

- 5. **Requesting authority to exercise the additional one year extension as provided in current contract for “Fire Extinguisher Maintenance Service” under the same rates, terms and conditions with Corky’s Fire Ext Sales & Service. Effective 07-31-04 thru 07-31-05.**

On motion of Commissioner Garza, seconded by Commissioner Flores, the Court made a UNANIMOUS vote of approval.

- \* 6. **Requesting approval of an exemption from competitive bidding requirements under the Texas Local Government Code, 262.024 (a) (7) (C) “...a state agency of this ...”, Department of Information Research, DIR’s contract with Bearing Point, fka, KPMG, for the Texas Electronic Framework Standard Service Level Agreement-(TEF), for the provision by Texas Online for “epay” (e-commerce transactions) and Efiling services for the Hidalgo County Clerk’s Office.**

On motion of Commissioner Flores, seconded by Commissioner Garza, the Court made a UNANIMOUS vote of approval.

- 7. **Requesting approval of the Texas Electronic Service Agreement between Bearing Point, fka-KPMG and Hidalgo County Clerk’s Office.**

\* On motion of Commissioner Garza, seconded by Commissioner Flores, the Court made a UNANIMOUS vote of approval.

- 8. **Requesting authority to purchase computer equipment and software from CISV vendors through TBPC Catalogue Purchasing Program for the following:**

Req	Dept	Vendor	Amount	Acct#
54520	Health Dept	Computer Tech	\$12,500.00	4-1293-441-00-340-013-4-745
54470	Health Dept	CDW Govmnt	\$6,233.13	4-1293-441-00-340-013-4-745
54277	District Atty	CDW Govmnt	\$13,734.89	4-1222-412-00-080-006-0-747

On motion of Commissioner Palacios, seconded by Commissioner Garza, the Court made a UNANIMOUS vote of approval.

**B. HIDALGO COUNTY ADULT DETENTION FACILITY-**

- 1. **Recommending award of bid(s) and approval of contract(s) for: “Legend and Non Legend Pharmaceuticals and Infirmary Medical Supplies”, to bidder(s) meeting all requirements and/or specifications.**

NO ACTION taken on this item.

- 2. **Presentation for discussion, consideration and approval of a final negotiated contract for “Registered Pharmacist Services” with David Max Castro registered pharmacist.**

On motion of Commissioner Flores, seconded by Commissioner Palacios, the Court made a UNANIMOUS vote of approval.

**TEXAS ELECTRONIC FRAMEWORK  
STANDARD SERVICE LEVEL AGREEMENT**

This Service Level Agreement (this "Agreement") is between BearingPoint, Inc. ("BearingPoint") and Hidalgo County Clerk's Office ("Government Entity"), a local government entity within the State of Texas. BearingPoint and Government Entity may be referred to each as a "Party", or collectively as "Parties", herein.

WHEREAS, the Texas Electronic Framework ("TEF") is a framework constructed pursuant to the Texas Electronic Framework Agreement, as renewed and amended (hereinafter called the "Master Contract") between the Texas Department of Information Resources (DIR) and KPMG Consulting L.L.C. (predecessor-in-interest to BearingPoint).

WHEREAS, "TexasOnline" is the name of the primary Web site for TEF and for hosted applications of state agencies and local governments electing to use the hosting services.

WHEREAS, "Electronic Payment" or "ePay" is the name of the Payment Services and Web site that is used by Texas Online participants for e-commerce transactions.

WHEREAS, this Agreement applies to BearingPoint providing eFiling services on TexasOnline (the "Services") to Government Entity.

THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree to the following.

**1. Master Contract**

The Parties acknowledge and agree that the terms and conditions of the Master Contract applicable to Government Entities, as well as specific sections of the Master Contract referenced in this Agreement, are incorporated herein by this reference and shall apply with full force and effect to the provision of Services under this Agreement by BearingPoint to Government Entity. No other terms of the Master Contract shall apply to the provision of the Services hereunder as between BearingPoint and Government Entity. Capitalized terms not defined herein shall have the same meaning ascribed to them as in the Master Contract.

**2. Authority Approval**

Government Entity acknowledges that in order for BearingPoint to provide Services pursuant to this Agreement, the TexasOnline Authority ("Authority") must approve placing at least one of Government Entity's applications for inclusion on TexasOnline. A list of available applications using Services under this agreement is included in Exhibit A - Applications, Services and Fee Schedules.

**3. Privacy and Security**

Section IX, Privacy and Security, of the Master Contract is incorporated herein by reference; BearingPoint's obligations set forth in Section IX of the Master Agreement shall apply with respect to Government Entity.

#### **4. Government Entity Website Security**

Government Entity hosting its own Web site will follow recommended security standards for State Web sites, and will conform with security policies and procedures promulgated by BearingPoint from time to time. Government Entity acknowledges that any failure on its part to follow recommended security standards may place its own data and operations at risk as well as those of BearingPoint and other governmental entities. BearingPoint will not be liable for violations of security policies and procedures by Government Entity.

#### **5. Services**

All Services to be provided by BearingPoint to Government Entity under this Agreement are set out in Exhibit A.

#### **6. Limited Warranty by BearingPoint**

**BEARINGPOINT WARRANTS THAT ALL SERVICES PERFORMED UNDER THIS AGREEMENT SHALL BE PERFORMED IN A GOOD AND WORKMANLIKE MANNER. GOVERNMENT ENTITY SHALL PROVIDE WRITTEN NOTICE OF ANY SERVICE WHICH IT BELIEVES IS NOT PERFORMED IN A GOOD AND WORKMANLIKE MANNER. BEARINGPOINT SHALL REPERFORM ANY SERVICES WHICH ARE DETERMINED TO NOT HAVE BEEN PERFORMED IN A GOOD AND WORKMANLIKE MANNER. BEARINGPOINT DISCLAIMS ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

#### **7. Fees**

For the Services to be provided to the Government Entity as outlined in Exhibit A, BearingPoint is entitled to the fees set out in Exhibit A. The convenience fee amounts will be clearly stated to the user. Users will give explicit confirmation that they have agreed to pay the fees. No fees are due to BearingPoint by the Government Entity.

#### **8. Modifications to Fees and Services**

This agreement can be modified for the addition of both Services and fees based on mutual agreement in writing of BearingPoint and Government Entity.

#### **9. Government Entity Obligations**

9.1. Government Entity shall provide a contact number for the application(s) on an 8:00 a.m. - 5:00 p.m. CT basis to receive 1<sup>st</sup> and 2<sup>nd</sup> level inquiries received by the Customer Information Center.

9.2. Government Entity shall cooperate with BearingPoint in BearingPoint's performance of its obligations under this Agreement.

9.3. Government Entity shall comply with the privacy statements, which are displayed on the TexasOnline site, and with all applicable laws related to information received from or distributed to individuals using the Services.

9.4. Government Entity shall provide access to information and systems as BearingPoint deems necessary to assist BearingPoint in performing its obligations hereunder.

9.5. No later than 60 days prior to implementation, the Government Entity must provide to BearingPoint banking information for all required financial accounts including, but not limited to:

- Government Entity Financial Contact Name
- Government Entity Financial Mailing Address
- Government Entity Financial Contact Title
- Government Entity Financial Contact Telephone Number
- Government Entity Financial Contact email Address
- Government Entity Bank Name(s)
- Government Entity ABA Number(s)
- Government Entity Bank Account Number(s)
- Government Entity Bank Contact Name
- Government Entity Bank Contact Phone Number
- Government Entity Bank Address
- Voided Check or Bank Letter on Government Entity's Bank's Letterhead

The required information is subject to change according to what is necessary to correctly process fees and disburse payments to the Government Entity. BearingPoint shall maintain such banking information confidential and in a secure location and shall not utilize the information for any purposes whatsoever, other than consistent with the terms of this Agreement.

9.6. Government Entity shall at all times be responsible for the back-up and preservation of any data within Government Entity's control which does not reside on TexasOnline Web site or electronic payment Web site.

9.7. Government Entity shall notify BearingPoint within 15 (fifteen) minutes that the Government Entity's system is down or otherwise unable to electronically receive documents.

9.8. Proposals for new applications and services may be developed by either BearingPoint or Government Entity and submitted to the Authority for approval and inclusion for TexasOnline. Government Entity acknowledges that developing new applications and services is essential to TexasOnline becoming and remaining successful.

- 9.9.** Government Entity shall at least on a daily basis check and accept or reject all filings.
- 9.10.** Government Entity shall accept and use additional eFiling functionality and new document types as is available from TexasOnline.
- 9.11.** Government Entity is responsible to test the functionality and performance of all Government Entity produced and maintained applications and interfaces to TexasOnline. Notwithstanding anything to the contrary in this Agreement, both parties agree to one forty-five (45) day initial Pilot Phase beginning on inception of service during which time Government Entity will evaluate the Services and test for performance and reliability of Service toward its purpose as understood by both parties. If the Government Entity is dissatisfied as to the performance of the Services during the initial Pilot Phase, BearingPoint shall have thirty (30) days from receipt of notice of Government Entity's dissatisfaction to make changes as necessary, to the satisfaction of the Government Entity.
- 9.12.** Government Entity is responsible to perform user acceptance testing of the TexasOnline eFiling Services and enhancements.
- 9.13.** Government Entity is responsible to train staff on profile, intake functions and financial reconciliation functions related to the Services.
- 9.14.** Government Entity accepts the responsibility to maintain an accurate profile as required with respect to the Services, including an accurate fee schedule. Government entity agrees to accept any filing and fee that is calculated from information provided in the clerk maintained profile. Any conflict that arises due to the failure of the Government Entity to provide accurate profile information, including accurate fee information is the sole responsibility of the Government Entity.
- 9.15.** Government Entity shall provide a hyperlink to the TexasOnline home page from the Government Entity's home page as well as display the TexasOnline logo on the Government Entity's home page. Government Entity will maintain the hyperlink to TexasOnline and make appropriate changes in the URL as requested by TexasOnline.
- 9.16.** Government Entity shall support BearingPoint efforts to upgrade the TexasOnline environment Operating System, Application Server Software, Web Server Software, and Hardware on Government Entity environments, as hosted by BearingPoint.
- 9.17.** Government Entity is responsible for any reasonable costs related to the development of an automated interface application that would process data available from eFiling into Government Entity Systems, subject to prior written approval by Government Entity.
- 9.18.** Government Entity shall work with BearingPoint to develop and implement a plan to increase awareness and usage of TexasOnline goods, services, and conveniences offered through the Government Entity's Web site. Government Entity shall actively promote TexasOnline goods, services and conveniences offered through the Government Entity's web site and TexasOnline through all reasonable means, to the extent allowed by law, including but not limited to the following:

- in printed materials;

- in facilities open to the public;
- in recorded telephone messages;
- in advertising or public relations activities;
- by any other means in which the Government Entity currently interacts with its client base.

Additionally, if Government Entity publishes information about the Services available that are hosted by TexasOnline, then the following language shall also appear: "In affiliation with [www.TexasOnline.com](http://www.TexasOnline.com)."

**9.19.** Government Entity shall be responsible for receipt (when the filing is available for access on the TexasOnline browser) of any filings made on TexasOnline.

**9.19** If Government Entity chooses to charge a convenience fee then Government Entity must give BearingPoint sixty (60) days prior written notice of the fee or change in the fee. BearingPoint will submit fee change requests to the TexasOnline Authority for approval. If approved, such fee changes will be implemented thirty (30) days from approval.

#### **10. Performance and Availability**

BearingPoint will provide the Services at the following service levels (the "Service Level(s)" or "SLA(s)"). BearingPoint will provide page loading time to the user (measured at the Web server) on an average of 5 seconds. Page loading performance will be measured by opening respective pages through a browser at a Web server located at the site hosting the pages. Pages containing specialized content, specifically those containing eFiling documents, are not exempted from the average page loading time commitment. Submission of the filing by the filer is exempted from the average page loading time commitment.

BearingPoint will provide up-time and availability of the TexasOnline network and Electronic Payment System of 98.5%. This Service Level will be measured monthly. The following will not be included in BearingPoint's up-time and availability computation:

- 1) Scheduled and planned outages for the purpose of upgrades or maintenance. All outages will be scheduled with a minimum of 72 hours of advance notice to the Department of Information Resources, and shall occur only during non-peak hours unless otherwise agreed by the Parties. If less than 72 hours notice is provided or the Department of Information Resources does not approve the upgrade or maintenance period (provided such approval is not unreasonably withheld), it will be considered down-time for the purpose of this SLA. Upon receipt of DIR approval, BearingPoint will notify Government Entity of all scheduled and planned outages.
- 2) Government Entity may at its own discretion request an outage with respect to Services, which will not be considered down-time for the purpose of this SLA.

- 3) Any Framework systems or components that are not owned, controlled or contracted by BearingPoint that fail and result in an outage, will not be down-time for the purpose of this SLA, unless the cause of the failure can be shown to have been a result of BearingPoint's negligence or malfeasance.
- 4) Service outages caused by Government Entity application code failure or failure of Government Entity maintained portions of the application or infrastructure.
- 5) Any downtime that exists as a result of a Government Entity network infrastructure failure will not be considered downtime for the purposes of this SLA.
- 6) BearingPoint reserves the right to restrict the size of eFiling attached documents in order to preserve performance commitments.
- 7) If for any reason, TexasOnline or BearingPoint are unable to electronically transmit a document to the Government Entity, then BearingPoint will deliver the document to the Government Entity in some other manner by 5 p.m. on the first business day following receipt of confirmation from Government Entity of the failure to electronically receive or transmit the documents.

#### **11. Effective Date; Renewal**

This Agreement is effective upon execution by representatives of BearingPoint and Government Entity and expires three years after execution of the contract. Thereafter, the agreement shall renew automatically for one year increments, unless either party gives ninety-days written notice prior to the end of the current term that it is not renewing the Agreement. Termination of the Master Agreement will not terminate this Agreement unless both parties agree to such termination.

Government Entity agrees and acknowledges that the terms of the Master Contract related to force majeure, confidentiality, and limitations on damages are hereby incorporated by this reference and shall apply to this Agreement, and Government Entity shall be bound by the responsibilities for any governmental unit within the State of Texas with regard to such provisions.

Any terms contained in this Agreement, which conflict with or are in violation of Texas law, are void regardless of whether Government Entity accepts such terms or is deemed to have accepted such terms.

#### **12. General Terms**

**12.1. No Waiver.** No provision of this agreement will constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to Government Entity, as an local government entity within the State of Texas, or otherwise available to Government Entity. The failure to enforce or any delay in the enforcement of any privileges, rights, defenses, remedies, or immunities available to either party will not constitute a waiver of said privileges, rights, defenses, remedies, or immunities or be considered as a basis for estoppel.

**12.2. Entire Agreement; Conflicts.** Except as expressly provided otherwise herein, this Agreement will represent the entire agreement by and between Government Entity and BearingPoint regarding the subject matter of this Agreement. This Agreement may not be changed or amended except by the mutual written agreement of the parties. In the event of conflict between the terms and conditions of this Agreement and the terms and conditions of the Master Contract, the terms and conditions of this Agreement shall govern.

**12.3. Applicable Law.** This Agreement shall be construed and governed by the laws of the State of Texas.

**12.4. Severability.** If one or more provisions of this Agreement, or the application of any provision to any party or circumstance, is held invalid, unenforceable, or illegal in any respect, the remainder of this Agreement and the application of the provision to other parties or circumstances shall remain valid and in full force and effect.

**12.5. Amendments.** This Agreement may be amended only upon written agreement between Government Entity and BearingPoint, but in no case will this Agreement be amended so as to make it conflict with the laws of the State of Texas.

**12.6. Assignments.** Neither Government Entity nor BearingPoint may assign or transfer this Agreement without the written consent of the other, which consent will not be unreasonably withheld, except that upon written notice to Government Entity, BearingPoint may assign this Agreement without Government Entity's consent to any entity that BearingPoint controls, is controlled by, or is under common control with, (provided such entity is adequately capitalized) or to any entity which acquires or succeeds to all or substantially all of the business or assets of BearingPoint whether by consolidation, merger, sale or otherwise (such as a spin-off of BearingPoint).

**12.7. Partially Completed Work.** Section IV. Ownership of Intellectual Property; Indemnification in the Master Contract is incorporated herein by reference and shall apply to work product created by BearingPoint pursuant to this Agreement

**12.8. Independent Contractor.** BearingPoint shall serve as an independent contractor in providing Services under this Agreement. BearingPoint's employees are not and shall not be construed as employees of Government Entity.

**12.9. Limitation on Authority; No Other Obligations.** BearingPoint shall have no authority to act for or on behalf of Government Entity except as provided for in this Agreement and the Master Contract; no other authority, power or use is granted or implied. BearingPoint may not incur any debts, obligations, expenses, or liabilities of any kind on behalf of Government Entity other than those incurred in performance of this Agreement and the Master Contract.

**12.10. Supporting Documents; Inspection of Records.** Section XIII. Right to Audit of the Master Contract is incorporated herein by this reference. BearingPoint's obligations set forth in Section XIII of the Master Agreement shall also apply with respect to Government Entity. In addition to the requirements of Section XIII. Right to Audit of the Master Contract, BearingPoint shall maintain and retain supporting fiscal documents adequate to ensure that claims for Agreement funds are in accordance with applicable State of Texas requirements. These supporting fiscal documents shall be

maintained and retained by BearingPoint for a period of two (2) years after the date of submission of the final invoices.

**12.11. No Conflicts.** BearingPoint represents and warrants that BearingPoint, to the best of its knowledge, has no actual or potential conflicts of interest in providing Services to Government Entity under this Agreement and that BearingPoint's provision of Services under this Agreement to the best of its knowledge would not reasonably create an appearance of impropriety.

**12.12. Financial Interests; Gifts.** BearingPoint represents and warrants that neither BearingPoint nor any person or entity, which will participate financially in this Agreement, has received compensation from Government Entity for participation in preparation of specifications for this Agreement. BearingPoint represents and warrants that it has not given, offered to give, and does not intend to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to any public servant or employee in connection with this Agreement.

**12.13** BearingPoint is subject to audit by Government Entity during the term of this contract and within two years of the termination of this contract, and thereafter as provided by law, to determine that Services were proper and the billings were correct.

**12.15 Notices.** All notices permitted or required under this Agreement will be in writing and will be by personal delivery, a nationally recognized overnight courier service, facsimile transmission or certified or registered mail, return receipt requested. Notices will be deemed given upon the earlier of actual receipt or one (1) day after deposit with the courier service, receipt by sender of confirmation of electronic transmission or five (5) days after deposit with the U.S. Postal Service. Notices will be sent to the addresses listed below, or to such other address as either Party may specify in writing.

If to BearingPoint:

**BEARINGPOINT.**  
111 Congress Ave., Suite 1100  
Austin, TX 78701  
Attention: Gary Miglicco

with a copy to:

**BEARINGPOINT**  
1676 International Drive  
McLean, Virginia 22102  
Attention: Office of General Counsel

If to Government Entity:

Hidalgo County  
County Judges Office  
100 N. Clossner  
Edinburg, Texas 78540

**13. Separate Deposit Accounts; Losses.** Any fees specifically related to a legal filing and corresponding services including but not limited to citation, service of process and copy charges, are transferred via ACH to the appropriate Government Entity financial account(s) by the credit card or ACH processor upon fund capture. BearingPoint is responsible for normal processing fees associated with these accounts; however, Government Entity agrees that it shall be liable for any refunds, chargebacks, and additional fees or expenses associated with this payment collection.

**14. Termination.**

**14.1** In the event that either party fails to carry out or comply with any of the material terms and conditions of this Agreement, the other party may notify the breaching party of such failure or default in writing and demand that the failure or default be remedied within thirty (30) days. In the event that the breaching party fails to remedy such failure or default within thirty (30) days of receiving written notice, the other party shall have the right to cancel this Agreement upon thirty (30) days written notice. Notwithstanding the foregoing, Government Entity shall not have the right to cancel this Agreement if BearingPoint's failure or inability to comply with the terms and conditions of this Agreement is caused by or arises from, in whole or in part, the refusal or inability, for whatever reason, of Government Entity to provide the support and assistance that BearingPoint requires from Government Entity to perform its obligations under this Agreement, and which Government Entity previously agreed to provide to BearingPoint. If Government Entity does not provide BearingPoint with the requisite level or amount of support, for whatever reason, BearingPoint will, upon receipt of the Authority's approval, be entitled, but not obligated, to suspend or cancel any further work on the particular Services for which adequate support is not available, and focus its efforts on other Services.

**14.2** Either BearingPoint or Government Entity may terminate this Agreement without cause upon ninety (90) days prior written notice.

**14.3** Government Entity may elect to continue to utilize BearingPoint's Services under this Agreement even if the Master Contract expires or terminates.

**15. Indemnification and Release of Liability**

BearingPoint will indemnify, defend and hold harmless Government Entity against any action or claim brought against the Government Entity to the extent that it is based upon a claim that the Software infringes any U.S. patent rights, or incorporates any misappropriated trade secrets (a "Claim"). BearingPoint will pay any damages attributable to such Claim that are awarded against the Government Entity in a judgment or settlement approved in advance by BearingPoint provided that the Government Entity: (i) promptly notifies BearingPoint in writing of the Claim; (ii) grants BearingPoint sole control of the defense and settlement of the claims through the Government Entity; and (iii) provides BearingPoint with all reasonable assistance, information, and authority required for the defense and settlement of the Claim. If Government Entity's use of any of the Software hereunder becomes subject to a Claim, or in BearingPoint's opinion is likely to become subject to a Claim, BearingPoint may, at its sole option and expense, (i) procure for Government

Entity the right to continue using the Software under the terms of this Agreement; (ii) replace or modify such Software so that it is non-infringing; or if options (i) and (ii) above cannot be accomplished despite BearingPoint's good faith efforts, then BearingPoint may terminate this Agreement by complying with the notice requirements in V. (b) of the Master Contract, and the continued operation requirements of paragraph XI.(a) of the Master Contract to the extent that it can continue to be operated or maintained without further infringement.

**THE PROVISIONS OF THIS PARAGRAPH 15 SET FORTH BEARINGPOINT'S SOLE AND EXCLUSIVE OBLIGATIONS, AND THE GOVERNMENT ENTITY'S SOLE AND EXCLUSIVE REMEDIES, WITH RESPECT TO ANY CLAIMS OF INFRINGEMENT OR MISAPPROPRIATION OF U.S. PATENT RIGHTS, U.S. COPYRIGHT RIGHTS, OR TRADE SECRET RIGHTS. THE PARTIES ACKNOWLEDGE AND AGREE THAT BEARINGPOINT'S OBLIGATION TO INDEMNIFY THE GOVERNMENT ENTITY UNDER THIS PARAGRAPH DOES NOT APPLY TO CLAIMS OF INFRINGEMENT OF FOREIGN INTELLECTUAL PROPERTY RIGHTS.**

**BEARINGPOINT SHALL HAVE NO LIABILITY WHATSOEVER FOR ANY INCIDENTAL, INDIRECT, CONSEQUENTIAL, PUNITIVE, OR SPECIAL DAMAGES OF ANY KIND (INCLUDING LOST REVENUES OR PROFITS, LOSS OF BUSINESS, OR LOSS OF DATA) ARISING OUT OF OR IN CONNECTION WITH OR RELATED TO THIS AGREEMENT OR THE RIGHTS PROVIDED HEREUNDER SUFFERED BY GOVERNMENT ENTITY OR BY ANY ASSIGNEE OR OTHER TRANSFEREE OF, OR THIRD PARTY CLAIMING RIGHTS DERIVED FROM GOVERNMENT ENTITY, EVEN IF INFORMED IN ADVANCE OF THE POSSIBILITY OF SUCH DAMAGES. BEARINGPOINT'S TOTAL LIABILITY HEREUNDER SHALL NOT EXCEED THE NET REVENUES ALLOCATED TO BEARINGPOINT UNDER THIS AGREEMENT IN THE TWELVE MONTHS PRECEDING ANY CLAIM. THIS LIMITATION SHALL NOT APPLY TO: (1) ANY MONETARY PENALTIES SPECIFIED IN THIS AGREEMENT, PROVIDED THE AMOUNT OF MONETARY PENALTIES HEREUNDER SHALL NOT EXCEED \$10,000 PER INCIDENT OR \$100,000 PER GOVERNMENT ENTITY FISCAL YEAR; OR (2) INTELLECTUAL PROPERTY INDEMNIFICATION DESCRIBED IN PARAGRAPH 15 OF THIS AGREEMENT, PROVIDED THE AMOUNT OF BEARINGPOINT'S COSTS RELATED TO SUCH INDEMNIFICATION SHALL NOT EXCEED \$250,000.00, THE PARTIES AGREE AND ACKNOWLEDGE THAT THIS LIMITATION OF DAMAGES IS A FREELY BARGAINED FOR ALLOCATION OF RISK.**

#### **16. Dispute Resolution**

If a dispute seeking money damages is identified by Government Entity or BearingPoint, dispute resolution will follow the procedures outlined in Section XVII of the Master Contract (which is incorporated herein by this reference), which references Chapter 2260 of the Texas Government Code. Any issue that is not resolved in a timely manner may be taken to the Authority for resolution by either Party.

#### **AGREED AND ACCEPTED:**

BearingPoint, Inc.:

Hidalgo County:

By: [Signature]  
Name: KARL M. J. L.L.P.  
Title: Jr. President  
Date: 8/22/01

By: [Signature]  
Name: \_\_\_\_\_  
Title: County Judge  
Date: 8-16-01

Attest: Juan D. Salinas III

Approved by Commissioners' Court  
on 7-29-01

APPROVED AS TO FORM

ATLAS & HALL L.L.P.

[Signature]

**EXHIBIT "A"**  
**SPECIFICATIONS**

**EXHIBIT "B"**  
**PAYMENT SCHEDULE**

## Exhibit A – Applications, Services and Fee Schedules

### List of BearingPoint Application(s) Supported in Association with the Services

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

### List of Services Provided Under Agreement

1. **Electronic Payments System Credit Card Authorization Services/Settlement Services**
  - a. BearingPoint will provide authorization and settlement transaction services for credit cards. Visa and MasterCard transactions will be processed and settled by the credit card processor through the Government Entity Merchant Agreement.
  - b. The processor will transfer all eFiling funds to the appropriate Government Entity bank account based on agreements between the processor and the State. BearingPoint is not responsible for actual fund transfers. The processor will transfer all EFM convenience fee funds to a BearingPoint bank account.
2. **Electronic Payments Chargeback Services**
  - a. BearingPoint will develop and provide the procedures for Government Entity to follow to process chargebacks for applicable credit card transactions should they occur.
3. **Filing Purge Services**
  - a. Government Entity will check and accept or reject all filings on at least a daily basis. BearingPoint will purge all filings 10 days after the Government Entity acts on the filing by accepting or rejecting the filing. All filings will be purged not later than 30 days after they are submitted by the filer.
4. **Customer Information Center Services for Government Entity applications**
  - a. BearingPoint will provide first level customer support for the Government Entity applications through the TexasOnline CIC. First level support includes responding to phone calls and email requests for assistance in using the application. Questions that cannot be answered by a first level technician will be forwarded either to the Government Entity contact or level two support for resolution.
  - b. A live call center operation will handle user phone calls 7:00 am to 7:00 p.m. CT daily, 7 days a week. However, future alterations to these times and days may occur periodically throughout the term of this Agreement if BearingPoint determines that peak usage of the Framework is at times other than those described above.

- c. First and second-level support is limited to technical support regarding the TexasOnline network or availability and application functionality. Government Entity business questions or filing rules, as they pertain to eFiling, are the responsibility of the Government Entity. Questions that require Government Entity response will be forwarded to the Government Entity contact for resolution. The customer will be referred appropriately.
- 5. Customer Information Center Services for Electronic Payments transaction services**
- a. BearingPoint will provide first – third level customer support through the TexasOnline CIC for the Payment transactions processed through the Electronic Payments system. First level support includes responding to phone calls and email requests for assistance in using the application. Questions that require Government Entity response will be forwarded to the Government Entity contact for resolution. Questions that require the Electronic Payments System investigation or response will be forwarded to the Electronic Payments Customer Support areas.
  - b. A live call center operation will handle user phone calls 7:00 a.m. to 7:00 p.m. CT daily, 7 days a week. However, future alterations to these times and days may occur periodically throughout the term of this Agreement if BearingPoint determines that peak usage of the framework is at times other than those described above.
- 6. TexasOnline Hosting and Application Service Provider (ASP) Services**
- a. Services provided by BearingPoint include all services related to the hosting of eFiling applications including:
    - 1) Application design
    - 2) Database design and setup
    - 3) Standard interface design to meet the statewide Court Filing standard.
    - 4) Interface design for exchange between TexasOnline and the Electronic Payments System
    - 5) Support secure communication standards between TexasOnline and Government Entity
    - 6) Application development and testing
    - 7) Page and form development
    - 8) Continued application enhancements and modifications
    - 9) Applications support and maintenance
- 7. TexasOnline Training**
- a. BearingPoint will provide training support documentation on the appropriate use of the TexasOnline EFM.
- 8. Strategic Outreach**
- a. Services provided by BearingPoint include the following strategic outreach services:
    - 1) Provide a *sample* communication plan for the Government Entity, and
    - 2) If appropriate, consider the possibility of a joint marketing program and/or expenditure with the Government Entity.
- 9. Physical Environment Management**
- (a) BearingPoint will provide physical security and access management, protected power supply, air conditioning and fire suppression through the West Texas Disaster Recovery Operations Center (WTDROC).

**10. Network Infrastructure Management**

- (a) BearingPoint will provide Front-End Network Management, Firewall Infrastructure and Support Services, Intrusion Detection Services, Back-End Network Management and technical support for the TexasOnline EFM located at WTDROC. BearingPoint will manage all the TexasOnline EFM resources necessary to get users to Government Entity's applications and return the information to them. This includes the switches, load-balancing devices, bandwidth regulating devices, and other related devices.

**11. Hardware Management**

- (a) BearingPoint will provide Hardware Installation, Hardware Management and support for TexasOnline EFM components located at WTDROC. BearingPoint will install and maintain TexasOnline EFM servers and server components and will ensure third-party service providers for hardware are notified appropriately, when required.

**12. Operating System Administration**

- (a) BearingPoint will provide Operating System Software installation, configuration, optimization, and support for TexasOnline EFM components located at WTDROC. BearingPoint will create the underlying TexasOnline environment and work with Government Entity to ensure that systems are configured and tuned appropriately to support the needs of Government Entity applications.

**Fee Schedule**

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

<b>Government Entity Service Type</b>	<b>Convenience Fee</b>
Electronic Filing Manager Court Intake Services	\$ 6.00
Cost Recovery on all Credit Card transactions	based on the credit card type and starting at 2.25% the first year.

BearingPoint will pay \$2.00 to Government Entity on a monthly basis the fee for cost recovery as approved by the TexasOnline Authority.