

March 5, 2013

**SPECIAL MEETING - MARCH 5, 2013**

**BE IT REMEMBERED**, that on this 5th day of March A.D., 2013, there was begun and held a **SPECIAL MEETING** of the Honorable Commissioners' Court of Hidalgo County, Texas, wherein the following members thereof were present, to-wit:

<b>HONORABLE RAMON GARCIA</b>	<b>HIDALGO COUNTY JUDGE</b>
<b>HONORABLE A.C. CUELLAR, JR.</b>	<b>COMMISSIONER, PRECINCT NO. 1</b>
<b>HONORABLE HECTOR "TITO" PALACIOS</b>	<b>COMMISSIONER, PRECINCT NO. 2</b>
<b>HONORABLE JOE M. FLORES</b>	<b>COMMISSIONER, PRECINCT NO. 3</b>
<b>HONORABLE JOSEPH PALACIOS</b>	<b>COMMISSIONER, PRECINCT NO. 4</b>

and **ARTURO GUAJARDO, JR., COUNTY CLERK & EX-OFFICIO CLERK OF THE COMMISSIONERS' COURT** of Hidalgo County, Texas, wherein the following proceedings were had, to-wit:



**AGENDA  
CC REGULAR  
HIDALGO COUNTY  
COMMISSIONERS COURT  
MEETING  
March 5, 2013  
9:30 A.M.**

NOTICE is hereby given in accordance with Chapter 551, Texas Government Code, that a SPECIAL MEETING of the Commissioners' Court will be held at the Edinburg Council Chambers 415 W. University Drive, Edinburg, Hidalgo County, Texas. Discussion and possible action relating to the following business will be transacted:

1. **Roll Call**  
All members of the Court were counted present.
2. **Pledge of Allegiance**  
Judge Garcia led the Court and Audience in reciting the Pledge of Allegiance.
3. **Prayer**  
Virginia Townsend led the Court and Audience in Prayer.
4. **Approval of Consent Agenda**  
The Court moved to approve the Consent Agenda.
5. **Open Forum**
  - Opal Billman discussed her false imprisonment on her own property.
  - Virginia Townsend questioned why the Constable Pct. 1 was asking for additional employees/positions if they obtained some from Constable Pct. 5, asked about the increase in price for the Constable Pct. 1. Building and asked the Court to testify on the House Bills that would affect our Colonias.
  - Fern McLaugherty expressed concerns as to how the Agenda was posted and on items 7.F & 7.H.
  - Robert Geib presented the Court a claim from January 15, 2010 for review.
  - Oscar Montoya provided the Court an update on the water allotment.
6. **County Judge's Office:**
  - A. Discussion and appropriate action regarding Hidalgo County's Legislative Agenda for the 83rd Session of the Texas Legislature and other legislative issues affecting Hidalgo County  

On motion by COMMISSIONER, PCT. 1 A.C. CUELLAR, JR., seconded by COMMISSIONER, PCT. 4 JOSEPH PALACIOS, the Court made a UNANIMOUS vote of approval.

**Vote:** 4 - 0 - Unanimously
  - B. Resolution regarding HB 958  

On motion by COMMISSIONER, PCT. 4 JOSEPH PALACIOS, seconded by COMMISSIONER, PCT. 3 JOE M. FLORES, the Court made a UNANIMOUS vote of approval.

**Vote:** 5 - 0 - Unanimously
  - C. Report on bills before the Texas Legislature of interest to Hidalgo County  

Israel Rocha came before the Court to discuss how HB 1000/ SB 24 would affect the merging of the universities and the creation of a medical school. Mr. Rocha clarified that in order to create the medical school, they would need: 1) Authorizing Language (HB 1000/ SB 24); and 2) Funding inserted into Appropriations Bill to ensure long term fiscal liability.

Ramiro Garza, Jr., City Manager for Edinburg, talked about some of the sponsors for HB 1000/ SB 24 and encouraged that the Commissioners' Court Members send a letter of support of the legislation for SB 24.

Raul Sesin, Planning Administrator, came before the Court to inform them that he had testified on HB 611. Mr. Sesin discuss how HB 611 would affect the County as it pertains to: 1) Escrow Requirements, 2) 90 day

**16. Planning Department - Raul Sesin:**

- A.** 1. Preliminary Approval
  - a. Lantana Ranch Phase 2 Subdivision – Pct. 3 (Hector Cortez)

On motion by COMMISSIONER, PCT. 1 A.C. CUELLAR, JR., seconded by COMMISSIONER, PCT. 4 JOSEPH PALACIOS, the Court made a UNANIMOUS vote of approval.  
Vote: 4 - 0 - Unanimously

- 2. Final Approval with Financial Guarantee
  - a. Los Feliz Phase I Subdivision – Pct. 4 (Oscar Garza, Jr.)

On motion by COMMISSIONER, PCT. 4 JOSEPH PALACIOS, seconded by COMMISSIONER, PCT. 1 A.C. CUELLAR, JR., the Court made a UNANIMOUS vote of approval.  
Vote: 4 - 0 - Unanimously

- B.** 1. Reimbursement of a Cash Deposit
  - a. Cardinal Lake Subdivision – Pct. 4 (Franz Schamberger)

On motion by COMMISSIONER, PCT. 4 JOSEPH PALACIOS, seconded by COMMISSIONER, PCT. 1 A.C. CUELLAR, JR., the Court made a UNANIMOUS vote of approval.

**Vote:** 4 - 0 - Unanimously

**17. Precinct #1 - Comm. Cuellar:**

- A.** Pct.1 Mile 2 West:  
Discussion, consideration, and approval of an Advance Funding Agreement (A.F.A.) between County of Hidalgo and Texas Department of Transportation for highway improvements to Mile 2 West CSJ# 0921-02-170 (from Mile 12 North Rd to US 83) with authority for County Judge to sign the required documents.

On motion by COMMISSIONER, PCT. 2 HECTOR PALACIOS, seconded by COMMISSIONER, PCT. 4 JOSEPH PALACIOS, the Court made a UNANIMOUS vote of approval.

**Vote:** 4 - 0 - Unanimously

**18. Precinct #4 - Comm. J. Palacios:**

- A.** Approval of Interlocal Cooperation Agreement between the County of Hidalgo and the Edinburg CISD (acquire tract of land for park purposes)

On motion by COMMISSIONER, PCT. 1 A.C. CUELLAR, JR., seconded by COMMISSIONER, PCT. 4 JOSEPH PALACIOS, the Court made a UNANIMOUS vote of approval.

**Vote:** 4 - 0 - Unanimously

- B.** Approval of Multiple Use Agreement by the State of Texas by and between the Texas Department of Transportation and Hidalgo County, Texas (for US 281 & SH 186 Linn-San Manuel Beautification Project)

On motion by COMMISSIONER, PCT. 4 JOSEPH PALACIOS, seconded by COMMISSIONER, PCT. 1 A.C. CUELLAR, JR., the Court made a UNANIMOUS vote of approval.

**Vote:** 4 - 0 - Unanimously

**APPROVED**

**19. Budget & Management - Sergio Cruz:**

- A.** Approval of 2012 unappropriation of funds for the following grants:

Fund	Amount
Stop Truancy Grant - Fund 1285	\$1,024.71

## Monica Badillo

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**From:** maria.lucio@co.hidalgo.tx.us  
**Sent:** Thursday, February 28, 2013 2:07 PM  
**To:** Monica Badillo  
**Cc:** Martha Salazar; Leticia Saenz; darlene betancourt; moises salazar; Marcos Lopez; jesus ozuna; gloria.beltran  
**Subject:** TXDOT Multiple Use Agreement for Precinct 4  
**Importance:** High

Good Afternoon Monica,

The following is Mr. Crain's approval for the Multiple Use Agreement, should you need anything else please let me know. Thank you, have a great afternoon!

Sincerely,  
Maria (Lulu) Lucio  
Program Manager  
Hidalgo County Precinct #4  
Ph:956-292-7000 Ext. 4026  
Fax:956-381-5905  
[maria.lucio@co.hidalgo.tx.us](mailto:maria.lucio@co.hidalgo.tx.us)

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**From:** "Steve Crain" <[scrain@atlashall.com](mailto:scrain@atlashall.com)>  
**To:** "maria lucio" <[maria.lucio@co.hidalgo.tx.us](mailto:maria.lucio@co.hidalgo.tx.us)>  
**Sent:** Thursday, February 28, 2013 2:01:17 PM  
**Subject:** RE: Clarification onTXDOT Multiple Use Agreement for Precinct 4

Yes.

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**From:** maria.lucio@co.hidalgo.tx.us [<mailto:maria.lucio@co.hidalgo.tx.us>]  
**Sent:** Thursday, February 28, 2013 1:54 PM  
**To:** Steve Crain  
**Subject:** Re: Clarification onTXDOT Multiple Use Agreement for Precinct 4

Good Afternoon Mr. Crain,

As per your final review is this agreement approved as to form?  
Thank you for all your assistance, have a great afternoon!

Sincerely,  
Maria (Lulu) Lucio  
Program Manager  
Hidalgo County Precinct #4  
Ph:956-292-7000 Ext. 4026  
Fax:956-381-5905  
[maria.lucio@co.hidalgo.tx.us](mailto:maria.lucio@co.hidalgo.tx.us)



**MULTIPLE USE AGREEMENT**

**STATE OF TEXAS §**

**COUNTY OF TRAVIS §**

**THIS AGREEMENT** made by the State of Texas by and between the Texas Department of Transportation, hereinafter referred to as "State", party of the first part, and Hidalgo County, Texas \_\_\_\_\_, hereinafter called County \_\_\_\_\_, party of the second part, is to become effective when fully executed by both parties.

**WITNESSETH**

**WHEREAS**, on the \_\_\_\_\_ day of \_\_\_\_\_, 20 13, the governing body for the \_\_\_\_\_ County \_\_\_\_\_, entered into Resolution/Ordinance No. \_\_\_\_\_ hereinafter identified by reference, authorizing the \_\_\_\_\_ County \_\_\_\_\_'s participation in this agreement with the State; and

**WHEREAS**, the \_\_\_\_\_ County \_\_\_\_\_ has requested the State to permit the construction, maintenance and operation of a public construction of a monument, irrigation, County equipment staging area, fencing, flag poles, lighting on the highway right of way, (General description of area) as shown by the survey attached hereto as Exhibit A and made a part hereof for all purposes as shown graphically by the preliminary conceptual site plan in Exhibit "A" and being more specifically described by metes and bounds of Exhibit "B", which are attached and made a part hereof; and

**WHEREAS**, the State has indicated its willingness to approve the establishment of such facilities and other uses conditioned that the \_\_\_\_\_ County \_\_\_\_\_ will enter into agreements with the State for the purpose of determining the respective responsibilities of the \_\_\_\_\_ County \_\_\_\_\_ and the State with reference thereto, and conditioned that such uses are in the public interest and will not damage the highway facilities, impair safety, impede maintenance or in any way restrict the operation of the highway facility, all as determined from engineering and traffic investigations conducted by the State.

## AGREEMENT

**NOW, THEREFORE,** in consideration of the premises and of the mutual covenants and agreements of the parties hereto to be by them respectively kept and performed as hereinafter set forth, it is agreed as follows:

### **1. DESIGN AND CONSTRUCTION**

County \_\_\_\_\_ will prepare or provide for the construction plans for the facility, and will provide for the construction work as required by said plans at no cost to the State. Said plans shall include the design of the access control, necessary horizontal and vertical clearances for highway structures, adequate landscape treatment, adequate detail to ensure compliance with applicable structural design standards, sufficient traffic control provisions, and general layout. They shall also delineate and define the construction responsibilities of both parties hereto. Completed plans will be submitted to State for review and approval and when approved shall be attached to the agreement and made a part thereof in all respects. Construction shall not commence until plans have been approved by the State. Any future revisions or additions shall be made after prior written approval of the State. Any sidewalks, curb ramps and other pedestrian elements to be constructed, either on site or off site, by the \_\_\_\_\_ County shall be in accordance with the requirements of Title II of the Americans With Disabilities Act (ADA) and with the Texas Accessibility Standards (TAS). Elements constructed by the \_\_\_\_\_ County and found not to comply with ADA or TAS shall be corrected at the entire expense of the \_\_\_\_\_ County.

### **2. INSPECTION**

Ingress and egress shall be allowed at all times to such facility for Federal Highway Administration personnel and State Forces and equipment when highway maintenance operations are necessary, and for inspection purposes; and upon request, all parking or other activities for periods required for such operations will be prohibited.

### **3. PARKING REGULATIONS**

Parking regulations shall be established limiting parking to single unit motor vehicles of size and capacity no greater than prescribed for 1<sup>1</sup>/<sub>2</sub> ton trucks, such vehicles to conform in size and use to governing laws. Parking shall be permitted only in marked spaces.

Parking shall be prohibited when a security threat, as determined by TxDOT, exists.

#### 4. PROHIBITION/SIGNS

Regulations shall be established prohibiting the parking of vehicles transporting flammable or explosive loads and prohibiting use of the area in any manner for peddling, advertising or other purposes not in keeping with the objective of a public facility. The erection of signs other than those required for proper use of the area will be prohibited. All signs shall be approved by the State prior to the actual erection.

#### 5. RESPONSIBILITIES

Maintenance and operation of the facility shall be entirely the responsibility of the County \_\_\_\_\_. Such responsibility shall not be transferred, assigned or conveyed to a third party without the advanced written approval of the State. Further, such responsibility shall include picking up trash, mowing and otherwise keeping the facility in a clean and sanitary condition, and surveillance by police patrol to eliminate the possible creation of a nuisance or hazard to the public. Hazardous or unreasonably objectionable smoke, fumes, vapor or odors shall not be permitted to rise above the grade line of the highway, nor shall the facility subject the highway to hazardous or unreasonably objectionable dripping, droppings or discharge of any kind, including rain or snow.

#### 6. FEES

Any fees levied for use of the facilities in the area shall be nominal and no more than are sufficient to defray the cost of construction, maintenance and operations thereof, and shall be subject to State approval.

A. Retention Period. The \_\_\_\_\_ County shall maintain all books, documents, papers, accounting records and other evidence pertaining to fees collected and costs (hereinafter called the Records). The City shall make the records available during the term of the Agreement and for four years from the date the Agreement is terminated, until completion of all audits, or until pending litigation has been completely and fully resolved, whichever occurs last.

B. Availability. The State or any of its duly authorized representatives, the Federal Highway Administration, the United States Department of Transportation, Office of Inspector General, and the Comptroller General shall have access to the \_\_\_\_\_ County's records that are directly pertinent to this Agreement for the purpose of making audits and examinations.

#### 7. TERMINATION UPON NOTICE

This provision is expressly made subject to the rights herein granted to both parties to terminate this agreement upon notice, and upon the exercise of any such right by either party, all obligations herein to make improvements to said facility shall immediately cease and terminate.

**8. MODIFICATION/TERMINATION OF AGREEMENT**

If in the sole judgment of the State it is found at any future time that traffic conditions have so changed that the existence or use of the facility is impeding maintenance, damaging the highway facility, impairing safety or that the facility is not being properly operated, that it constitutes a nuisance, is abandoned, or if for any other reason it is the State's judgment that such facility is not in the public interest, this agreement under which the facility was constructed may be: (1) modified if corrective measures acceptable to both parties can be applied to eliminate the objectionable features of the facility; or (2) terminated and the use of the area as proposed herein discontinued.

**9. PROHIBITION OF STORAGE OF FLAMMABLE MATERIALS**

All structures located or constructed within the area covered by the agreement shall be fire resistant. The storage of flammable, explosive or hazardous materials is prohibited. Operations deemed to be a potential fire hazard shall be subject to regulation by the State.

**10. RESTORATION OF AREA**

The \_\_\_\_\_ County \_\_\_\_\_ shall provide written notification to the State that such facility will be discontinued for the purpose defined herein. The \_\_\_\_\_ County \_\_\_\_\_ shall, within thirty (30) days from the date of said notification, clear the area of all facilities that were its construction responsibility under this agreement and restore the area to a condition satisfactory to the State.

**11. PREVIOUS AGREEMENTS**

It is understood that this agreement in no way modifies or supersedes the terms and provisions of any existing agreements between the parties hereto.

**12. INDEMNIFICATION**

Each party acknowledges that it is not an agent, servant, or employee of the other party. Each party is responsible for its own acts and deeds and for those of its agents, servants, or employees.

Neither party hereto intends to waive, relinquish, limit or condition its right to avoid any such liability by claiming its governmental immunity.

When notified by the State to do so, the other party hereto shall within thirty (30) days from receipt of the State's written notification pay the State for the full cost of repairing any damages to the highway facility which may result from its construction, maintenance or operation of the facility, and shall promptly reimburse the State for costs of construction and/or repair work made necessary by reason of such damages.

Nothing in this agreement shall be construed as creating any liability in favor of any third party against the State and the \_\_\_\_\_ County \_\_\_\_\_. Additionally, this agreement shall not ever be construed as relieving any third party from any liability against the State and the \_\_\_\_\_ County \_\_\_\_\_ shall become fully subrogated to the State and shall be entitled to maintain any action over and against the third party which may be liable for having caused the \_\_\_\_\_ County \_\_\_\_\_ to pay or disburse any sum of money hereunder.

### 13. HOLD HARMLESS

The \_\_\_\_\_ County \_\_\_\_\_ shall indemnify and save harmless the State and its officers and employees from all claims and liability due to its materials or activities of itself, its agents, or employees, performed under this agreement and that are caused by or result from error, omission, or negligent act of the party or of any person employed by the party. The \_\_\_\_\_ County \_\_\_\_\_ shall also indemnify and save harmless the State from any and all expense, including but not limited to attorney fees that may be incurred by the State in litigation or otherwise resisting the claim or liabilities that may be imposed on the State as a result of such activities by the \_\_\_\_\_ County \_\_\_\_\_, its agents, or employees authorized under this agreement. The \_\_\_\_\_ County \_\_\_\_\_ further agrees to indemnify and save harmless the State from and against all claims, demands, and causes of action of every kind and character brought by any employee of the party against the State due to personal injuries and/or death to such employee resulting from any alleged negligent act by either commission or omission on the part of the \_\_\_\_\_ County \_\_\_\_\_. The indemnification of the State shall extend for a period of three (3) years beyond the date of termination of this agreement.

### 14. INSURANCE

The \_\_\_\_\_ County \_\_\_\_\_, shall provide necessary safeguards to protect the public on State maintained highways including adequate insurance for payment of any damages which might result during the construction, maintenance and operation of the facility occupying such airspace or thereafter, and to save the State harmless from damages, to the extent of said insurance coverage and insofar as it can legally do so. Prior to beginning work on the State's right of way, the \_\_\_\_\_ County or it \_\_\_\_\_'s construction contractor shall submit to the State a completed insurance form (TxDOT Form No. 1560) and shall maintain the required coverage during the construction of the facility.

**15. USE OF RIGHT OF WAY**

It is understood that the State by execution of this agreement does not impair or relinquish the State's right to use such land for highway purposes when it is required for the construction or re-construction of the traffic facility for which it was acquired, nor shall use of the land under such agreement ever be construed as abandonment by the State of such land acquired for highway purposes, and the State does not purport to grant any interest in the land described herein but merely consents to such use to the extent its authority and title permits.

**16. ADDITIONAL CONSENT REQUIRED**

The State asserts only that it has sufficient title for highway purposes. The County \_\_\_\_\_ shall be responsible for obtaining such additional consent, permits or agreement as may be necessary due to this agreement. This includes, but is not limited to, appropriate permits and clearances for environmental, ADA and public utilities.

**17. FHWA ADDITIONAL REQUIREMENTS**

If the Facility is located on the Federal-Aid Highway System, "ATTACHMENT A", which states additional requirements as set forth in the Federal Highway Administration's Title 23, Code of Federal Regulations, § 710, shall be attached to and become a part of this agreement.

**18. CIVIL RIGHTS ASSURANCES**

The \_\_\_\_\_ County \_\_\_\_\_, for itself, its personal representatives, successors and interests and assigns, as part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that: (1) no persons, on the grounds of race, color, sex, age, national origin, religion or disabling condition, shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in the use of said facility; (2) that in the construction of any improvements on, over or under such land and the furnishing of services thereon, no person on the ground of race, color, sex, age, national origin, religion or disabling condition, shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; (3) that the County \_\_\_\_\_ shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-Assisted programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

That if in the event of any breach of the above non-discrimination covenants, the State shall have the right to terminate the agreement and reenter and repossess said land and the facilities thereon, and hold the same as if said agreement had never been made or issued.

**19. AMENDMENTS**

Any changes in the time frame, character or responsibilities of the parties hereto shall be enacted by a written amendment executed by both parties hereto.

**20. LEGAL CONSTRUCTION**

In case one or more of the provisions contained in this agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any provision hereof and this agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in this agreement.

**21. AUDIT**

The State may conduct an audit or investigation of any aspect of this agreement. The County \_\_\_\_\_ must provide the State with access to any information the State considers relevant to the investigation or audit. The audit can include, but is not limited to, any contract for construction or maintenance of any facility or structure authorized by this agreement or any contract to provide a service to the \_\_\_\_\_ County \_\_\_\_\_ if that service is authorized by this agreement.

**22. AUTHORITY OF STATE AUDITOR**

The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the contract or indirectly through a subcontract under the contract. Acceptance of funds directly under the 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. An entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

**23. COMPLIANCE OF THE LAW**

The County \_\_\_\_\_ shall comply with all federal, state, and local law, statutes, ordinances, rules and regulations and with the orders and decrees of any courts or administrative bodies or tribunals in any manner affecting the performance of this agreement.

**24. NOTICES**

All notices required under this agreement shall be mailed or hand delivered to the following respective addresses:

**STATE**  
(Mailing Address)  
Texas Department of Transportation  
Maintenance Division  
125 East 11th Street  
Austin, Texas 78701-2483

**(Name of other party)**  
(Mailing Address)  
County of Hidalgo  
\_\_\_\_\_  
Attention: County Judge Ramon Garcia  
\_\_\_\_\_  
P.O. Box 758  
\_\_\_\_\_  
Edinburg, TX 78540-0758  
\_\_\_\_\_

**25. WARRANTS**

The signatories to this agreement warrant that each has the authority to enter into this agreement on behalf of the party represented.

List of Attached Exhibits:

- Exhibit A - General Layout
- Exhibit B - Metes and Bounds Description
- Exhibit C - Approved Construction Plans
- Exhibit D - Certificate of Insurance (TxDOT Form 1560)
- Exhibit E - Attachment A (FHWA Additional Requirements)

IN WITNESS WHEREOF, the parties have hereunto affixed their signature, the

County \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 2013, and the State on the \_\_\_\_\_ day of \_\_\_\_\_, 2013.

**STATE OF TEXAS**

Executed and approved for the Texas Transportation Commission for the purpose and effect of activating and/or carrying out the orders, and established policies or work programs heretofore approved and authorized by the Texas Transportation Commission.

\_\_\_\_\_  
County of Hidalgo  
(Name of other party)

By: \_\_\_\_\_  
Title

\_\_\_\_\_  
Ramon Garcia, County Judge  
Printed Name

\_\_\_\_\_  
Date

By: \_\_\_\_\_  
Director, Maintenance Division

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

\_\_\_\_\_  
Date

Approved as to Form:  
Atlas, Hall & Rodriguez, LLP

**APPROVAL RECOMMENDED:**

By: \_\_\_\_\_  
Stephen L. Crain

\_\_\_\_\_  
District Engineer

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

\_\_\_\_\_  
Date

## ATTACHMENT A

Inasmuch as this project is on the Federal-Aid highway system, the following additional requirements as applicable with the Federal Highway Administration's Title 23, Code of Federal Regulations, § 710.

1. Any significant revision in the design or construction of the facility shall receive prior approval by the Texas Department of Transportation subject to concurrency by the FHWA.
2. Any change in the authorized use of airspace shall receive prior approval by the Texas Department of Transportation subject to concurrence by the FHWA.
3. The airspace shall not be transferred, assigned or conveyed to another party without prior Texas Department of Transportation approval subject to concurrence by the FHWA.
4. This agreement will be revocable in the event that the airspace facility ceases to be used or is abandoned.

## EXHIBIT E



# CERTIFICATE OF INSURANCE

Form 1560  
(Rev. 07/12)  
Previous editions of this form may not be used.  
Page 1 of 2

Agents should complete the form providing all requested information then either fax or mail this form directly to the address listed on page two of this form. Copies of endorsements listed below are not required as attachments to this certificate.

This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not confer any rights or obligations other than the rights and obligations conveyed by the policies referenced on this certificate. The terms of the policies referenced in this certificate control over the terms of the certificate.

Insured: HIDALGO COUNTY

Street/Mailing Address: PO BOX 1356

City/State/Zip: EDINBURG, TX 78540

Phone Number: ( 956 ) 292 - 7032

**WORKERS' COMPENSATION INSURANCE COVERAGE:**

Endorsed with a Waiver of Subrogation in favor of TxDOT.

<b>Carrier Name:</b>			<b>Carrier Phone #:</b> ( ) -	
<b>Address:</b>			<b>City, State, Zip:</b>	
<b>Type of Insurance</b>	<b>Policy Number</b>	<b>Effective Date</b>	<b>Expiration Date</b>	<b>Limits of Liability:</b>
Workers' Compensation				Not Less Than: Statutory - Texas

**COMMERCIAL GENERAL LIABILITY INSURANCE:**

<b>Carrier Name:</b> THE PRINCETON EXCESS SURPLUS LINES			<b>Carrier Phone #:</b> ( 800 ) 305 - 4594	
<b>Address:</b> 555 COLLEGE ROAD EAST			<b>City, State, Zip:</b> PRINCETON, NJ 08543	
<b>Type of Insurance:</b>	<b>Policy Number:</b>	<b>Effective Date:</b>	<b>Expiration Date:</b>	<b>Limits of Liability:</b>
Commercial General Liability Insurance	N1A3RL000008700	01/01/2013	01/01/2014	Not Less Than: \$300,000 each occurrence \$1,000,000/2,000,000

**BUSINESS AUTOMOBILE POLICY:**

<b>Carrier Name:</b> THE PRINCETON EXCESS SURPLUS LINES			<b>Carrier Phone #:</b> ( 800 ) 305 - 4594	
<b>Address:</b> 555 COLLEGE ROAD EAST			<b>City, State, Zip:</b> PRINCETON, NJ 08543	
<b>Type of Insurance:</b>	<b>Policy Number:</b>	<b>Effective Date:</b>	<b>Expiration Date:</b>	<b>Limits of Liability:</b>
Business Automobile Policy	N1A3RL000008700	01/01/2013	01/01/2014	Not Less Than: \$500,000 combined single limit \$1,000,000 CSL

**UMBRELLA POLICY (if applicable):**

<b>Carrier Name:</b>			<b>Carrier Phone #:</b> ( ) -	
<b>Address:</b>			<b>City, State, Zip:</b>	
<b>Type of Insurance:</b>	<b>Policy Number:</b>	<b>Effective Date:</b>	<b>Expiration Date:</b>	<b>Limits of Liability:</b>
Umbrella Policy				

Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions. THIS IS TO CERTIFY to the Texas Department of Transportation acting on behalf of the State of Texas that the insurance policies named are in full force and effect. If this form is sent by facsimile machine (fax), the sender adopts the document received by TxDOT as a duplicate original and adopts the signature produced by the receiving fax machine as the sender's original signature.

<b>Agency Name</b>	<b>Address</b>	<b>City, State, Zip Code</b>
MONTALVO INSURANCE	PO BOX 2	WESLACO, TX 78599
( 956 ) 968 - 5521		02/06/2013
<b>Authorized Agent's Phone Number</b>	<b>Authorized Agent Original Signature</b>	<b>Date</b>

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

Fax completed form to: 512/416-2536



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
01/04/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER 1-818-539-2300  
 Arthur J. Gallagher & Co.  
 Insurance Brokers of California, Inc. License #0726293  
 505 North Brand Boulevard, Suite 600  
 Glendale, CA 91203-3944  
 818-539-2300  
 INSURED  
 TRISTAR Insurance Group, Inc.  
 100 Oceangate Avenue, Suite 700  
 Long Beach, CA 90802

CONTACT NAME: \_\_\_\_\_  
 PHONE: \_\_\_\_\_ FAX (A/C, No): \_\_\_\_\_  
 (A/C, No, Ext): \_\_\_\_\_  
 E-MAIL: \_\_\_\_\_  
 ADDRESS: \_\_\_\_\_

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A: ZURICH AMER INS CO	16535
INSURER B: AMERICAN GUAR & LIAB INS	26247
INSURER C: Chartis Specialty Insurance Company	26883
INSURER D: NATIONAL UNION FIRE INS CO OF PITTS	19445
INSURER E:	
INSURER F:	

COVERAGES      CERTIFICATE NUMBER: 31386867      REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY		CPO554360200	01/01/13	01/01/14	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADY INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
X	COMMERCIAL GENERAL LIABILITY					
	CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR					
X	Incl. Contractual Liab					
	GENL AGGREGATE LIMIT APPLIES PER POLICY PROJECT <input checked="" type="checkbox"/> LOC					
A	AUTOMOBILE LIABILITY		CPO554360200	01/01/13	01/01/14	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Ea accident) \$
X	ANY AUTO					
	ALL OWNED AUTOS	SCHEDULED AUTOS				
	HIRED AUTOS	NON-OWNED AUTOS				
X	Comp. Ded. <input checked="" type="checkbox"/> Coll. Ded. <input checked="" type="checkbox"/>					
B	UMBRELLA LIAB	<input checked="" type="checkbox"/> OCCUR	AOC554347900	01/01/13	01/01/14	EACH OCCURRENCE \$ 7,000,000 AGGREGATE \$ 7,000,000
	EXCESS LIAB	CLAIMS-MADE				
	RETENTION \$					
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY					WC STATUTORY LIMITS OTHER \$
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	<input type="checkbox"/> Y/N <input type="checkbox"/> N/A				EL EACH ACCIDENT \$
	If yes, describe under DESCRIPTION OF OPERATIONS below					EL DISEASE - EA EMPLOYEE \$
						EL DISEASE POLICY LIMIT \$
C	Errors & Omissions		01-456-76-23	01/01/12	01/31/13	Aggregate 10,000,000
D	Crime		01-450-15-52	01/01/12	01/31/13	Aggregate: 5,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)  
 Evidence of Insurance Only.

CERTIFICATE HOLDER	CANCELLATION
Hidalgo County Purchasing Dept.  2812 S. Business Highway 281 New Administration Building Edinburg, TX 78539  USA	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE  <i>Nicole C. Johanning</i>

7 OF 3 F  
ENAV 7375

**NOTES TO AGENTS:**

Agents must provide all requested information then either fax or mail this form directly to the address listed below.

Pre-printed limits are the minimum required; if higher limits are provided by the policy, enter the higher limit amount and strike-through or cross-out the pre-printed limit.

**To avoid work suspension**, an updated insurance form must reach the address listed below **one business day** prior to the expiration date. **Insurance must be in force in order to perform any work.**

**Binder numbers are not acceptable for policy numbers.**

The certificate of insurance, once on file with the department, is adequate for subsequent department contracts provided adequate coverage is still in effect. Do not refer to specific projects/contracts on this form.

List the contractor's legal company name, including the DBA (doing business as) name as the insured. If a staff leasing service is providing insurance to the contractor/client company, list the staff leasing service as the insured and show the contractor/client company in parenthesis.

The TxDOT certificate of insurance form is the only acceptable proof of insurance for department contracts.

List the contractor's legal company name, including the DBA (doing business as) name as the insured or list both the contractor and staff leasing service as insured when a staff leasing service is providing insurance.

Over-stamping and/or over-typing entries on the certificate of insurance are not acceptable if such entries change the provisions of the certificate in any manner.

This form may be reproduced.

**DO NOT COMPLETE THIS FORM UNLESS THE WORKERS' COMPENSATION POLICY IS ENDORSED WITH A WAIVER OF SUBROGATION IN FAVOR OF TXDOT.**

The **SIGNATURE** of the agent is required.

**CERTIFICATE OF INSURANCE REQUIREMENTS:**

**WORKERS' COMPENSATION INSURANCE:**

The contractor is required to have Workers' Compensation Insurance if the contractor has any employees including relatives.

The word **STATUTORY**, under limits of liability, means that the insurer would pay benefits allowed under the Texas Workers' Compensation Law.

**GROUP HEALTH** or **ACCIDENT INSURANCE** is not an acceptable substitute for Workers' Compensation.

**COMMERCIAL GENERAL LIABILITY INSURANCE:**

**MANUFACTURERS'** or **CONTRACTOR LIABILITY INSURANCE** is not an acceptable substitute for Comprehensive General Liability Insurance or Commercial General Liability Insurance.

**BUSINESS AUTOMOBILE POLICY:**

If coverages are specified separately, they must be at least these amounts:

Bodily Injury	\$500,000 each occurrence \$100,000 each occurrence
Property Damage	\$100,000 for aggregate

**PRIVATE AUTOMOBILE LIABILITY INSURANCE** is not an acceptable substitute for a Business Automobile Policy.

**MAIL ALL CERTIFICATES TO:**

Texas Department of Transportation  
CST – Contract Processing Unit (RA/200 – 1st Fl.)  
125 E. 11th Street  
Austin, TX 78701-2483  
512/416-2540 (Voice), 512/416-2536 (Fax)

STATE OF TEXAS  
COUNTY OF HIDALGO

**METES AND BOUNDS DESCRIPTION**  
**3.169 ACRES**

**BEING A 3.169 ACRE (138,058 S.F.) TRACT OF LAND OUT OF BLOCK 15 OF FRESH WATER FARMS SUBDIVISION No. 3 AS RECORDED IN VOLUME 9, PAGE 55 OF THE MAP RECORDS OF HIDALGO COUNTY, TEXAS, THAT CERTAIN 3.169 ACRE TRACT OF LAND CONVEYED TO STATE OF TEXAS, RECORDED IN VOLUME 2281, PAGES 727-730, AND OUT OF VOLUME 407, PAGES 143-146, OF THE DEED RECORDS OF HIDALGO COUNTY, TEXAS, ALSO BEING OUT OF TRACT 91, SAN SALVADOR DEL TULE GRANT SUBDIVISION, AS RECORDED IN VOLUME 10, PAGES 58-60 OF THE MAPS RECORDS OF HIDALGO COUNTY, TEXAS, SAID 3.169 ACRE TRACT MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS;**

**BEGINNING** at a 5/8-inch iron rod with cap stamped "DLS BNDRY MKR" (hereinafter referred to as "with cap") set at the existing north right-of-way line of SH 186 (100.00 feet wide right-of-way), said point being on the tangency to a curve to the left with a radius of 1999.47 feet, for the southeast corner of this tract, from which a found 1/2-inch iron rod bears South 48°43'49" East, a distance of 311.07 feet;

**THENCE**, northwesterly, along the proposed south boundary line of said 3.169 acre tract, an arc length distance of 820.49 feet, a chord length of 814.74 feet, a chord bearing of North 69°29'52" West and a delta angle of 23°30'41" to a 5/8-inch iron rod with cap set on an angle corner of the herein described tract;

**THENCE**, North 80°10'00" West, continuing along the proposed south boundary line of said 3.169 acre tract, a distance of 8.01 feet to a 5/8-inch iron rod with cap set on the cutback line southerly point, for an angle corner of the herein described tract;

**THENCE**, North 35°26'28" West, continuing along cutback line, a distance of 75.00 feet to a 5/8-inch iron rod with cap set for an exterior corner of the herein described tract;

**THENCE**, North 09°17'04" East, along the proposed west boundary line of said 3.169 acre tract, a distance of 373.77 feet to a 5/8-inch iron rod with cap set at the intersection of the proposed west boundary line of said 3.169 acre tract, with the north right-of-way line of said SH 186 (old), for the northerly corner of the herein described tract;

**THENCE**, South 38°50'02" East, along the common line of said SH 186 (old) and that certain M.F. Klose Tract, recorded in volume 1054, Page 690-692, of the Deed Records of Hidalgo County, Texas, a distance of 239.73 feet to a 5/8 inch iron rod with cap set, for an angle corner of this tract;

**THENCE**, South 48°43'49" East, continuing along the common boundary line of said SH 186 (old) and M.F. Klone Tract, a distance of 803.47 feet to the **POINT OF BEGINNING** of the herein described tract of land, containing 3.169 acres (138,058 S.F.), more or less.

A survey plat of even date was prepared and is made a part of this metes and bounds description.



Juan M. Castillo June 11, 2012  
Juan M. Castillo, R.P.L.S. No. 6146