the law in effect on the date the submission
10 was received, and that law is continued in effect for that purpose.

11 SECTION 3. Subchapter A, Chapter 222, Transportation Code,
12 is amended by adding Sections 222.005 and 222.006 to read as
13 follows:

14 Sec. 222.005. AUTHORIZATION TO PROVIDE ASSISTANCE TO
15 EXPEDITE ENVIRONMENTAL REVIEW. (a) The department, a county, a
16 regional tollway authority operating under Chapter 366, or a
17 regional mobility authority operating under Chapter 370 may enter
18 into an agreement to provide funds to a state or federal agency to
19 expedite the agency's performance of its duties related to the
20 environmental review process for the applicable entity's
21 transportation projects, including those listed in the applicable
22 metropolitan planning organization's long-range transportation
23 plan under 23 U.S.C. Section 134.

24 (b) Except as provided by Subsection (c), an agreement
25 entered into under this section:

26 (1) may specify transportation projects the
27 applicable entity considers to be priorities for review; and

1 (2) must require the agency receiving money to
2 complete the environmental review in less time than is customary
3 for the completion of environmental review by that agency.

4 (c) The department may enter into a separate agreement for a
5 transportation project that the department determines has regional
6 importance.

7 (d) An agreement entered into under this section does not
8 diminish or modify the rights of the public regarding review and
9 comment on transportation projects.

10 (e) An entity entering into an agreement under this section
11 shall make the agreement available on the entity's Internet
12 website.

13 Sec. 222.006. ENVIRONMENTAL REVIEW CERTIFICATION PROCESS.
14 The department by rule shall establish a process to certify
15 department district environmental specialists to work on all
16 documents related to state and federal environmental review
17 processes. The certification process must:

18 (1) be available to department employees; and

19 (2) require continuing education for recertification.

20 SECTION 4. Section 12.0011, Parks and Wildlife Code, is
21 amended by adding Subsection (b-1) to read as follows:

22 (b-1) Recommendations and information submitted by the
23 department under Subsection (b) in response to a request for
24 comments from the Texas Department of Transportation must be
25 submitted not later than the 45th day after the date the department
26 receives the request.

27 SECTION 5. Subsection (a), Section 201.607, Transportation

1 Code, as amended by this Act, and Subsection (b-1), Section
2 12.0011, Parks and Wildlife Code, as added by this Act, apply only
3 to a request for comments from the Texas Department of
4 Transportation received by a state agency on or after September 1,
5 2011. As necessary, the Texas Department of Transportation and
6 each affected state agency shall promptly revise the memorandum of
7 understanding required by Section 201.607, Transportation Code, to
8 implement the change made by this Act to Subsection (a), Section
9 201.607, Transportation Code.

10 SECTION 6. (a) Section 222.005, Transportation Code, as
11 added by this Act, takes effect immediately if this Act receives a
12 vote of two-thirds of all the members elected to each house, as
13 provided by Section 39, Article III, Texas Constitution. If this
14 Act does not receive the vote necessary for immediate effect,
15 Section 222.005 takes effect September 1, 2011.

16 (b) Except as provided by Subsection (a) of this section,
17 this Act takes effect September 1, 2011.

S.B. No. 548

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 548 passed the Senate on March 31, 2011, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 25, 2011, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 548 passed the House, with amendment, on May 23, 2011, by the following vote: Yeas 142, Nays 0, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor

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 a Contract for Engineering Services Supplemental #1 to the Professional Services Agreement and Work Authorization No. 3 with CP&Y, Inc.

TYPE OF ITEM: ACTION

PREFERRED MEETING DATE REQUESTED: January 10, 2012

AMOUNT REQUIRED: N/A

LINE ITEM NUMBER OF FUNDS REQUIRED: Budgeted road bond funds. (already allocated)

REQUESTED BY: The county road bond managers at Prime Strategies, Inc. and Commissioner Jones.

SPONSORED BY: Commissioner Precinct 2 Mark Jones.

SUMMARY: CP&Y, Inc. is the Design Engineer for the IH 35 Phase IIB (Frontage Roads) Project; Work Authorization No. 3 and Supplemental #1 to the Professional Services Agreement will allow for the completion of:

- 1.) The IH 35 at Yarrington Road project will consist of the reconstruction of the existing Yarrington Bridge over IH 35 and the adjacent NB and SB approaches
- 2.) Design and production of plans, estimates, and specifications for the two turn around structures
- 3.) Technical Services for the completion of surveying and mapping and geotechnical findings
- 4.) Construction Management Services for the project
- 5.) Utility Coordination for the project
- 6.) Additional services in support of expediting ROW acquisition completion
- 7.) The maximum amount payable for services under Work Authorization No. 3 without modification would be \$849,159.00; The funding will come from the allocated monies budgeted for the pass through bond program which is within the engineering budget that was already presented to and approved by the Court.
- 8.) The Compensation Cap for the Professional Services Agreement is requested to be increased from \$2,000,000.00 to \$2,800,000; The funding will come from the allocated monies budgeted for the pass through bond program which is within the engineering budget that was already presented to and approved by the Court.

See attachment.

DESCRIPTION OF Item: Discussion and possible action to authorize the County Judge to execute a Contract for Engineering Services Supplemental #1 to the Professional Services Agreement and Work Authorization No. 3 with CP&Y, Inc.

PREFERRED MEETING DATE REQUESTED: January 10, 2011

COUNTY AUDITOR

AMOUNT: \$ 849,159

LINE ITEM NUMBER: 023-802-96-632.5621_400

COUNTY PURCHASING GUIDELINES FOLLOWED: Yes

PAYMENT TERMS ACCEPTABLE: Yes

COMMENTS:

Bill Herzog

SPECIAL COUNSEL

CONTRACT TERMS ACCEPTABLE: _____

COMMENTS:

COUNTY JUDGE

Signature Required if Approved

DATE CONTRACT SIGNED: _____

**APPENDIX A
EXHIBIT B**

HAYS COUNTY

IH 35 at Yarrington Road – Replace Bridges and Approaches

SCOPE OF SERVICES

The IH 35 at Yarrington Road project will consist of the reconstruction of the existing Yarrington Road bridge over IH 35 and the adjacent Northbound and Southbound approaches. The configuration of the bridge and approaches will generally follow the schematic design previously approved by TxDOT. The scope of this work will include design and production of plans for the two turnaround structures, but these plans may not be included in the construction documents. The configuration of the frontage road approaches will follow the design finalized in the Schematic Refinement stage of this contract. The final configuration will be approved in concept by Hays County and their GEC, HNTB, prior to the commencement of detailed design work.

The Engineer shall provide the necessary engineering and technical services for the completion of surveying and mapping, preparation of plans, specifications and estimates, construction bid services, and construction management for the project.

Design services related to the design and plan production for this project will be performed in accordance with the latest available TxDOT manuals from the design collection located on the TxDOT website. The roadway will be designed based on (4R) design criteria.

The development of the project will be consistent with TxDOT design procedures and practices. This project will be developed utilizing Microstation V8i and Geopak V8i.

The tasks and products are more fully described in the following TASK OUTLINE.

TASK OUTLINE

I. ROUTE AND DESIGN STUDIES

A. DATA COLLECTION

1. Perform field investigations of the project. These investigations will include site visits to the project site and adjacent area to gather pertinent information relating to the project.
2. Develop a photo inventory of the project site for reference in project meetings, discussions with stakeholders and discussions with developers, etc. during the project development.
3. Gather and review information from TxDOT and the City of San Marcos including existing IH 35, FM 110, and Yarrington Road plans, project files, automated road inventory sheets, PMIS data, and existing geometric conditions, typical sections, drainage facilities, bridge and culvert data, and traffic data.
4. Coordinate with Engineers on adjacent projects to ensure compatibility.

B. GEOTECHNICAL INVESTIGATIONS

1. Obtain permit for drilling in TxDOT right-of-way. Per TxDOT policy, nighttime or weekend drilling will be required in the IH 35 corridor. Perform the following borings that will be used to investigate subsurface stratigraphy and to obtain samples for laboratory testing:
 - (a) Four (4) borings, one at each end of the NB and SB frontage roads, drilled to a minimum depth of 10 feet.
 - (b) Two (2) bridge borings (one at each proposed abutment location) drilled to a minimum depth of 55 feet or until at least three consecutive TCP test results of 100 blows for less than 4 inches are recorded, whichever is deeper. Obtain TCP blow counts every 5 feet.

- (c) Four (4) retaining wall borings drilled to approximately 20 feet deep at the proposed wall locations.
- 2. Perform laboratory testing to determine the soil's plasticity and strength characteristics. Testing will include:
 - (a) Atterberg Limit Determinations
 - (b) Partial Mechanical Sieve Analyses (#4, #40, #200 sieves)
 - (c) Soluble Sulfate Content
 - (d) Moisture Content
 - (e) Unconfined Compressive Strength
 - (f) U.S.C.S. Soil Classification
- 3. The Engineer will coordinate with locator service to determine existing utility locations.
- 4. The Engineer will prepare a geotechnical report that will present recommendations for the design of the bridge foundation. The geotechnical report will include:
 - (a) Site vicinity and geology map
 - (b) Wincore2 logs in English units, laboratory test results, and plan of borings. Provide signed and sealed sheets of logs for insertion into the construction plan set.
 - (c) Generalized subsurface conditions and groundwater conditions at the time of drilling.
 - (d) Results of laboratory testing.
 - (e) Geotechnical recommendations for earthwork.
 - (f) Geotechnical design recommendations for bridge foundations including type, minimum embedment, and allowable bearing elevations and pressures.
 - (g) Submittal of 2 draft copies of geotechnical report for review and comment.
 - (h) Submittal of 5 final copies of geotechnical report that incorporate review comments.
- 5. The Engineer will prepare a pavement design report that will present recommendations for the design of the roadway pavement sections. The pavement design report will include:
 - (a) Site vicinity and geology map
 - (b) Generalized subsurface conditions and groundwater conditions encountered during drilling operations.
 - (c) Pavement thickness design for new frontage roads.
 - (d) Traffic data will be provided by the Engineer.
- 6. The Engineer will meet with the geotechnical subconsultant on a regular basis to coordinate their work.

C. SCHEMATIC REFINEMENT

- 1. Finalize the horizontal and vertical geometrics and paving limits for the project concept.
- 2. Develop preliminary schematic cross sections at 100' intervals. These cross sections will be for estimation of cut and fill quantities, as well as determining retaining wall locations and heights.
- 3. Determine retaining wall and bridge limits for the project roadway.
- 4. Develop a conceptual traffic control plan. Conceptual plans are intended to depict major phases of traffic control on scroll plots. These conceptuels will propose methods for constructability and can serve as a basis for future development of PS&E documents.
- 5. Identify any necessary design exceptions or waivers required for the project. These instances will be recorded and reviewed with the County.
- 6. Develop an engineer's opinion of probable cost for the project schematics.
- 7. Prepare schematic plots for the project corridor. Plots will include required elements suitable for submission to the TxDOT Austin District and the Federal Highway Administration. These plots will also be used to obtain final approval of the project design from the County and GEC.

II. SOCIAL, ECONOMIC & ENVIROMENTAL STUDIES AND PUBLIC INVOLVEMENT

The Categorical Exclusion for the project corridor of which the Yarrington Road bridge is a part has already been completed under another contract and is under review by the FHWA. Pending approval of that CE by the FHWA, no additional environmental clearances or services are anticipated to be required prior to construction of the Yarrington Road bridge and approaches.

III. SURVEYING SERVICES

A. PROJECT CONTROL SERVICES

1. The Surveyor will attempt to recover and utilize the existing IH 35 TxDOT (CSJ# 0016-01-104) NAD-83/93 (HARN) NAVD 88 datum, Texas State Plane Coordinate System, Texas Central Zone aerial mapping primary control points for this project. In the case that the control has been destroyed the Client will be notified immediately. This scope and fee do not include effort to re-establish destroyed control. GPS or conventional land surveying methods will be used to establish additional project control as needed. A control drawing on 11x17 will be prepared and delivered to the client.

B. RIGHT-OF-WAY SURVEYING SERVICES

The Surveyor will complete ROW surveys and prepare ROW plan sheets, two property descriptions and parcel plats for the acquisition of two parcels by Hays County on the east side of IH 35 at Yarrington Road, as shown on the exhibit prepared by CPY and provided to the Surveyor on 12/06/2011. These will be prepared in accordance with the TxDOT Right-of-way Manual and TxDOT Austin District requirements.

1. Records Research

Upon notice to proceed, the Surveyor will conduct research in the Hays County Appraisal District offices to confirm property ownership for the two affected properties (subject properties). Concurrently, copies of the current deeds and any plats for all subject properties will be obtained from the County Clerks' records.

2. Right-of-Entry

The Surveyor will attempt to obtain written right-of-entry from the two landowners for the purpose of gaining access for survey outside of the existing ROW. The Surveyor will contact affected land owners from which right-of-entry has been obtained prior to commencing any work on private property. The Surveyor anticipates that the Client and Hays County will handle problems regarding any and all refusal to grant right-of-entry or communication with land owners who are hostile with respect to the completion of this scope of services. The Surveyor will document any interactions with land owners while performing the work. Gaining right-of-entry from all land owners in a timely manner will be critical to the success and efficiency in meeting deadlines for this project.

3. Title Abstracting and Deed Study

Hays County will provide a title abstract of each subject property. Based upon the records obtained, the Surveyor will prepare a working drawing of the deeds and right-of-way information to be used for a preliminary base map. This base map will be utilized in the preparation and parcel surveys. The Client will be notified of all deed line conflicts and major discrepancies discovered in preparing the deed study. Resolution of conflicts is not a budgeted item since the number or extent of such conflicts cannot be quantified at this time.

4. Field Surveys

The Surveyor will perform a route survey within the project limits. Monuments marking the existing right-of-way lines (if any) and the front corners of the properties from which right of way is to be obtained will be recovered and tied to the project control. The Surveyor will recover the corner or angle point monuments

nearest to the proposed right of way on the side line of each of the subject properties and these corners will be tied to the project control.

The Surveyor will locate any visible improvements including buildings, propane tanks, sheds, fences, barns, cattle catch pens and stalls and wells within approximately 25 feet of the proposed right-of-way line. The Surveyor will detail bisected improvements with distances to the proposed right-of-way line. Structures encroaching into the existing/proposed right of way will be located and detailed on the base file. Visible utilities and visible evidence of underground utilities along the proposed ROW corridor will be located and shown.

5. Boundary Analysis

Utilizing the deed study and the data from the field survey, the Surveyor will analyze the results of the survey and perform computations related to the analysis. Location of the existing right-of-way lines and the side property lines of each of the subject properties will be determined by the Surveyor. The Client will be notified of boundary line conflicts which become apparent as a result of the field survey.

6. Preparation of Documents

- (a) The Surveyor will develop a base file showing ownership of the subject properties and any easements found during the title abstract. Properties adjacent to the existing/proposed right of way within the project limits will be labeled with the owner's name and deed recordation information.
- (b) Utilizing the boundary surveys performed by the Surveyor and the proposed right-of-way line location provided by the Client, the Surveyor will compute the boundaries of the right-of-way parcels for each of the subject properties.
- (c) The Surveyor will draft plats for the 2 parcels for county right of way acquisition. The plats will be prepared on 8 1/2" x 11" pages at a scale of 1 inch equals 50 or 100 feet, depending on the parcel size. A closure computation will be prepared for each of the plats.
- (d) The Surveyor will prepare a field note (metes and bounds) description for each of the two parcels. A closure computation will be prepared for each of the descriptions.
- (e) The Surveyor will draft the right-of-way plans to a scale of 1 inch equals 50 feet based upon the above stated TxDOT ROW standards. We estimate that there will be approximately 5 map sheets including an index/control sheet and a plan cover sheet. A closure computation will be prepared for each right-of-way parcel on the plans.
- (f) To assure the accuracy of the documents, the Surveyor will read the descriptions while all details are compared to ROW plans and parcel plats (bearings, distances, stations and offsets, deed references, etc.). Final mark-ups will be made and corrections completed.
- (g) All of the above described survey documents (plans, property descriptions parcel plats and closure computations) will be submitted to the Client for review. Upon the completion of review of all right-of-way survey documents, the Surveyor will make any necessary corrections one time. The final ROW documents will then be delivered to the Client.

7. Monumentation

TxDOT brass caps in concrete (Type II monuments) will be set at PCs, PTs, angle points and at no greater than 1,000 foot intervals along tangents on the proposed right-of-way line (assume approximately 10 total).

8. ROW Survey Deliverables

- (a) One legal description for each parcel (signed and sealed).
- (b) One individual survey plat on 8 1/2"x11" for each parcel (signed and sealed).
- (c) Right-of way plans on 22"x34" and on 11"x17" mylar.

- (d) One set of area computation sheets for legal descriptions and plats and ROW maps for all parcels.
- (e) Digital files on CD for the right-of-way base file and reference files in Microstation V8 (.dgn) format.

C. ON-THE-GROUND TOPOGRAPHIC SURVEY

1. The Surveyor will perform a design survey from ROW to ROW along IH 35 starting at approximately 1,500 feet north of the Yarrington Road bridge and extending to approximately 1,500 feet south of the Yarrington Road bridge, at approximate 50 foot stations and major grade breaks. Only the edge of pavement of the IH 35 mainlanes will be collected. The Surveyor will also perform a design survey from ROW to ROW along Yarrington Road from approximately 1,000 feet west of the centerline of IH 35 to 1,500 feet east of IH 35. All visible improvements, bridge details and visible utilities will be located within the above stated limits. All 8-inch and larger trees within the above stated limits will be located. Apparent ROW monumentation within the survey limits will be located so that the TxDOT ROW retracement survey provided by Capital Surveying on 10-3-08 can be referenced by the client based upon field locations. Utilizing Microstation and Geopak digital terrain modeling program, a one-foot contour interval map and digital terrain model (DTM) will be prepared for the project area.
2. The Surveyor will locate the Yarrington Road bridge deck, bridge bents, support columns, concrete aprons, retaining walls and guardrails.
3. The Surveyor will obtain cross sections of the creek/drainage-way that crosses IH 35 just north of Yarrington Road within the project ROW. A section will be obtained at the faces of the structures and at the apparent ROW line on the either side of IH 35. This information will be merged into the overall final DTM file.
4. Deliver Microstation V8 DTM and 2D planimetrics files showing contour lines, data points, visible utilities, signs, boundary/ROW monuments, edge-of-pavement, record ROW lines, improvements, trees, control points, drainage structures and flow line elevations. This information will be merged into the existing Aerial Mapping DTM and 2D dgn files. Other survey deliverables include: appended TIN file, gpk file, text file of all surveyed points, control dgn and pdf file of field book copies.

D. GEOTECHNICAL LOCATIONS

1. The Surveyor will stake prior to boring and locate after boring ten (10) geotechnical locations. The Engineer is to provide the locations for the borings.

E. UTILITIES

1. Subsurface Utility Engineering (SUE)
 - (a) The SUE project limits are the same as the survey limits outlined above.
 - (b) The project consists of providing QL-B update from 2007 information to 2011 on the existing underground utilities and QL-A Test Holes of approximately ten (10) on the various underground utilities investigated along the project area. QL-D and QL-C services are inclusive with the QL-B product.
 - (c) Provide Quality Level – B & A (QL-B & QL-A) services for the various utilities noted on the site visit for preparing this scope of services with associated fees. The various utilities noted are: water, sanitary sewer, natural gas, telephone communications (cable and fiber optic) and electrical. The existing systems for 2007 consisted of approximately 31,200 linear feet of underground utilities within the new project limits. This scope of services is based upon the effort to provide updated utility records and confirm existing utilities and investigate any new utilities installed after 2007.
 - (d) Utility services from the main utility to the right-of-way to service a lot or structure are not included within this scope of service or the estimated utility linear footage previously shown.
 - (e) Based upon the site visit, it appears that the existing utility pole locations vary within the area from the edge of pavement and the apparent right-of-way along the west ROW of IH 35. We will identify and map the existing utility facilities located on existing utility poles within the project limits. The facilities company name and contact information will be provided as part of the deliverables. There are approximately 37 utility poles within the project limits for the East side only. This service does not include field surveying the location of the poles. The pole location information will be provided by the surveyed information.

(f) Definitions:

- (i) Quality Service Level D (QL-D) – This level of service is inclusive of QL-B and consists of collecting existing utility record information (as-built) from utility purveyors, municipalities, counties and other agency suppliers within the area of investigation. Contact the TxDOT Permit Office to obtain available records of any utility crossings IH 35 within the project limits.
 - (ii) Quality Service Level C (QL-C) – This level of service is inclusive of QL-B and consists of surveying and obtaining accurate horizontal position of visible utility surface features associated with the project area to be designated by the Engineer.
 - (iii) Quality Service Level B (QL-B Designating Services) – Designate is to indicate, by marking with paint, the presence and approximate horizontal location of subsurface utilities using geophysical prospecting techniques, including, without limitations, electromagnetic, sonic, and acoustical techniques.
 - (iv) Quality Service Level A (QL-A Locating (Test Hole) Services) – Locating services is to locate the accurate horizontal and vertical position of subsurface utilities by excavating a test hole using vacuum excavation techniques and equipment that is non-destructive to utilities.
2. The Engineer will develop a contact list of the affected utility owners in the project corridor.
 3. The Engineer will contact each utility company and meet individually with them to review their assumed utility locations developed from the SUE process.
 4. The Engineer will prepare scroll plots indicating researched utility locations to provide to utility companies / owners for their review and comment.
 5. The Engineer (or his subconsultants) will not be responsible for any omission of utility information that is not obtainable via electromagnetic, sonic, or acoustical designating services. Non-metallic piping, inactive electric and/or communication lines may or may not be found by electromagnetic, sonic or acoustical designating practices. The Engineer (or his subconsultants) do not warrant and/or guarantee that all existing utilities will be found.
 6. Coordinate and review subconsultant work activities and submittals.

IV. PLANS, SPECIFICATIONS & ESTIMATE

A. RIGHT-OF-WAY DATA AND UTILITY ADJUSTMENTS

1. The Engineer will provide the limits of the proposed ROW to the Surveyor for preparation of Right-of-Way plans.
2. The Engineer will utilize subsurface utility data throughout the design process. A good faith effort will be made to accommodate existing utility locations. Utility conflicts will be identified during the design process to allow for relocation. The Engineer will coordinate with utility providers on necessary relocations. The Engineer shall include the existing utility information in the plans.
3. The Engineer will provide plan and profiles, culvert layouts, cross sections and other sheets as required to utility providers to assist them in any relocation efforts.
4. The Engineer will be present at all utility meetings.

B. ROADWAY DESIGN CONTROLS

1. Miscellaneous Plans
 - (a) A project title sheet will be prepared as required for the construction plans.
 - (b) A detailed index of sheets will be prepared that shows each sheet's location in the plan set, as well as its corresponding sheet number. This index will be updated throughout the submittal process to allow for easier reference during the review process.

- (c) Project layout sheets will be prepared at a scale of 1"=200' that clearly indicates the limits of the entire project.
- (d) Benchmark layout sheets will be completed at a scale of 1"=200' that clearly indicate the benchmark locations and associated control information. These sheets will later be sealed by a RPLS for submittal.

2. Roadway Plans & Geometry

- (a) Existing typical sections will be completed depicting the existing conditions of the project roadways.
- (b) Proposed typical sections will be completed depicting the improvements to IH 35 ramps, frontage roads and cross streets.
- (c) A horizontal alignment data sheet will be prepared depicting the horizontal geometric information for the project roadways to be included in the construction plan set.
- (d) The Engineer will develop Superelevation Data Sheets to be included in the construction plan set. These sheets will define the pavement cross slopes for the frontage road alignment and describe transition location and values.
- (e) Frontage road plan and profile sheets shall be completed depicting the proposed construction. The plan and profile sheets will be prepared at a scale of 1"=100' H and 1"=10' V.
- (f) The Engineer will complete a separate ramp plan and profile sheet at a scale of 1"=100' H and 1"=10' V.
- (g) The Engineer will develop a ramp gore layout at the intersection of the ramp with the frontage road. These layouts will show proposed grading, as well as station, offsets, curb radius and curb locations. These plans will be prepared at a scale of 1"=40'.
- (h) The Engineer shall complete plan and profiles for the intersecting street of Yarrington Road and for the Champion Blvd cul-de-sac.
- (i) Supplemental grading sheets will be prepared at a scale of 1"=50' for areas of the project that will require additional grading information. It is anticipated that these sheets will be required in the location of the north and south tie-ins with the existing frontage roads.
- (j) The Engineer shall provide plan sheets of removals at a scale of 1"=100'. Removal sheets shall indicate pavement and other pertinent items to be removed with sufficient detail to assure Contractor will have no problems understanding the intentions. Description of removal items including material shall be included.

3. Grading and Details

- (a) Design cross sections will be completed at 50-foot stations and other locations as necessary for the determination of cut and fill quantities. These sections will also be used to further refine the design vertical geometry. Cut and fill quantities determined from the design cross sections will be shown on the plan/profile sheets. Cross sections will not be developed as a deliverable for phased TCP.
- (b) The Engineer shall complete intersection layouts for two (2) intersections and the Champion Blvd cul-de-sac. The intersection layouts will include the design of the pavement and drainage layouts.
- (c) Driveway details will be prepared for each driveway along the project corridor. When possible these driveways will be defined in a tabular format. Unique driveways will require individual details defining there construction.
- (d) Miscellaneous roadway detail sheets will be developed for the project. The sheets will depict details required that are not defined in standard detail sheets. When possible TxDOT Statewide and TxDOT Austin District standards will be used for the project development.

C. DRAINAGE

1. Culvert Hydrology and Hydraulic Analysis

- (a) It is assumed that the frontage road approaches will be configured as to avoid impacting the existing culvert crossings just north of Yarrington Road. If impacting these culverts cannot be avoided, hydrologic and hydraulic analysis services can be provided through a supplemental agreement.

2. Storm Sewer Design

- (a) Interior drainage area maps will be finalized at a scale of 1"=100'. These maps will depict drainage area boundaries and flow direction arrows. Each area will be identified with a unique number to be used to find run-off information from the calculation sheets.
- (b) Run-off to each inlet and inlet hydraulic information will be calculated in accordance with TxDOT's Hydraulic Manual and shown on the run-off and inlet computation sheets in WinStorm format.
- (c) Storm sewers will be analyzed and computations will be prepared for the storm sewer design in WinStorm format.
- (d) Drainage plan and profile sheets will be completed depicting locations of inlets, manholes, storm sewers, culverts, utilities, channel improvements, and ditch locations and flowlines as required. These sheets will be prepared at a scale of 1"=100'. Storm sewer profiles will be prepared at a scale of 1"=100' H and 1"=10' V. Storm sewer profiles will show pipe size and type, slope, existing and proposed ground lines above the pipe, pertinent hydraulic information, and locations and sizes of inlets and junctions.
- (e) Lateral profile sheets will be developed for the project storm sewer systems. These sheets will be developed at a scale of 1"=100' H and 1"=10' V.
- (f) The Engineer will prepare a tabular ditch layout schedule that depicts pertinent information about the roadside ditch geometry and design. This table will include station, offset, flow line elevation, ditch lining material, as well as ditch bottom width. The tables will be shown on the drainage plan sheets.
- (g) The Engineer will provide drainage design details for "non-standard" drainage structures in instances where TxDOT standard details cannot be used. The Engineer will use TxDOT standards where practical.
- (h) The Engineer will identify areas within the construction of the storm sewer and culvert construction that will require trench protection or special shoring.

3. SW3P and Erosion Control

- (a) Erosion control plans will be prepared for the length of project. Temporary storm water management devices will be needed to minimize the sediment runoff during construction of this project. The anticipated design components to be utilized on this project are silt fence, sand bags, rock filter dams, sediment traps, and construction exits. One temporary erosion control plan will be developed with notes that indicate that the contractor is responsible for phasing the devices along with the construction sequencing. Permanent erosion control measures will be included on these sheets as well.
- (b) A Storm Water Pollution Prevention Plan (SW3P) will be prepared for this job in accordance with TCEQ regulations. These sheets will consist of the TxDOT SW3P text sheets that summarize erosion control measures.
- (c) Erosion control details will be prepared for any related items not covered by TxDOT standard details.

D. SIGNING, MARKINGS AND SIGNALIZATION

1. Signing and Pavement Markings

- (a) Signing and Pavement marking layouts will be prepared at a scale of 1"=100'. Main lane and frontage road signs and markings will be shown all on one plan sheet. These layouts will depict striping and delineator type and location, as well as MBGF location, lengths, and end treatments. Each sign will have a corresponding number that will relate that sign to the sign summaries.
- (b) Pavement marking details will be prepared for instances in which the State's signing and striping standards do not apply, or are not appropriate.
- (c) Detail sheets for small signs will be prepared for non-standard signs. This sheet is intended to show the overall dimensions of the signs by determining letter size and spacing. Details will not be to scale.
- (d) It is not anticipated that overhead guide signs will be required as a part of this project.

2. Signalization

- (a) Traffic signal plans will be prepared for the following locations:
 - (i) Installation of new signals at the intersection of Yarrington Rd and the IH 35 NBFR.
 - (ii) Installation of new signals at the intersection of Yarrington Rd and the IH 35 SBFR.

- (b) The signal plans will be prepared at a scale of 1"=40' and will indicate existing conditions, location of signal poles, conduit, ground boxes, existing and proposed traffic control devices (signs and markings), existing utilities, and proposed roadway improvements.
- (c) Illumination will be installed on signal poles for safety lighting purposes.
- (d) At each location, the illumination and signals will utilize separate circuits from a single electrical service. The Engineer will confirm the power source.
- (e) The signals will be video actuated, utilizing mast arm design.
- (f) Phasing and wiring plans will be prepared for the traffic signal installations.
- (g) Traffic signal elevations will be prepared showing the vertical clearance required for the mast arm design.
- (h) The Engineer will coordinate with the County in identifying power sources, conduit runs, and will show them on the project plans. The Engineer shall identify potential overhead utility conflicts, and coordinate with the County and the utility company to help resolve the conflicts.

E. MISCELLANEOUS ROADWAY

1. Retaining Walls

- (a) The Engineer will investigate each wall location and determine what the most suitable wall type is for each application.
- (b) The Engineer will provide a location plan of all walls at a scale of 1"=200'. The intent is to show the location of all walls in plan including the wall designation and beginning and ending stations.
- (c) The Engineer shall prepare retaining wall layouts at a max scale of 1"=40'. The layouts will show plan and profile views of the retaining wall.
- (d) Structural details for non-proprietary wall designs (i.e. tie-back, soil nailed, drill shaft) are not anticipated for this project and are therefore not included in this scope of work.

2. Traffic Control Plan

- (a) Traffic control typical sections will be prepared for each stage of the construction sequence to clearly delineate the position of the existing traffic with respect to the proposed construction. Temporary traffic barriers and pavement markings will also be shown and dimensioned.
- (b) The Engineer will develop overview plans for each stage of traffic control. These plans will act as key maps for each phase of TCP and shall be developed at a 1"=400' scale.
- (c) The Engineer will prepare 1"=400' plan layouts of all advance warning signs for IH 35, the frontage road and all cross streets.
- (d) A detailed narrative for the sequence of construction and traffic control general notes will be prepared and submitted to the County for review and incorporation into the plans. The narrative will include a phase-by-phase, step-by-step written account of the proposed activities throughout the construction process. This is intended to be a narrative account of the activities shown in the traffic control plan layouts.
- (e) Detailed traffic control plans will be prepared at a scale of 1"=100'. These plans will be developed based on the State's approval of the conceptual plans developed at the schematic design level. This plan will describe the maintenance of traffic and sequence of work for each phase of the proposed construction. Detour alignments, location of work areas, temporary paving, temporary shoring, signing, barricades and other details will be required to describe the traffic control plan. The Engineer will be required to ensure that proper drainage can be maintained during each phase of construction.
- (f) Detour layouts will be prepared showing plan & profiles where required to define the geometry for detours required in the traffic control plans. When widening is required that can be defined based on existing pavement slopes, a detour profile will not be prepared. These layouts will be prepared at a scale of 1"=100' H and 1"=10' V.
- (g) The Engineer will prepare temporary shoring profiles for temporary shoring required during construction sequencing. These profiles will be prepared at a scale of 1"=100' H and 1"=10' V. Existing ground and top of shoring will be depicted on these sheets, as well as existing ground and top of shoring elevations indicated every 50 feet.
- (h) Traffic control details will be developed for items not covered by State standard drawings.
- (i) The Engineer will attend one meeting to present the traffic handling scheme to the TxDOT's Safety Review Committee. The Engineer will be responsible for incorporating the comments of the Safety

Review Committee in the traffic control plans. Additional scope of services for items such as public presentations of the traffic handling plan or any additional meetings will be handled through a supplemental agreement to this scope of services.

- (j) An Engineer's opinion of construction schedule will be computed in order to determine an approximate duration for each of the phases of construction. The schedule will be prepared using SureTrak.

3. Illumination

- (a) Illumination will be installed only for intersection safety at the frontage road intersections. The luminaires will be mounted on the traffic signal poles.

4. Quantities

Quantities will be tabulated for each of the following and as necessary to bid this project:

- (a) Traffic Control (per each phase)
- (b) Earthwork
- (c) Roadway
- (d) Retaining Walls
- (e) Removal
- (f) Drainage related items including inlets, manholes and storm sewer pipes
- (g) Small / Large Signs
- (h) Pavement Markings
- (i) Signals
- (j) Erosion Control and SW3P

5. Summary Sheets

Calculated quantities will be tabulated on individual summary sheets for inclusion in the construction plan set:

- (a) Traffic Control (per each phase)
- (b) Earthwork
- (c) Roadway
- (d) Retaining Walls
- (e) Removal
- (f) Drainage related items including inlets, manholes and storm sewer pipes
- (g) Small / Large Signs
- (h) Pavement Markings
- (i) Signals
- (j) Erosion Control and SW3P

6. Standards, Specifications and Estimate

- (a) The Engineer will download the appropriate TxDOT standards for the project from the State's web site. Standards that require modification will be corrected and sealed by the Engineer. All other standards will have their title blocks filled out with the applicable project data and printed for inclusion in the final plan set. The Engineer will utilize TxDOT Austin District when applicable.
- (b) A tabulation of applicable specifications, special specifications and special provisions will be prepared for submission with the final PS&E package.
- (c) The Engineer will review general notes provided by the TxDOT for applicability to the project. The Engineer will mark-up a set and return it to the County for their inclusion in the final plan set. The Engineer will work with County and TxDOT to complete the basis of estimate prior to beginning quantity calculations.
- (d) An opinion of probable construction cost will be prepared at the 30% and prior to final PS&E submittal, and supplied to the State in Microsoft Excel format. Opinion of probable cost will also be broken out for each bridge class structure.

F. BRIDGE DESIGN

The Engineer will design the following bridges:

Yarrington Road Underpass

Bridge is a two span, skewed box beam bridge that will be constructed in two phases with an approx. overall length of 225' and width of 95'.

Yarrington Road NB-SB Turnaround Underpass

Bridge is a two span, skewed box beam bridge built in single phase construction with approx. overall length of 225' and width of 35'. The bridge has curved slab edges near the abutments.

Yarrington Road SB-NB Turnaround Underpass

Bridge is a two span, skewed box beam bridge built in single phase construction with approx. overall length of 225' and width of 35'. The bridge has curved slab edges near the abutments.

The Engineer will use the 5th Edition of the AASHTO LRFD Bridge Design Specifications for the bridge design and will design the bridge for HL 93 loading.

Since the use of MSE or other proprietary wall designs around the bridge abutments are anticipated for this contract, bridge design and details will not include structural details for walls at the abutments. However, if structural details for non-proprietary wall designs (i.e. tie-back, soil nailed, drill shaft) are required, additional design and detailing work that may be required for the bridge abutments will be handled in a subsequent work authorization agreement.

The Engineer will develop aesthetic details based on aesthetic concepts and themes provided by Hays County.

1. Preliminary Bridge Layouts and Typical Sections

- (a) The Engineer will complete a bridge layout for each underpass listed above.
 - 1. Bridge layout sheets shall have the same vertical and horizontal scale, and shall follow TxDOT Bridge Division and Design Division policies, specifications, and procedures.
 - 2. The bridge layout shall be in conformance with the TxDOT Bridge Project Development and Bridge Detailing Manuals.
- (b) The Engineer will complete phased construction sections for the Yarrington Road Underpass which will include phased construction sections along with a final completed construction section.

2. Design Calculations and Details

The Engineer will make final design calculations and final detail drawings for each underpass listed above in accordance with TxDOT standard requirements. Bridge design shall be in conformance with the latest edition of the State's *LRFD Bridge Design Manual*, *Bridge Project Development Manual*, and *Bridge Detailer's Manual*. The Engineer will design and check calculations and plans.

For each underpass, the Engineer will perform design calculations and generate custom detail sheets as required for the following:

- (a) Foundation Design for Abutments and Bents.
- (b) Step/Cap Elevation sheet
- (c) Abutment Design and Details
- (d) Bent Design and Details
- (e) Span Design and Details
- (f) Miscellaneous Details as needed for phased and skewed conditions (Slab, Abutment, Bent, Lateral Restraints, etc.)
- (g) BBND sheet (which includes beam design)

Common Details

- (a) Sidewalk and Rail Anchorage Details
- (b) Aesthetic Details
- (c) Applicable TxDOT bridge standards

3. Bridge Quantities

- (a) For each underpass, the Engineer will complete compute the bridge quantities for both phases and produce a summary table of these quantities showing both phases as well as a total amount.

G. DESIGN VERIFICATION, CHANGES AND ALTERATIONS

1. Shop Drawing Review/RFI Support

- (a) The Engineer will provide review and approval recommendations of related shop drawings, including prefabricated drainage structure and bridge elements. The Engineer will also provide prompt response to contractor requests for information (RFI's).
- (b) The Engineer, through field recommendations, telephone conversations, and/or revisions to construction plan sheets, shall provide advice and corrections concerning any field change orders required as a direct result of a design error made under his/her supervision. This service will be provided at no additional cost to the County.
- (c) Review of formwork details is not included in this contract.

V. PROJECT MANAGEMENT

A. PROJECT MANAGEMENT

- 1. Create and submit monthly invoices suitable for payment by the County.
- 2. Prepare monthly progress reports for submission with the monthly invoices to provide a written account of the progress made to date on the project.
- 3. Meet formally once a month with the County to review project progress.
- 4. Prepare project meeting summaries for applicable meetings during the project development process.
- 5. Meet with property owners, stakeholders, the County staff and Prime Strategies as required through the project development process.
- 6. Establish and attend periodic progress meetings (approximately every two months) with other agencies, including TxDOT.
- 7. The Engineer will have internal meetings with the consultant design team every two weeks for the length of the project. It is assumed that these meetings will include key personnel from each discipline and will be required to discuss and resolve project issues.
- 8. The Engineer shall prepare and execute contracts with sub-consultants, monitor sub-consultants activities (staff and schedule), complete monthly reports and review and recommend approval of sub-consultant invoices. The Engineer will review and coordinate work of sub-consultants to ensure quality products are delivered to the County. The Engineer will also be responsible for the consistency and coordination between plans developed by each sub-consultant on the design team.

VI. BID PACKAGE

A. BID PHASE SERVICES

1. The Engineer will coordinate with the City, County and TxDOT in all aspects of the Bid Package.
2. The Engineer will prepare contract bid documents and proposals and make them available to the contractors at the Engineer's office and the County's Purchasing Office.
3. The Engineer will attend and coordinate a pre-bid conference.
4. The Engineer will assist the County at contract bid opening.
5. The Engineer will tabulate the bids, research low bidder and make a recommendation of award to the County.

Exhibit D

**IH 35 at Yarrington Road
Bridge and Approaches Replacement
Hays County**

Task Description	Total Cost
<u>TOTAL LABOR COSTS</u>	
I. ROUTE AND DESIGN STUDIES	\$ 22,957.00
II. SOCIAL, ECONOMIC & ENVIRONMENTAL STUDIES AND PUBLIC INVOLVEMENT	\$ -
III. SURVEYING SERVICES	\$ 1,592.00
IV. PS&E	\$ 623,829.00
V. PROJECT MANAGEMENT	\$ 30,884.00
VI. BID PACKAGE	\$ 14,726.00
SUB-TOTAL LABOR EXPENSES	\$ 693,988.00
<u>SUMMARY</u>	
TOTAL LABOR COSTS	\$ 693,988.00
EXPENSES	\$ 2,046.00
TOTAL CP&Y FEE	\$ 696,034.00
<u>SUBCONSULTANTS</u>	
Fugro Consultants, Inc.	\$ 37,945.00
Surveying and Mapping, Inc.	\$ 115,180.00
GRAND TOTAL	\$ 849,159.00

Exhibit D

IH 35 at Yarrington Road Bridge and Approaches Replacement Hays County									
Fee Schedule/Budget for CP&Y, Inc.									
Task Description	Project Manager	Senior Engineer	Project Engineer	Design Engineer	E.I.T.	Senior CADD Operator	Admin / Clerical	Total Labor Hours	Total Direct Labor Costs
	\$225.00	\$173.00	\$136.00	\$115.00	\$96.00	\$110.00	\$73.00		
I. ROUTE AND DESIGN STUDIES									
A Data Collection									
A1 Site visits of project corridor and surrounding areas	4	4		4				12	\$ 2,052.00
A2 Develop photo inventory of project site for coordination		1		2				3	\$ 403.00
A3 Gather and review existing design data from TxDOT	2	2		4				8	\$ 1,256.00
A4 Coordination with other engineers to ensure compatibility	1			4				5	\$ 895.00
								28	\$ 4,386.00
B Geotechnical Investigations									
B1 Services to be provided by Fugro Consultants, Inc.									\$ -
B2 Services to be provided by Fugro Consultants, Inc.									\$ -
B3 Services to be provided by Fugro Consultants, Inc.									\$ -
B4 Services to be provided by Fugro Consultants, Inc.									\$ -
B5 Services to be provided by Fugro Consultants, Inc.									\$ -
B6 Coordinate and review subconsultant work activities and submittals	2	2						4	\$ 796.00
								4	\$ 796.00
C Schematic Refinement									
C1 Finalize geometrics and paving limits	1	4		8	16			29	\$ 3,373.00
C2 Develop schematic cross sections at 100' intervals	1	4		4	16			25	\$ 2,913.00
C3 Finalize retaining wall and bridge limits	1	4		8	4			17	\$ 2,221.00
C4 Develop conceptual traffic control plan	1	4		16	12			33	\$ 3,909.00
C5 Identify necessary design exceptions or waivers	1	2						3	\$ 571.00
C6 Update engineer's opinion of probable cost	2	2		8	4			16	\$ 2,100.00
C7 Prepare schematic plots of corridor	2	4			16			22	\$ 2,678.00
								145	\$ 17,765.00
I - SUBTOTALS									
HOURS SUBTOTALS	18	33	0	58	68	0	0	177	\$ 22,957.00
SUBTOTAL (I)	\$ 4,050.00	\$ 5,709.00	\$ -	\$ 6,670.00	\$ 6,528.00	\$ -	\$ -		\$ 22,957.00

Exhibit D

IH 35 at Yarrington Road Bridge and Approaches Replacement Hays County										
Fee Schedule/Budget for CP&Y, Inc.										
Task Description	Project Manager	Senior Engineer	Project Engineer	Design Engineer	E.I.T.	Senior CADD Operator	CADD Operator	Admin / Clerical	Total Labor Hours	Total Direct Labor Costs
	\$225.00	\$173.00	\$136.00	\$115.00	\$96.00	\$110.00	\$84.00	\$73.00		
III. SURVEYING SERVICES										
A Project Control Services										
A1 Services to be provided by Surveying and Mapping, Inc.									0	\$ -
B On-the-Ground Topographic Survey										
B1 Services to be provided by Surveying and Mapping, Inc.										\$ -
B2 Services to be provided by Surveying and Mapping, Inc.										\$ -
B3 Services to be provided by Surveying and Mapping, Inc.										\$ -
B4 Services to be provided by Surveying and Mapping, Inc.									0	\$ -
C Geotechnical Locations										
C1 Services to be provided by Surveying and Mapping, Inc.									0	\$ -
D Utilities										
F1 Services to be provided by Surveying and Mapping, Inc.										\$ -
F2 Services to be provided by Surveying and Mapping, Inc.										\$ -
F3 Services to be provided by Surveying and Mapping, Inc.										\$ -
F4 Services to be provided by Surveying and Mapping, Inc.										\$ -
F5 Services to be provided by Surveying and Mapping, Inc.	4	4							8	\$ 1,592.00
F6 Coordinate and review subconsultant work activities and submittals									8	\$ 1,592.00
III - SUBTOTALS										
HOURS SUBTOTALS	4	4	0	0	0	0	0	0	0	\$ 1,592.00
SUBTOTAL (III.)	\$ 900.00	\$ 692.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ 1,592.00

Exhibit D

**IH 35 at Yarrington Road
Bridge and Approaches Replacement
Hays County**

Fee Schedule/Budget for CP&Y, Inc.

Task Description	No. of PS&E Sheets	Project Manager	Senior Engineer	Project Engineer	Design Engineer	E.I.T.	Senior CADD Operator	Admin / Clerical	Total Labor Hours	Total Direct Labor Costs
IV. PS&E								\$73.00		
A Right-of-Way Data and Utility Adjustments										
A1 Provide limits of proposed ROW to surveyor										
A2 Identify utility conflicts		1	1			2			4	\$ 690.00
A3 Prepare plans for Utilities to utilize		1	4		4	8			17	\$ 2,145.00
A4 Attend Utility meetings		4	16		16	12			36	\$ 5,508.00
									75	\$ 10,201.00
B Roadway Design Controls										
B1 Miscellaneous Plans										
a Project Title Sheet	1	1	1		2	10			14	\$ 1,568.00
b Index of Sheets	1	1	2		4	16			23	\$ 2,567.00
c Project Layout Sheets	1		1		2	10			13	\$ 1,363.00
d Benchmark Layout Sheets	1				2	6			8	\$ 806.00
B2 Roadway Plans & Geometry										
a Existing Typical Sections	1				4	8			13	\$ 1,453.00
b Proposed Typical Sections	3	1	6		12	40			59	\$ 6,483.00
c Horizontal Alignment Data Sheet	1	1	2		2	4			9	\$ 1,185.00
d Super-elevation Data Sheet	1	1	2		2	8			13	\$ 1,569.00
e Frontage Road Plan and Profile	6	6	18		54	120			198	\$ 22,194.00
f Ramp Plan and Profile	1		2		4	16			22	\$ 2,342.00
g Intersecting Street Plan and Profile	3	2	6		24	72			104	\$ 11,600.00
h Ramp Gore Layout	1		2		4	12			18	\$ 1,958.00
i Supplemental Grading Sheets	2	1	4		12	32			49	\$ 5,369.00
j Removal Plans	7	1	4		16	72			93	\$ 9,669.00
B3 Grading and Details										
a Cross Sections	56	4	12		72	200			288	\$ 30,456.00
b Intersection Layouts	3	1	3		12	60			76	\$ 7,884.00
c Driveway Details	1		2		4	8			14	\$ 1,574.00
d Roadway Details	1		2		8	16			28	\$ 2,802.00
									1,040	\$ 112,422.00
C Drainage										
C1 Hydraulic Impact Analysis										
a No Anticipated Culvert Impacts	N/A									
C2 Storm Sewer Design										
a Interior Drainage Area Maps	8	2	14		48	112			176	\$ 18,144.00
b Run-off and Inlet Computations	3		2		4	32			38	\$ 3,878.00
c Storm Drain Computations	3	1	4		8	40			53	\$ 5,677.00
d Drainage Plan and Profiles	8	2	10		48	112			172	\$ 18,452.00
e Lateral Profiles	1	1	2		8	24			35	\$ 3,795.00
f Ditch Layouts	1		1		8	20			29	\$ 3,013.00
g Drainage Details	1	1	2		8	8			19	\$ 2,259.00
h Trench Protection Determination	N/A		1		2	4			7	\$ 787.00
C3 SWAP and Erosion Control										
a Erosion Control Plans	8	1	2		24	90			117	\$ 11,971.00
b SW3P plans	3		2		2	8			12	\$ 1,344.00
c Erosion Control Details	1	1	2		4	12			19	\$ 2,183.00
									677	\$ 72,503.00

Fee Schedule/Budget for CP&Y, Inc.

Task Description	No. of PS&E Sheets	Project Manager	Senior Engineer	Project Engineer	Design Engineer	E.I.T.	Senior CADD Operator	Admin / Clerical	Total Labor Hours	Total Direct Labor Costs
D Signing, Markings and Signalization										
D1 Signing and Pavement Markings	8									
a Signing and Pavement Marking Layouts	1	2	16		18	72			108	\$ 12,200.00
b Pavement Marking Details	1	1	2			12			15	\$ 1,723.00
c Small Sign Details	1	1	2		4	8			15	\$ 1,759.00
D2 Signalization										
b Traffic Signal Layouts	2	2	12		32	40			86	\$ 10,046.00
f Phasing and Wiring Plans	4	1	8		28	28			66	\$ 7,617.00
g Traffic Signal Elevations	2		2		12	32			46	\$ 4,998.00
h Identify Power Source and Utility Conflicts	N/A		2		4	4			10	\$ 1,190.00
									345	\$ 39,273.00
E Miscellaneous Roadway										
E1 Retaining Walls										
a Investigate Retaining Wall Type	N/A	1	8		8				17	\$ 2,529.00
b Retaining Wall Location Plan	1		4		4	12			16	\$ 1,612.00
c Retaining Wall Plan and Profile	6	2	12		28	96			136	\$ 14,962.00
E2 Traffic Control Plans										
a Traffic Control Typical Sections	4	2	4		16	40			62	\$ 6,822.00
b Traffic Control Overview Plans	4		2		8	32			42	\$ 4,338.00
c Advance Warning Sign Layouts	2	1	2		8	24			35	\$ 3,795.00
d Traffic Control Narrative and General Notes	1	2	8		12	12			34	\$ 4,366.00
e Traffic Control Plans	22	12	36		104	288			420	\$ 46,816.00
f Detour Layouts	2	2	8		12	36			56	\$ 6,070.00
g Temporary Shoring Profiles	2	1	8		4	24			41	\$ 4,833.00
h Traffic Control Details	1	1	4		8	16			6	\$ 1,194.00
i Safety Review Meeting	N/A	3	3						18	\$ 2,754.00
j Construction Schedule	N/A	2	8		8					
E3 Illumination										
a See Traffic Signals	N/A									
E4 Quantities										
a Traffic Control	N/A		1		2	8			11	\$ 1,171.00
b Earthwork	N/A				2				10	\$ 998.00
c Roadway	N/A		1		4	12			17	\$ 1,785.00
d Retaining Walls	N/A				2	6			8	\$ 806.00
e Removal	N/A				2	4			6	\$ 614.00
f Drainage	N/A		1		4	20			25	\$ 2,553.00
g Small / Large Signs	N/A				2	4			6	\$ 614.00
h Pavement Markings	N/A		1		2	8			11	\$ 1,171.00
i Signals	N/A		1		2	12			16	\$ 1,555.00
k Erosion Control and SW3P	N/A		1		2	8			11	\$ 1,171.00
E5 Summary Sheets										
a Traffic Control	N/A		1		2	8			11	\$ 1,171.00
b Earthwork	1				2				10	\$ 998.00
c Roadway	1		1		2	8			11	\$ 1,171.00
d Retaining Walls	1				1	4			5	\$ 499.00
e Removal	1				1	4			5	\$ 499.00
f Drainage	1		1		1	12			17	\$ 1,785.00
g Small / Large Signs	1				2	8			10	\$ 998.00
h Pavement Markings	1		1		2	8			11	\$ 1,171.00
i Signals	1		1		2	12			16	\$ 1,555.00
k Erosion Control and SW3P	1		1		2	8			11	\$ 1,171.00
E6 Standards, Specifications and Estimate										
a Download, Prepare and Modify Standards	70				4	28			32	\$ 148.00
b Specifications	N/A	2	8		8	16			34	\$ 4,290.00
c General Notes	N/A	4	8		12	24			48	\$ 5,968.00
d Preliminary Cost Estimate	N/A	1	4		8	8			21	\$ 2,605.00
									1,277	\$ 143,331.00

Fee Schedule/Budget for CP&Y, Inc.

Task Description	No. of PS&E Sheets	Project Manager	Senior Engineer	Project Engineer	Design Engineer	E.I.T.	Senior CADD Operator	Admin / Clerical	Total Labor Hours	Total Direct Labor Costs
F Bridge Design										
F1 Bridge Layouts and Typical Sections (includes prelin engineering)										
a Bridge Layouts										
Yarrington Road Underpass	1	12	16		24		40		92	\$ 12,828.00
Yarrington Road NB-SB Turnaround Underpass	1	8	12		24		32		84	\$ 11,036.00
Yarrington Road SB-NB Turnaround Underpass	1	8	12		24		32		76	\$ 10,156.00
b Phased Construction Sections - Yarrington Road Underpass	2	6	10		20		32		68	\$ 8,900.00
F2 Design Calculations and Details										
Yarrington Road Underpass										
a Foundation Design			8		12				20	\$ 2,764.00
b Step/Cap Elevations (each phase)	2	4	4		12		16		36	\$ 4,732.00
c Abutment Design and Details (each phase)	6	4	36		56		88		184	\$ 23,246.00
d Bent Design and Details (each phase)	4	8	24		48		64		144	\$ 18,512.00
e Slab Plan (each phase)	4	6	22		40		80		148	\$ 18,556.00
f Misc Details (Slab, Abut, Bent, Lateral Restraint)	3	2	12		24		40		78	\$ 9,686.00
g BBND (Beam Design)	1	1	4		8		4		17	\$ 2,277.00
Yarrington Road NB-SB Turnaround Underpass										
a Foundation Design			8		12				20	\$ 2,764.00
b Step/Cap Elevations	1	2	2		6		8		18	\$ 2,366.00
c Abutment Design and Details	3	4	16		24		40		84	\$ 10,828.00
d Bent Design and Details	2	4	12		20		32		68	\$ 8,796.00
e Slab Plan	2	4	8		16		40		68	\$ 8,524.00
f Misc Details (Slab, Abut, Bent, Lateral Restraint)	2	2	8		16		24		50	\$ 6,314.00
g BBND (Beam Design)	1	1	4		8		4		17	\$ 2,277.00
Yarrington Road SB-NB Turnaround Underpass										
a Foundation Design			8		12				20	\$ 2,764.00
b Step/Cap Elevations	1	2	2		6		6		16	\$ 2,146.00
c Abutment Design and Details	3	4	16		24		32		76	\$ 9,948.00
d Bent Design and Details	2	4	8		16		24		52	\$ 6,764.00
e Slab Plan	2	4	8		16		32		60	\$ 7,644.00
f Misc Details (Slab, Abut, Bent, Lateral Restraint)	2	2	8		12		20		42	\$ 5,414.00
g BBND (Beam Design)	1	1	4		8		4		17	\$ 2,277.00
Common Details										
a Sidewalk Details and Rail Anchorage Details	2	4	12		20		32		68	\$ 8,796.00
b Asphaltic Details	2	4	8		16		48		76	\$ 9,904.00
c Applicable TxDOT bridge standards	14		2		2		4		8	\$ 1,016.00
F3 Bridge Quantities										
a Bridge Quantities										
Yarrington Road Underpass (phased condition)	1	2	4		8		12		26	\$ 3,382.00
Yarrington Road NB-SB Turnaround Underpass	1	2	4		6		10		22	\$ 2,932.00
Yarrington Road SB-NB Turnaround Underpass	1	2	4		6		8		20	\$ 2,712.00
IV - SUBTOTALS									1,775	\$ 228,563.00
G Design Verification, Changes, and Alterations										
G1 Shop Drawing Review/RFI Support										
a Shop Drawing Review/RFI Support	N/A	8	32		80				120	\$ 16,536.00
HOURS SUBTOTALS	91	194	651	0	1,452	2,196	816	0	5,309	\$ 623,829.00
SUBTOTAL (IV)		\$ 43,650.00	\$ 112,623.00	\$ -	\$ 166,980.00	\$ 210,816.00	\$ 89,760.00	\$ -		\$ 623,829.00

Exhibit D

IH 35 at Yarrington Road Bridge and Approaches Replacement Hays County									
Fee Schedule/Budget for CP&Y, Inc.									
Task Description	Project Manager	Senior Engineer	Project Engineer	Design Engineer	E.I.T.	Admin / Clerical	Environ Manager	Total Labor Hours	Total Direct Labor Costs
V. PROJECT MANAGEMENT									
A Project Management (12 months)									
A1 Create and submit monthly invoices	12					24		36	\$ 4,452.00
A2 Prepare monthly progress reports	12	6						18	\$ 3,738.00
A3 Meet with County once a month	12	12						24	\$ 4,776.00
A4 Prepare project meeting summaries	6	12						18	\$ 3,428.00
A5 Meet with property owners, stakeholders, County and Prime Strategiles	12	6						18	\$ 3,738.00
A6 Establish and attend periodic progress meetings TXDOT	4	4			12			8	\$ 1,592.00
A7 Internal Design Team Meetings		12	12					36	\$ 4,860.00
A8 Monitor and Review Sub-consultant invoices	6	12				12		30	\$ 4,302.00
								188	\$ 30,884.00
V - SUBTOTALS									
HOURS SUBTOTALS	64	64	12	0	12	36	0	188	\$ 30,884.00
SUBTOTAL (V)	\$ 14,400.00	\$ 11,072.00	\$ 1,632.00	\$ -	\$ 1,152.00	\$ 2,628.00	\$ -		\$ 30,884.00

Exhibit D

IH 35 at Yarrington Road Bridge and Approaches Replacement Hays County										
Fee Schedule/Budget for CP&Y, Inc.										
Task Description	Project Manager	Senior Engineer	Project Engineer	Design Engineer	E.I.T.	Senior CADD Operator	Admin / Clerical	Total Labor Hours	Total Direct Labor Costs	
VIBID PACKAGE										
A Bid Phase Services										
A1 Coordination with City, County and TxDOT	4	8					16	28	\$ 3,452.00	
A2 Prepare contract bid documents	2	8			16			28	\$ 3,370.00	
A3 Attend and coordinate pre-bid conference	8	8			8			24	\$ 3,952.00	
A4 Assist County with contract bid opening	4	4						8	\$ 1,592.00	
A5 Tabulate bids, research low bidder and recommend award to County	4	4			8			16	\$ 2,360.00	
								102	\$ 14,726.00	
VI - SUBTOTALS										
HOURS SUBTOTALS	22	32	8	0	32	0	16	102	\$ 14,726.00	
SUBTOTAL (VI)	\$ 4,950.00	\$ 5,536.00	\$ -	\$ -	\$ 3,072.00	\$ -	\$ 1,168.00		\$ 14,726.00	

Exhibit D

**IH 35 at Yarrington Road
Bridge and Approaches Replacement
Hays County**

Expense Item	Unit	Unit Cost	Amount	Total Cost
CADD Plotting	sf	\$ 1.50	200	\$ 300.00
Mylar Plots	lf	\$ 6.00		\$ -
Digital Ortho Plotting	lf	\$ 2.00		\$ -
11" X 17" Mylar	sheet	\$ 1.00		\$ -
8 1/2" X 11" B/W Paper Copies	sheet	\$ 0.10	2,000	\$ 200.00
11" X 17" B/W Paper Copies	sheet	\$ 0.15	500	\$ 75.00
8 1/2" X 11" Color Paper Copies	sheet	\$ 1.00	300	\$ 300.00
11" X 17" Color Paper Copies	sheet	\$ 1.80	200	\$ 360.00
Fax Copies	sheet	\$ 0.10		\$ -
Film and Development	roll	\$ 8.00		\$ -
4 X 6 Digital Color Prints	picture	\$ 0.50		\$ -
Oversized Digital Color Prints	picture	\$ 50.00		\$ -
Standard Postage	letter	\$ 0.44		\$ -
Express Mail (Standard)	each	\$ 15.00	10	\$ 150.00
Express Mail (Oversized)	each	\$ 30.00	10	\$ 300.00
Deliveries	each	\$ 25.00	10	\$ 250.00
Airfare	each	\$ 200.00		\$ -
Rental Car	day	\$ 80.00		\$ -
Lodging	day	\$ 85.00		\$ -
Meals	day	\$ 36.00		\$ -
Mileage	mile	\$ 0.555	200	\$ 111.00
GPS Rental	day	\$ 100.000		\$ -
HazMat Database Search	each	\$ 1,200.000		\$ -
Miscellaneous Project Related Expenses	NA	at cost	NA	\$ -
SUBTOTAL DIRECT EXPENSES				\$ 2,046.00

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 adopt a resolution in support of the I-35 Frontage Roads project in Precinct 2.

TYPE OF ITEM: ACTION

PREFERRED MEETING DATE REQUESTED: January 10, 2012

AMOUNT REQUIRED: N/A

LINE ITEM NUMBER OF FUNDS REQUIRED: N/A

REQUESTED BY: Commissioner Precinct 2 Mark Jones

SPONSORED BY: Commissioner Precinct 2 Mark Jones

SUMMARY:

(see attachment)



San Marcos, Texas

Hays County Resolution in Support of IH 35 FR Advance Funding Agreement

WHEREAS, the Interstate 35 frontage roads between FM 1626 and Yarrington Road currently operate as two-way, undivided roadways; and

WHEREAS, the proposed frontage road and ramp improvements between FM 1626 and Yarrington Road (CSJ 0016-02-127) would provide a safer facility for the general driving public and local and regional fire, police and emergency services; and

WHEREAS, Hays County has included the improvements to the IH 35 frontage road system between FM 1626 and Yarrington Road in the Pass-Through Financing Agreement executed with the Texas Department of Transportation; and

WHEREAS, the citizens of Hays County overwhelmingly approved a bond election in 2008 to fund the Pass-Through Financing Program which includes the IH 35 frontage road and ramp improvement program between FM 1626 and Yarrington Road; and

WHEREAS, improvements to the IH 35 frontage road and ramp system between FM 1626 and Yarrington Road are included in the Capital Area Metropolitan Area Planning Organization's Mobility 2035 Long-Range Plan; and

WHEREAS, the improvements to the IH 35 frontage road and ramp system between FM 1626 and Yarrington Road would improve mobility, connectivity and safety in the regional transportation network; and

WHEREAS, Hays County and the Texas Department of Transportation are required to enter into an Advance Funding Agreement to address provisions for the funding of construction by Hays County of the proposed improvements;

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSIONERS COURT OF HAYS COUNTY, TEXAS:

- (a) That the Commissioners Court of Hays County does hereby approve the proposed Advance Funding Agreement provided by the Texas Department of Transportation and authorizes the County Judge to execute the Agreement on behalf of Hays County.

PASSED AND APPROVED this 10th day of January, 2012.

Bert Cobb
Hays County Judge

Debbie Gonzales Ingalsbe
Commissioner, Pct. 1

Mark Jones
Commissioner, Pct. 2

Will Conley
Commissioner, Pct. 3

Ray Whisenant
Commissioner, Pct. 4

ATTEST:

Liz Q. Gonzalez
Hays County Clerk

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 Advanced Funding Agreement with the Texas Department of Transportation for the IH 35 Frontage Roads Project.

TYPE OF ITEM: ACTION

PREFERRED MEETING DATE REQUESTED: January 10, 2012

AMOUNT REQUIRED: N/A

LINE ITEM NUMBER OF FUNDS REQUIRED: Budgeted road bond funds. (already allocated)

REQUESTED BY: The county road bond managers at Prime Strategies, Inc. and Commissioner Jones.

SPONSORED BY: Pct 2 Commissioner Mark Jones.

SUMMARY: The Advanced Funding Agreement required by the Pass Through Toll Agreement will:

- 1.) Outline the construction responsibilities designated to TxDOT and the construction responsibilities designated to Hays County for the IH 35 Frontage Roads project.
- 2.) Specify the details of the incremental payment request that was reviewed and approved by TxDOT.

See attachments.

DESCRIPTION OF Item: Discussion and possible action to authorize the County Judge to execute an Advanced Funding Agreement with the Texas Department of Transportation for the IH 35 Frontage Roads Project.

PREFERRED MEETING DATE REQUESTED: January 10, 2011

COUNTY AUDITOR

AMOUNT: \$

LINE ITEM NUMBER: Budgeted – Road Bonds

COUNTY PURCHASING GUIDELINES FOLLOWED: N/A

PAYMENT TERMS ACCEPTABLE: N/A

COMMENTS:

Bill Herzog

SPECIAL COUNSEL

CONTRACT TERMS ACCEPTABLE: _____

COMMENTS:

COUNTY JUDGE

Signature Required if Approved

DATE CONTRACT SIGNED: _____



Texas Department of Transportation

P.O. DRAWER 15426 • AUSTIN, TEXAS 78761-5426 • (512) 832-7000

December 5, 2011

Hays County
Contract PT 2005-013-01
IH 35 Frontage Rd from FM 1626
To S of RM 150
CSJ 0016-02-127

The Honorable Albert H. Cobb, Jr.
County Judge
Hays County
111 E. San Antonio, Suite 300
San Marcos, Texas 78666

Dear Judge Cobb:

Enclosed for partial execution are two copies of an Advance Funding Agreement required under the Pass-Through Agreement for Payment of Pass-Through Tolls by the Department executed December 20, 2005 to outline the construction responsibilities by TxDOT and the financial responsibilities by the County for the above Project.

The incremental payment request was approved and has been included in the Agreement.

Please sign, date and return both documents to this office for further execution. An executed Amendment will be returned to you for your records.

If you have any questions, please contact me at (512) 832-7050.

Sincerely,

Patricia L. Crews-Weight, P.E.
Director of Design
Austin District

cc: Debbie G. Ingalsbe, County Commissioner, Hays County, Precinct 1
Mark Jones, County Commissioner, Hays County, Precinct 2
Will Conley, County Commissioner, Hays County, Precinct 3
Ray Whisenant, County Commissioner, Hays County, Precinct 4
Donald E. Nyland, P.E., S. Travis Area Engineer, TxDOT
Mike Walker, District Environmental Coordinator, TxDOT
Benjamin Ramirez, Project Controls Engineer, TxDOT
Mike Weaver, Prime Strategies, Inc.

12-9-11 D

THE TEXAS PLAN

REDUCE CONGESTION • ENHANCE SAFETY • EXPAND ECONOMIC OPPORTUNITY • IMPROVE AIR QUALITY
PRESERVE THE VALUE OF TRANSPORTATION ASSETS

An Equal Opportunity Employer

STATE OF TEXAS §

COUNTY OF TRAVIS §

**LOCAL TRANSPORTATION PROJECT
ADVANCE FUNDING AGREEMENT
For A
Pass-Through Agreement for Payment
Of Pass-Through Tolls by the Department
Segment Project**

THIS AGREEMENT is made by and between the State of Texas, acting by and through the Texas Department of Transportation, called the "State", and Hays County, acting by and through its duly authorized officials, called the "Local Government."

WITNESSETH

WHEREAS, the Pass-Through Agreement for Payment Of Pass-Through Tolls by the Department (PTT) and subsequent Amendments between the Local Government and the State have been adopted and states the general terms and conditions for this Segment Project; and,

WHEREAS, the Texas Transportation Commission passed Minute Order 111258, authorizing an amendment to the pass-through toll agreement with the County to include improvements on I-35 and to complete a highway improvement generally described as the realignment of RM 150 and the construction of the frontage roads, hereinafter called the "Project"; and,

WHEREAS, the Governing Body of the Local Government has approved entering into this Agreement by resolution or ordinance dated _____ which is attached hereto and made a part hereof as Attachment A for construction of the I-35 southbound frontage road from FM 1626 to south of RM 150 at the location shown on the Map in Attachment B hereinafter referred to as the Project.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements of the parties, to be by them respectively kept and performed as hereinafter set forth, it is agreed as follows:

AGREEMENT

1. Period of the Agreement

This Agreement becomes effective when signed by the last party whose signing makes the Agreement fully executed, and the State and the Local Government will consider it to be in full force and effect until the Project described in this Agreement has been completed and accepted by all parties or unless terminated, as provided for by the PTT, without exception.

2. Scope of Work

The scope of work is the construction of new ramps and southbound frontage road on I-35 between FM 1626 and south of RM 150 as shown on Attachment B.

3. Right of Way and Real Property

Right of way and real property shall be the responsibility of the Local Government as stated in the PTT, without exception.

4. Utilities

Adjustment of utilities will be provided by the Local Government as required and as stated in the PTT, without exception.

5. Right of Access

If the Local Government is the owner of any part of the Project site, the Local Government shall permit the State or its authorized representative access to the site to perform any activities required to execute the work.

6. Environmental Assessment and Mitigation

Environmental assessment and mitigation will be carried out as stated in the PTT, without exception.

7. Architectural and Engineering Services

Architectural and engineering services will be provided as stated in the PTT.

8. Construction Responsibilities

Construction responsibilities will be carried out by the State for this Segment Project as stated in the PTT.

9. Project Maintenance

Project maintenance will be undertaken as provided for in the PTT, without exception.

10. Local Project Sources and Uses of Funds

- A. The State will authorize the performance of only those Project items of work which the Local Government has requested and has agreed to pay for as described in Attachment C, Payment Provision and Work Responsibilities which is attached to and made a part of this contract. In addition to identifying those items of work paid for by payments to the State, Attachment C, Payment Provision and Work Responsibilities, also specifies those Project items of work that are the responsibility of the Local Government and will be carried out and completed by the Local Government, at no cost to the State.
- B. In the event that the State determines that additional funding by the Local Government is required at any time during the Project, the State will notify the Local Government in writing. The Local Government shall make payment to the State within thirty (30) days from receipt of the State's written notification.
- C. Whenever funds are paid by the Local Government to the State under this agreement, the Local Government shall remit a check or warrant made payable to the "Texas Department of Transportation Trust Fund." The check or warrant shall be deposited by the State in an escrow account to be managed by the State. Funds in the escrow account may only be applied by the State to the Project. If, after final Project accounting, excess funds remain in the escrow account, those funds shall be returned to the Local Government.

- D. The Local Government is responsible for all project cost overruns, unless otherwise provided for in the PTT.
- E. The State will not pay interest on funds provided by the Local Government. Funds provided by the Local Government will be deposited into, and retained in, the State Treasury.
- F. The state auditor may conduct an audit or investigation of any entity receiving funds from the State directly under this contract or indirectly through a subcontract under this contract. Acceptance of funds directly under this contract or indirectly through a subcontract under this contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Any entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

11. Document and Information Exchange

The Local Government agrees to electronically deliver to the State all general notes, specifications, contract provision requirements, and related documentation in a Microsoft® Word or similar document. If requested by the State, the Local Government will use the State's document template. The Local Government shall also provide a detailed construction time estimate including types of activities and month in the format required by the State. This requirement applies whether the Local Government creates the documents with its own forces or by hiring a consultant or professional provider. At the request of the State, the Local Government shall submit any information required by the State in the format directed by the State.

12. Incorporation of PTT Provisions

This Agreement incorporates all of the governing provisions of the PTT in effect on the date of final execution of this Agreement, unless such PTT provision is specifically excepted in this agreement.

13. Insurance

If this Agreement authorizes the Local Government or its contractor to perform any work on State right of way, before beginning work the entity performing the work shall provide the State with a fully executed copy of the State's Form 1560 Certificate of Insurance verifying the existence of coverage in the amounts and types specified on the Certificate of Insurance for all persons and entities working on State right of way. This coverage shall be maintained until all work on the State right of way is complete. If coverage is not maintained, all work on State right of way shall cease immediately, and the State may recover damages and all costs of completing the work.

14. Termination

- A. This Agreement may be terminated in the following manner:
 - 1. By mutual written agreement and consent of both parties;
 - 2. By either party upon the failure of the other party to fulfill the obligations set forth in this agreement; or
 - 3. By the State if it determines that the performance of the Project is not in the best interest of the State.

CSJ #0016-02-127
District #14 - AUS
Code Chart 64 #50106
IH 35 Ftg Rd from FM 1626
To S of RM 150
Federal Highway Administration
CFDA # N/A
Not Research and Development

- B. If the Agreement is terminated in accordance with the above provisions, the Local Government will be responsible for the payment of Project costs incurred by the State on behalf of the Local Government up to the time of termination.
- C. Upon completion of the Project, the State will perform an audit of the Project costs. Any funds due to the Local Government, the State, or the Federal Government will be promptly paid by the owing party.

15. Notices

All notices to either party by the other under this agreement shall be delivered personally or sent by certified or U.S. mail, postage prepaid, addressed to such party at the following addresses:

Local Government:	State:
County Judge Hays County 111 East San Antonio, #300 San Marcos, Texas 78666	Director of Contract Services Texas Department of Transportation 125 E. 11 th Street Austin, Texas 78701

All notices shall be deemed given on the date delivered or deposited in the mail. Either party may change the above address by sending written notice of the change to the other party. Either party may request in writing that notices shall be delivered personally or by certified U.S. mail, and the request shall be carried out by the other party.

16. Successors and Assigns

The State and the Local Government each binds itself, its successors, executors, assigns, and administrators to the other party to this agreement and to the successors, executors, assigns, and administrators of such other party in respect to all covenants of this agreement.

17. Amendments

By mutual written consent of the parties, this agreement may be amended prior to its expiration.

18. Signatory Warranty

Each signatory warrants that the signatory has necessary authority to execute this agreement on behalf of the entity represented.

CSJ #0016-02-127
District #14 - AUS
Code Chart 64 #50106
IH 35 Ftg Rd from FM 1626
To S of RM 150
Federal Highway Administration
CFDA # N/A
Not Research and Development

THIS AGREEMENT IS EXECUTED by the State and the Local Government in duplicate.

THE LOCAL GOVERNMENT

Signature

Albert H. Cobb, Jr.
County Judge
Hays County

Date

THE STATE OF TEXAS

Janice Mullenix
Director of Contract Services
Texas Department of Transportation

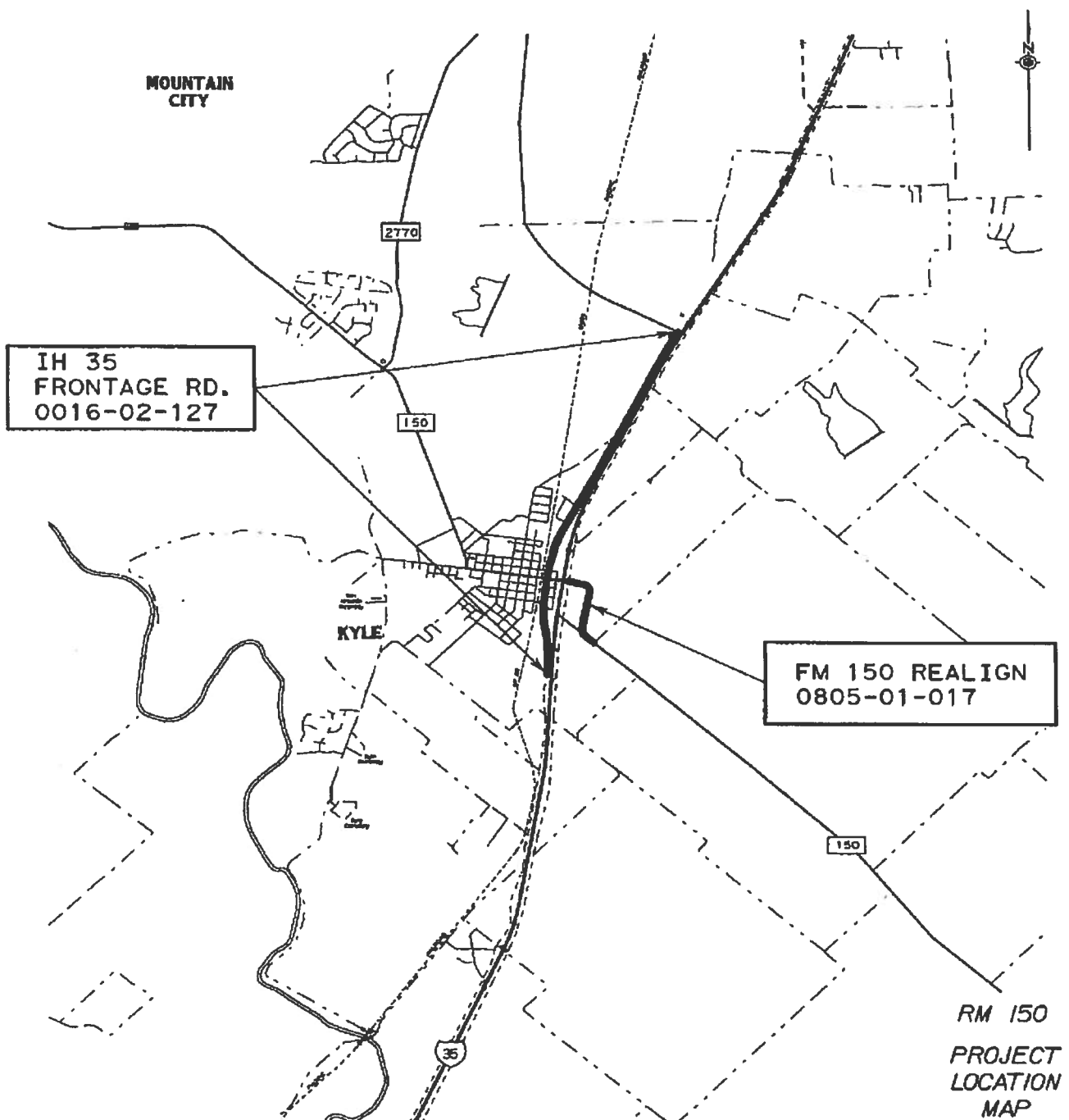
Date

CSJ #0016-02-127
District #14 - AUS
Code Chart 64 #50106
IH 35 Ftg Rd from FM 1626
To S of RM 150
Federal Highway Administration
CFDA # N/A
Not Research and Development

ATTACHMENT A
RESOLUTION OR ORDINANCE

CSJ #0016-02-127
District #14 - AUS
Code Chart 64 #50106
IH 35 Ftg Rd from FM 1626
To S of RM 150
Federal Highway Administration
CFDA # N/A
Not Research and Development

ATTACHMENT B PROJECT LOCATION MAP



CSJ #0016-02-127
 District #14 - AUS
 Code Chart 64 #50106
 IH 35 Ftg Rd from FM 1626
 To S of RM 150
 Federal Highway Administration
 CFDA # N/A
 Not Research and Development

ATTACHMENT C PROJECT BUDGET ESTIMATE AND SOURCE OF FUNDS

At least sixty (60) days prior to the date set for receipt of the construction bids the Local Government shall provide one-half (1/2) of its funding share towards the Latest Engineer's Estimate of construction bid item costs. Upon award of the construction contract the Local Government shall remit the balance of its funding share in twelve (12) equal consecutive monthly payments, by the 5th of each month beginning with the month after the receipt of bids.

Description		Total Estimated Cost	Federal Participation		State Participation		Local Participation	
			%	Cost	%	Cost	%	Cost
Engineering (by Local)		\$750,000	0%	\$0	0%	\$0	100%	\$ 750,000
Construction (by State)		\$8,689,492	0%	\$0	0%	\$0	100%	\$8,689,492
Subtotal		\$9,439,492	0%	\$0	0%	\$0	100%	\$9,439,492
Preliminary Engineering Direct State Costs = \$434,475	Environmental Direct State Costs (25%)	\$108,619	0%	\$0	100%	\$108,619	0%	\$0
	Right of Way Direct State Costs (10%)	\$43,448	0%	\$0	100%	\$43,448	0%	\$0
	Utility Direct State Costs (15%)	\$65,171	0%	\$0	100%	\$65,171	0%	\$0
	Engineering Direct State Costs (50%)	\$217,237	0%	\$0	100%	\$217,237	0%	\$0
Construction Engineering Direct State Costs (by State)		\$434,475	0%	\$0	100%	\$434,475	0%	\$0
Indirect State Costs (7.27%)		\$749,424	0%	\$0	100%	\$749,424	0%	\$0
TOTAL		\$11,057,866	0%	\$0	100%	\$1,618,374	100%	\$9,439,492

Initial payment by the Local Government to the State: \$0

Payment by the Local Government to the State before construction: \$4,344,746

Estimated total payment by the Local Government to the State \$8,689,492

This is an estimate. The final amount of Local Government participation will be based on actual costs.

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 appoint Terry Hauptrief to the Hays County Transportation Committee.

TYPE OF ITEM: ACTION

PREFERRED MEETING DATE REQUESTED: January 10, 2012

AMOUNT REQUIRED: N/A

LINE ITEM NUMBER OF FUNDS REQUIRED: N/A

REQUESTED BY: Commissioner Precinct 2 Mark Jones

SPONSORED BY: Commissioner Precinct 2 Mark Jones

SUMMARY:

Terry Hauptrief will replace Brad Hagan who resigned from the committee.

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: Discussion and possible action to consider the cancellation of Commissioners Court on February 7, 2012.

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

PREFERRED MEETING DATE REQUESTED: 1/10/12

AMOUNT REQUIRED:

LINE ITEM NUMBER OF FUNDS REQUIRED:

REQUESTED BY:

SPONSORED BY: COBB

Multiple Court Members will be attending a conference.

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: Discussion and possible action to approve the appointment of Lon A. Shell to the Board of Directors for Tax Increment Reinvestment Zone No.4 for a (1) one year term beginning January 1, 2012.

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

PREFERRED MEETING DATE REQUESTED: 1/10/12

AMOUNT REQUIRED:

LINE ITEM NUMBER OF FUNDS REQUIRED:

REQUESTED BY:

SPONSORED BY: CONLEY

An Interlocal Agreement between Hays County and the City of San Marcos related to Tax Increment Reinvestment Zone No. 4 (approximately 1,338.56 acres West of Hunter Rd. and South of McCarty Lane) was approved by the Commissioners Court on 10/11/11 (minutes are attached). Per Section 2, part D, of the Agreement, The Commissioners Court shall appoint one (1) voting member to the Board.

The Nominee for the Board of TIRZ No. 4 is:

Lon A. Shell
1908 W. McCarty Ln.
San Marcos, Texas 78666
512.393.2217



OCTOBER 11, 2011

VOLUME U PG 709

- 28503 APPROVE THE EXECUTION OF WORK AUTHORIZATION 13 TO THE AGREEMENT DATED SEPTEMBER 2, 2008 BETWEEN HAYS COUNTY, TEXAS AND KLOTZ ASSOCIATES, INC. FOR DRAINAGE STUDY AND DESIGN WORK AROUND THE LEISUREWOODS, SHADY GROVE AND OXBOW TRAILS SUBDIVISIONS IN HAYS COUNTY PRECINCT 2**

Previous Work Authorizations have been executed with Klotz Associates, Inc. for the study and design of various drainage improvements around the Leisurewoods, Shady Grove and Oxbow Trails Subdivisions in Hays County Precinct 2. During the course of that work, the need for additional services was identified to modify previously completed study and design work to avoid impacts to a septic system located within one of the drainage easements need for construction of a grass lined channel previously designed. Plans will be modified to include a narrower concrete lined channel in the vicinity of that septic system. Amount required \$ 9,300.00 – 020-710-00.5448_008. A motion was made by Commissioner Jones, seconded by Commissioner Ingalsbe to approve the execution of Work Authorization 13 to the Agreement dated September 2, 2008 between Hays County, Texas and Klotz Associates, Inc. for drainage study and design work around the Leisurewoods, Shady Grove and Oxbow Trails Subdivisions in Hays County Precinct 2. Commissioner Ingalsbe, Commissioner Jones, Commissioner Whisenant and Judge Cobb voting "Aye". Commissioner Conley not present for vote. MOTION PASSED

- 28504 APPROVE APPOINTMENTS TO THE CITIZEN'S COMMITTEE FOR THE HAYS COUNTY TRANSPORTATION PLAN**

Each Commissioner will make their respective appointments to the County's transportation plan. There will be a 15 member board by instructing Jerry Borcharding, Transportation Director and our consultants to begin a process to contact these citizens and start to organize the kick off of the Hays County Transportation plan. Judge Cobb is appointing Winton Porterfield, Dwain Lee York and Warren Ketteman. Commissioner Ingalsbe is appointing Susan Narvaiz, Diane Hervol, and David Salazar. Commissioner Jones is appointing Joe Hernandez, Brad Hagen and Daniel Heideman. Commissioner Conley is appointing Glen Straube, Michael Moeller and Jeffrey Jewett. Commissioner Whisenant is appointing Ben Sorrell, Roy O'Dell and Don B. Meador. A motion was made by Commissioner Ingalsbe, seconded by Commissioner Jones to approve appointments to the Citizen's Committee for the Hays County Transportation Plan. All voting "Aye". MOTION PASSED

- 28505 COUNTY-WIDE FREEZE ON HIRING, PROMOTIONS, AND/OR TRANSFERS INTO VACANT POSITIONS WITHOUT COMMISSIONERS COURT APPROVAL**

The county-wide freeze on hiring, promotions, and/or transfers into vacant positions has been in place since March 8, 2011. A motion was made by Commissioner Ingalsbe, seconded by Commissioner Jones to lift the county-wide freeze on hiring, promotions, and/or transfers into vacant positions without Commissioners Court approval with the exception any new hire that is hired above the minimum grade Commissioners Court will need to approve. All voting "Aye". MOTION PASSED

- 28506 AUTHORIZE THE COUNTY JUDGE TO EXECUTE AN INTERLOCAL AGREEMENT BETWEEN HAYS COUNTY AND THE CITY OF SAN MARCOS RELATING TO TAX INCREMENT REINVESTMENT ZONE NO. 4**

Walter Elias of Brookfield Development spoke. This Interlocal Agreement represents the culmination of a variety of negotiations associated with the Carma Paso Robles Subdivision. This court has considered the possibility of a TIRZ associated with this Subdivision before, and this ILA finalizes that arrangement between the City of San Marcos, Hays County, and Carma. A motion was made by Commissioner Conley, seconded by Commissioner Ingalsbe to authorize the County Judge to execute this Interlocal Agreement between the City of San Marcos and Hays County Relating to Tax Increment Reinvestment Zone No. 4, contingent on 2 actions: (1) The Interlocal Agreement is modified to reflect a 10% contribution from the increment by the County, not 20%, as it currently reads; and (2) The City of San Marcos adopts a resolution regarding its willingness and intention to enter into Development Agreements with subdivisions neighboring the Paso Robles development (to be identified by the County), such Agreements to include a 10-year deferral of annexation by the City; and (3) The Interlocal Agreement is modified to state the following: If the PDD for Paso Robles is modified from in relation to roadways into and out of the subdivision without prior county consent, then the Interlocal Agreement shall be null and void and the County shall have no obligation to contribute 10% of the increment. All voting "Aye". MOTION PASSED

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: Discussion and possible action to approve the appointments of Commissioner Debbie Ingalsbe for a (2) two year term, Commissioner Will Conley for a (1) one year term, and Ed Mihalkanin for a (2) two year term, beginning January 1, 2012 to the Board of Directors for Tax Increment Reinvestment Zone No.5

CHECK ONE:	CONSENT	X ACTION	EXECUTIVE SESSION
	WORKSHOP	PROCLAMATION	PRESENTATION

PREFERRED MEETING DATE REQUESTED: 1/10/12

AMOUNT REQUIRED:

LINE ITEM NUMBER OF FUNDS REQUIRED:

REQUESTED BY:

SPONSORED BY: COBB

An Interlocal Agreement between Hays County and the City of San Marcos related to Tax Increment Reinvestment Zone No. 5 (approximately 244 acres in Downtown San Marcos) was approved by the Commissioners Court on 11/22/11. Per Section 2, part D of the Agreement, The Board of Directors of the Reinvestment Zone shall consist of five (5) voting members. The Commissioners Court shall appoint two (2) voting members, the San Marcos City Council shall appoint two (2) voting members, and the fifth voting member shall be appointed by mutual agreement and approval of both governing bodies.

Nominees for (2) members representing Hays County are :

(2) Two year term
Commissioner Debbie Ingalsbe
111 E. San Antonio St.
Suite 304
San Marcos, Texas 78666
512.393.2243

(1) One year term
Commissioner Will Conley
111 E. San Antonio St.
Suite 204
San Marcos, Texas 78666
512.847.3159

The nominee for the fifth member to be mutually approved by the San Marcos City Council is:

(2) Two year term
Ed Mihalkanin
517 W. Hopkins St.
San Marcos, Texas 78666
512.396.3648

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: Executive Session pursuant to Sections 551.071 and 551.087 of the Texas Government Code: consultation with counsel and discussion related to economic development negotiations between Hays County and Stellar Plastics, Inc. Possible action to follow.

TYPE OF ITEM: Executive

PREFERRED MEETING DATE REQUESTED: January 10, 2012

AMOUNT REQUIRED: TBD

LINE ITEM NUMBER OF FUNDS REQUIRED: TBD

REQUESTED BY: INGALSBE

SPONSORED BY: INGALSBE

SUMMARY: 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 Sections 551.071 and 551.072 of the Texas Government Code: consultation with counsel and deliberation regarding the purchase, exchange, or value of real property related to the marketing and potential sale of County owned properties. Possible action may follow in open court.

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

PREFERRED MEETING DATE REQUESTED: 1/10/12

AMOUNT REQUIRED:

LINE ITEM NUMBER OF FUNDS REQUIRED:

REQUESTED BY:

SPONSORED BY: Cobb

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 551.071 and 551.072 of the Texas Government Code: consultation with counsel and deliberation regarding the acquisition of the West Travis County Water and Wastewater System and to deliberate the conveyance of real property associated with such acquisition.

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

PREFERRED MEETING DATE REQUESTED: 1/10/12

AMOUNT REQUIRED:

LINE ITEM NUMBER OF FUNDS REQUIRED:

REQUESTED BY:

SPONSORED BY: Whisenant

