

NOTICE TO THE PUBLIC
WILLIAMSON COUNTY COMMISSIONER'S COURT
MARCH 29TH, 2011
9:30 A.M.

The Commissioner's Court of Williamson County, Texas will meet in regular session in the Commissioner's Courtroom, 710 Main Street, in Georgetown, Texas to consider the following items:

1. Review and approval of minutes.
2. Consider noting in minutes any off right-of-way work on any County road done by Road & Bridge Unified System.
3. Hear County Auditor concerning invoices, bills, Quick Check Report, and Wire Transfers submitted for payment and take appropriate action including, but not limited to approval for payment provided said items are found by the County Auditor to be legal obligations of the county.
4. Citizen comments. Except when public hearings are scheduled for later in the meeting, this will be the only opportunity for citizen input. The Court invites comments on any matter affecting the county, whether on the Agenda or not. Speakers should limit their comments to three minutes. Note that the members of the Court may not comment at the meeting about matters that are not on the agenda.

CONSENT AGENDA

The Consent Agenda includes non-controversial and routine items that the Court may act on with one single vote. The Judge or a Commissioner may pull any item from the consent agenda in order that the court discuss and act upon it individually as part of the Regular Agenda.

(Items 5 – 16)

5. Discuss and consider approving a line item transfer for JP1.

Fiscal Impact

From/To	Acct No.	Description	Amount	Sort Seq
to	0100.0451.004621	Copier Rental	100.00	
From	0100.0451.004999	Miscellaneous	100.00	
From	0100.0451.004310	Advertising & Legal Notices	100.00	
To	0100.0451.004621	Copier Rental	100.00	

6. To discuss and take appropriate action on the approval of a Line Item Transfer for Road & Bridge

Fiscal Impact

From/To	Acct No.	Description	Amount	Sort Seq
FROM	0200-0210-003556	Aggregate/Rock	\$55,000.00	
TO	0200-0210-005000	Capital Outlay	\$110,000.00	
FROM	0200-0210-004100	Prof Serv.	\$55,000.00	

7. Discuss and consider approving a line item transfer for Facilities.

Fiscal Impact

From/To	Acct No.	Description	Amount	Sort Seq
From	0100-0509-004510	Facility Maint & Repair	67750.00	
To	0100-0509-004100	Professional Services	67750.00	

8. Discuss and take appropriate action to appoint Donna Colburn to the County's Benefits Committee as a voting member.
9. Consider approval of request of Summit Christian Academy to hold a Jog-A-Fest in Precinct Two on April 16, 2011.
10. Discuss and take action on the Hill Country Ride for Aids.
11. Consider closing Miller Falls Drive in Stone Canyon from Longdraw Drive to Persimmon Springs from 2:00p.m.-7:30p.m. on April 3rd for a block party.
12. Consider authorizing the transfer of various equipment items through inter-office transfer, auction, donation, or destruction.
13. Consider recognizing continuing education hours for Commissioner Lisa Birkman as required in Section 81.0025 of the Local Government Code.
14. Consider approving 2010 Continuing Education Certificate of Completion for Commissioner Ron Morrison.
15. Consider acceptance of certificate for successful completion by Commissioner Cynthia P. Long of continuing education hours as required by the Texas Local Government Code.
16. Consider acceptance of certificate for successful completion by Commissioner Cynthia P. Long of continuing education hours as required by the Texas Local Government Code.

REGULAR AGENDA

17. Recognition of Williamson County EMS New Members successful completion of training academy.

18. Discuss and take appropriate action on a resolution declaring April 2011 as County Government Month and Week of April 11-15 as Williamson County Employee Appreciation Week.
19. Hear an update on the 2010 Census and redistricting efforts
20. Discuss and take appropriate action on road bond program.
21. Discuss and consider approving PBS&J, an Atkins Company, Professional Service Agreement (PSA) for construction inspection and/or observation services on transportation projects.
22. Discuss and consider approving CP&Y, Inc. Professional Service Agreement (PSA) for construction inspection and/or observation for transportation projects.
23. Discuss and consider approving The Broussard Group, Inc., dba TBG Partners Professional Service Agreement (PSA) for construction inspection and/or observation services on transportation projects.
24. Discuss and consider approving HDR Engineering, Inc. Professional Service Agreement (PSA) for construction inspection and/or observation services on transportation projects.
25. Discuss and consider approving Huitt-Zollars, Inc. Professional Service Agreement (PSA) for construction inspection and/or observation services on transportation projects.
26. Consider authorizing County Judge to execute a Real Estate Contract with Madeline Decker Teichelman and Rebecca Lynn Teichelman Borgne, Trustee of the Edwin Carl Teichelman Testamentary Trust, for right-of-way needed on Hwy 79 - Section 5A. (P27)
27. Consider authorizing County Judge to execute a Real Estate Contract with Madeline Decker Teichelman and Rebecca Lynn Teichelman Borgne, Trustee of the Edwin Carl Teichelman Testamentary Trust, for right-of-way needed on Hwy 79 Section 5A. (P38)
28. Consider authorizing County Judge to execute a Real Estate Contract with Madeline Decker Teichelman and Rebecca Lynn Teichelman Borgne, Trustee of the Edwin Carl Teichelman Testamentary Trust, for right-of-way needed on Hwy 79 Section 5A. (P49)
29. Consider authorizing County Judge to execute an Amendment to Development Agreement with Highland Six Twenty Residential, Ltd. regarding Great Oaks Blvd.
30. Consider authorizing County Judge to execute an Escrow Agreement with Highland Six Twenty Residential Ltd. regarding Great Oaks Blvd.
31. Consider authorizing County Judge to execute an Amendment to License Agreement regarding Great Oaks Blvd.

32. Consider authorizing County Judge to execute a Possession and Use Agreement with Highland Six Twenty Residential Ltd. and Highland 620 Land Investment, Ltd. regarding right-of-way on O'Connor Blvd.
33. Discuss and consider a land exchange agreement between Taylor ISD and Williamson County.
34. Review and consider authorizing resale of property held in trust by the County of Williamson, Texas
35. Discuss and take appropriate action regarding Redistricting.
36. Discuss and take appropriate action regarding leasing district office space in Historic Courthouse to Representative Schwertner.
37. Discuss and take appropriate action on Victim Coordinator and Liaison Grant (VCLG) for District Attorney's Office
38. Discuss and take appropriate action on the Burn Ban.
39. Discuss and take possible action regarding Texas legislative issues and bills that relate to county business.
40. Consider authorizing advertising and setting date of April 27, 2011 at 3:00pm in the Purchasing Department to receive bids for FM 1660 at CR 128 (Landfill Road), bid# 11WC913.
41. Consider awarding bids received for Bid # 11WC911, CR 174 (Hairy Man Rd) @ Brushy Creek, to the lowest and best bidder- Patin Construction, LLC.
42. Consider renewing current contract to WestWood Pharmacy for the Williamson County Jail contract at the same pricing, terms and conditions as the existing contract. The renewal period will be for the next fiscal year beginning January 1,2011 through September 30,2011.
43. Consider awarding bids received for Asphalt Mixes, Asphalt Cement and Cut Back and Asphalt Emulsions to the low bids meeting specifications - complete list filed with official minutes
44. Consider an order declaring an emergency and a grave necessity due to unforeseeable circumstances and approve a budget amendment to acknowledge additional revenues for March 2011 Extra Duty and Voluntary Duty:

Fiscal Impact

From/To	Acct No.	Description	Amount	Sort Seq
	0100.0000.341220	Vol Duty Revenue, SO	\$11,330.73	01
	0100.0000.341240	Ex Duty Revenue, SO	\$31,501.54	02
	0100.0000.341221	Revenue, Const 1	\$1,798.73	03

	0100.0000.341222	Revenue, Const 2	\$1,299.03	04
	0100.0000.341224	Revenue, Const 4	\$5,094.60	05
	0100.0000.341226	Revenue, Juv	\$760.39	06

45. Consider an order declaring an emergency and a grave necessity due to unforeseeable circumstances and approve a budget amendment to acknowledge additional expenditures for March 2011 Extra Duty and Voluntary Duty pay:

Fiscal Impact

From/To	Acct No.	Description	Amount	Sort Seq
	0100.0551.001118	Payroll, Const 1	\$1,450.00	01
	0100.0551.002010	FICA, Const 1	\$110.93	02
	0100.0551.002020	Retirement, Const 1	\$165.30	03
	0100.0551.002050	Worker's Comp, Const 1	\$72.50	04
	0100.0552.001118	Payroll, Const 2	\$1,047.18	05
	0100.0552.002010	FICA, Const 2	\$80.11	06
	0100.0552.002020	Retirement, Const 2	\$119.38	07
	0100.0552.002050	Worker's Comp, Const 2	\$52.36	08
	0100.0554.001117	Payroll, Const 4	\$4,522.50	09
	0100.0554.002010	FICA, Const 4	\$345.97	10
	0100.0554.002050	Worker's Comp, Const 4	\$226.13	11
	0100.0560.001117	Vol Duty, SO	\$8,087.85	12
	0100.0560.001118	Extra Duty, SO	\$25,394.23	13
	0100.0560.002010	FICA, SO	\$2,561.38	14
	0100.0560.002020	Retirement, SO	\$2,894.94	15
	0100.0560.002050	Worker's Comp, SO	\$1,674.10	16
	0100.0570.001117	Payroll, Jail	\$1,970.50	17
	0100.0570.002010	FICA, Jail	\$150.74	18
	0100.0570.002050	Worker's Comp, Jail	\$98.53	19
	0100.0576.001117	Payroll, Juv	\$675.00	20
	0100.0576.002010	FICA, Juv	\$51.64	21
	0100.0576.002050	Worker's Comp, Juv	\$33.75	22

EXECUTIVE SESSION

"The Commissioners Court for Williamson County reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by Texas Government Code Sections 551.071 (Consultations with Attorney), 551.072 (Deliberations regarding Real Property), 551.073 (Deliberations regarding Gifts and Donations), 551.074 (Personnel Matters), 551.076

(Deliberations regarding Security Devices) and 551.087 (Deliberations regarding Economic Development Negotiations)."

46. Discuss real estate matters (EXECUTIVE SESSION as per VTCA Govt. Code sec. 551.0721 Deliberation Regarding Real Estate Property if deliberation in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with third person.)
1. Proposed or potential purchase of lease of property by the County:
 - a) Discuss proposed acquisition of property for right-of-way for SH 195 0.805 South of Bell County Line to IH 35.
 - b) Discuss proposed acquisition of property for right-of-way for O'Connor Boulevard and 620 project.
 - c) Discuss proposed acquisition of property for right-of-way for Ronald Reagan Blvd. Phase II project from FM 3405 to Reagan Blvd.
 - d) Discuss proposed acquisition of property for right-of-way for Ronald Reagan Blvd. Phase III and Phase IV.
 - e) Discuss proposed acquisition of property for proposed SH 29 Safety Improvement project.
 - f) Discuss proposed acquisition of property for right-of-way along Lakeline extension.
 - g) Discuss proposed acquisition of property for right-of-way along SW By-Pass.
 - h) Discuss proposed acquisition of property for right-of-way along Pearson and Neenah.
 - i) Discuss proposed Northwoods Road District.
 - j) Discuss conveyance of University Boulevard right-of-way.
 - k) Discuss proposed acquisition of property for right-of-way for US 79 Section 3 from East of Hutto to CR 402.
 - l) Discuss proposed realignment project along FM 1660.
 - m) Discuss proposed acquisition of property for right-of-way along Pond Springs Road.
 - n) Discuss proposed acquisition of property for right-of-way along Chandler III A.
 - o) Discuss proposed acquisition of property for right-of-way for US 183 Extension from 1,000 feet South of San Gabriel to 1,000 feet North of SH 29.

- 47.** Discuss pending or contemplated litigation, settlement matters and other confidential attorney-client legal matters (EXECUTIVE SESSION as per VTCA Govt. Code sec. 551.071 consultation with attorney.), including the following:
- a) Litigation or claims or potential litigation or claims against the County or by the County.
 - b) Status Update-Pending Cases or Claims
 - c) Cause No. 06-453-C277; Kerry Heckman et al. v. Williamson County, et al., In the District Court of Williamson County, Texas, 277th Judicial District
 - d) Cause No. 10-1107-C368; Jana Duty, County Attorney of Williamson County, Texas vs. Dan A. Gattis, County Judge of Williamson County, Lisa Birkman, Cynthia Long, Valerie Covey, and Ron Morrison County Commissioners, David Flores, County Auditor, and Ashlie Koenig, Budget Officer; In the District Court, Williamson County, Texas, 368th Judicial District.
 - e) Cause No. 1:10-cv-869-LY; Heather Clark, David Claxton & David M. Compton v. Williamson County; In the United States District Court for the Western District of Texas, Austin Division
 - f) Cause No. 1:10-cv-905; Kimberly Lee & Sharon McGuyer v. Williamson County; In the United States District Court for the Western District of Texas, Austin Division
 - g) Employment related matters.
 - h) Other confidential attorney-client matters, including contracts.
- 48.** Discuss and take appropriate action on real estate.
- 49.** Discuss and take appropriate action on pending or contemplated litigation, settlement matters and other confidential attorney-client legal matters, including the following:
- a) Litigation or claims or potential litigation or claims against the County or by the County.
 - b) Status Update-Pending Cases or Claims
 - c) Cause No. 06-453-C277; Kerry Heckman et al. v. Williamson County, et al., In the District Court of Williamson County, Texas, 277th Judicial District
 - d) Cause No. 10-1107-C368; Jana Duty, County Attorney of Williamson County, Texas vs. Dan A. Gattis, County Judge of Williamson County, Lisa Birkman, Cynthia Long, Valerie Covey, and Ron Morrison County Commissioners, David Flores, County Auditor, and Ashlie Koenig, Budget Officer; In the District Court, Williamson County, Texas, 368th Judicial District.
 - e) Cause No. 1:10-cv-869-LY; Heather Clark, David Claxton & David M. Compton v. Williamson County; In the United States District Court for the Western District of Texas, Austin Division
 - f) Cause No. 1:10-cv-905; Kimberly Lee & Sharon McGuyer v. Williamson County; In the United States District Court for the Western District of Texas, Austin Division
 - g) Employment related matters.
 - h) Other confidential attorney-client matters, including contracts.
- 50.** Comments from Commissioners.

Dan A. Gattis, County Judge

This notice of meeting was posted in the locked box located on the south side of the Williamson County Courthouse, a place readily accessible to the general public at all times, on the _____ day of _____, 2011 at _____ and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Consider Line Item Transfer Commissioners Court - Regular Session

Date: 03/29/2011
Submitted By: Bonnie Sims, J.P. Pct. #1
Submitted For: Bonnie Sims
Department: J.P. Pct. #1
Agenda Category: Consent

Information

Agenda Item

Discuss and consider approving a line item transfer for JP1.

Background

Funds are needed to cover an invoice from Kyocera for copier rental which is being replaced by Cannon copiers and a new Purchase order was issued which tied up the funds in this line item.

Fiscal Impact

From/To	Acct No.	Description	Amount	Sort Seq
to	0100.0451.004621	Copier Rental	100.00	
From	0100.0451.004999	Miscellaneous	100.00	
From:	0100.0451.004310	Advertising & Legal Notices	100.00	
To	0100.0451.004621	Copier Rental	100.00	

Attachments

No file(s) attached.

Form Routing/Status

Route Seq	Inbox	Approved By	Date	Status
1	County Judge Exec Asst.	Wendy Coco	03/21/2011 08:46 AM	APRV
4	Budget	Ashlie Koenig	03/24/2011 10:54 AM	APRV
7	Budget	Ashlie Koenig	03/24/2011 10:56 AM	APRV
Form Started By: Bonnie Sims			Started On: 03/18/2011 08:15 AM	
Final Approval Date: 03/24/2011				

To discuss and consider approving a Line Item Transfer for Road & Bridge Commissioners Court - Regular Session

Date: 03/29/2011
Submitted By: Lydia Linden, Unified Road System
Submitted For: Joe England
Department: Unified Road System
Agenda Category: Consent

Information

Agenda Item

To discuss and take appropriate action on the approval of a Line Item Transfer for Road & Bridge

Background

This is for the purchase of three (3) asphalt tanks, two (2) are mobile units, one (1) will be stationary at the Facility in Georgetown

Fiscal Impact

From/To	Acct No.	Description	Amount	Sort Seq
FROM	0200-0210-003556	Aggregate/Rock	\$55,000.00	
TO	0200-0210-005000	Capital Outlay	\$110,000.00	
FROM	0200-0210-004100	Prof Serv.	\$55,000.00	

Attachments

No file(s) attached.

Form Routing/Status

Form Started By: Lydia Linden Started On: 03/24/2011 09:51 AM
 Final Approval Date: 03/24/2011

Line Item Transfer**Commissioners Court - Regular Session**

Date: 03/29/2011
Submitted By: Shirley Taylor, Facilities Maintenance
Department: Facilities Maintenance
Agenda Category: Consent

Information**Agenda Item**

Discuss and consider approving a line item transfer for Facilities.

Background

This transfer request is to separate out funds to the proper line item that were approved in court 3/22/2011. These funds were allocated for professional service fees.

Fiscal Impact

From/To	Acct No.	Description	Amount	Sort Seq
From	0100-0509-004510	Facility Maint & Repair	67750.00	
To	0100-0509-004100	Professional Services	67750.00	

Attachments

No file(s) attached.

Form Routing/Status

Form Started By: Shirley Taylor Started On: 03/24/2011 10:46 AM
 Final Approval Date: 03/24/2011

Benefits Committee Appointment Commissioners Court - Regular Session

Date: 03/29/2011
Submitted By: Mary Clark, Commissioner Pct. #1
Submitted For: Mary Clark
Department: Commissioner Pct. #1
Agenda Category: Consent

Information

Agenda Item

Discuss and take appropriate action to appoint Donna Colburn to the County's Benefits Committee as a voting member.

Background

In October of 2010 the commissioner's court approved adding two new voting members to the Benefits Committee. The addition of the two new members will increase the size of the committee from five voting members to seven voting members. Per the guidelines for the Benefits Committee the members of the committee must be approved by the commissioner's court before taking the position. The committee solicited applicants for the positions and interviewed candidates and are recommending Donna Colburn for appointment by the commissioner's court. Based upon the County's employee population, the committee wanted one of the positions to be reserved for an employee who is a member of law enforcement and one position for a non-law enforcement employee. The law enforcement member, James Carmona was appointed several months ago. Current voting members of the committee include Judge Dan A. Gattis; Commissioner Lisa Birkman; John Sneed, Senior Director of Emergency Services; Jay Schade, Senior Director of Information Technology Services; and Dr. Chip Riggins, Executive Director of the Williamson County and Cities Health District and Lt. James Carmona of the Sheriff's Office. Donna Colburn is an employee of the county, as is her husband. She currently works in the Ag. Extension office.

Fiscal Impact

From/To	Acct No.	Description	Amount	Sort Seq
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Attachments

Link: [DonnaColburn](#)

Form Routing/Status

Form Started By: Mary Clark Started On: 03/23/2011 02:59 PM

Final Approval Date: 03/23/2011

Application for Volunteer Position
As a Member of the County's Benefits Committee
page two

Name: Donna Colburn

Department: Extension Services

Title: Office Manager / Office Coordinator

Years of work for Williamson County: 4

Please explain what areas of expertise you would bring to the committee and why you desire this position (use an additional page, if needed):

As I was employed by Texas Guaranteed Student Loans, for 9 years, I was the person that our departmental staff of over 50 would come to when they had questions about insurance, benefits, leave, etc. If I didn't know the answer then I would contact our HR department. However, this made me knowledgeable about the current insurance benefits. Today, most of the time, employees would come and ask me questions about our benefits.

I am a member of the American Business Women's Association. I am the current treasurer and past vice-president of the Treaty Oak Chapter. I was the coordinator of the Brown Santa program for 6 years, assisted with the finances of this non-profit program. I was the president of the Williamson County Law Enforcement Spouses Association for 2 years.

I am a team player both in the workforce as well as outside activities. I know that this responsibility will affect all county employees including myself, both financially and medically and I am willing to take on this task.

I am currently enrolled in the county's health benefits medical plan, I am able to review agenda documentation and attend a minimum of 7 committee meetings. I have the ability to serve in a trustee/fiduciary capacity.

I humbly ask that you consider me for this volunteer position.

By signing this application, I affirm that I am committed to full participation in all Benefits Committee activities and to meeting the training requirements that must be completed within the first six (6) months of service should I be appointed to this volunteer position by the Commissioner's Court.

Signature of Applicant:

Date:



11/5/10

By signing this application, I affirm that I am approving my staff member's commitment to full participation in all Benefits Committee activities and to meeting the training requirements that must be completed within the first six (6) months of service should my staff member be appointed to this volunteer position by the Commissioner's Court.

Signature of Department Head or Elected Official:

Date:



Sukmmit Christian Academy's Jog-A-Fest Commissioners Court - Regular Session

Date: 03/29/2011
Submitted By: Grimes Kathy, Commissioner Pct. #2
Submitted For: Cynthia Long
Department: Commissioner Pct. #2
Agenda Category: Consent

Information

Agenda Item

Consider approval of request of Summit Christian Academy to hold a Jog-A-Fest in Precinct Two on April 16, 2011.

Background

Fiscal Impact

From/To	Acct No.	Description	Amount	Sort Seq
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Attachments

No file(s) attached.

Form Routing/Status

Form Started By: Grimes Kathy Started On: 03/04/2011 01:13 PM
Final Approval Date: 03/08/2011

Discuss and take action on the Hill Country Ride for Aids Commissioners Court - Regular Session

Date: 03/29/2011
Submitted By: Terri Countess, Commissioner Pct. #3
Submitted For: Rachel Rull
Department: Commissioner Pct. #3
Agenda Category: Consent

Information

Agenda Item

Discuss and take action on the Hill Country Ride for Aids.

Background

No road closures should be necessary, given that routes are planned on either low-flow residential type roads, two lane roads with wide shoulders for cyclists or four lane roads with improved shoulders. These are the same routes used for the TX Mamma Jamma Ride in September 2010. This has been through the review process. Maps were too large to attach to the agenda or email. Hard copies will be available on Court Day.

Fiscal Impact

From/To	Acct No.	Description	Amount	Sort Seq
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Attachments

No file(s) attached.

Form Routing/Status

Form Started By: Terri Countess
 Started On: 03/23/2011 12:58 PM
 Final Approval Date: 03/23/2011

This Week's Asset Transfers

Commissioners Court - Regular Session

Date: 03/29/2011
Submitted By: Patrick Strittmatter, Purchasing
Submitted For: Patrick Strittmatter
Department: Purchasing
Agenda Category: Consent

Information

Agenda Item

Consider authorizing the transfer of various equipment items through inter-office transfer, auction, donation, or destruction.

Background

Fiscal Impact

From/To	Acct No.	Description	Amount	Sort Seq
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Attachments

Link: [Asset Transfers](#)

Form Routing/Status

Form Started By: Patrick Strittmatter Started On: 03/23/2011 03:58 PM
Final Approval Date: 03/24/2011

Williamson County

Asset Status Change Form

The following asset(s) is(are) considered for: (select one)

- ☐ TRANSFER bet ween county departments ☐ TRADE-IN for new assets of similar type for the county
☒ SALE at the earliest auction * ☐ DONATION to a non-county entity ☐ DESTRUCTION due to Public Health / Safety

Asset List:

Quantity	Description (year, make, model, etc.)	Manufacturer ID# (serial, service tag, or VIN)	County Tag#	Condition of Assets (Working, Non-Working)
1	Dell Dimension 4700 pc	FH4V261		Non-Working
	(PC located at ITS)			

Parties involved:

FROM (Transferor Department): Sheriff's Department

Transferor - Elected Official/Department Head/**Authorized Staff:****Contact Person:**

ROBERT CHAPMAN

Print Name

Print Name

Signature _____ Date March 9, 2011

Phone Number

Robert Chapman 4487

3/17/11

TO (Transferee Department/Auction/Trade-in/Donee): Auction

Transferee - Elected Official/Department Head/**Authorized Staff OR Donee - Representative:** (If being approved for Sale or Trade-in, no signature is necessary.)**Contact Person:**

Tony Hill

Print Name

Tony Hill

Print Name

Signature _____ Date March 9, 2011

Phone Number +1 (512) 943-3314

* If the above asset(s) is (are) listed for sale at auction and no bids are made, the Purchasing Director may dispose of or donate this (these) asset(s). A list of the (these) asset(s) to be donated or disposed of will be sent to the Auditor's Office with a date of donation or disposal.

Forward to County Auditor's Office

This Change Status was approved as agenda item # _____ in Commissioner's Court on _____

If for Sale, the asset(s) was(were) delivered to warehouse on _____ by _____

Williamson County

Asset Status Change Form

The following asset(s) is(are) considered for: (select one)

- ☐ TRANSFER bet ween county departments
 ☐ TRADE-IN for new assets of similar type for the county
 ☐ DESTRUCTION due to Public Health / Safety
☒ SALE at the earliest auction *
 ☐ DONATION to a non-county entity

Asset List:

Quantity	Description (year, make, model, etc.)	Manufacturer ID# (serial, service tag, or VIN)	County Tag#	Condition of Assets (Working, Non-Working)
20	4606 IP Avaya phones			
1	4612 IP Avaya phones			
	*****Please see attached sheet for serial numbers*****			

Parties involved:

FROM (Transferor Department): ITS

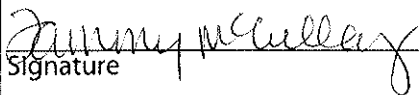
Transferor - Elected Official/Department Head/**Authorized Staff:****Contact Person:**

Tammy McCulley

Jayme Hill

Print Name

Print Name



March 17, 2011

9431450

Signature

Date

Phone Number

TO (Transferee Department/Auction/Trade-in/Donee): Auction(Warehouse)

Transferee - Elected Official/Department Head/**Authorized Staff OR Donee - Representative:** (If being approved for Sale or Trade-in, no signature is necessary.)**Contact Person:**

Tony Hill

Tony Hill

Print Name

Print Name

March 17, 2011

943-3314

Signature

Date

Phone Number

* If the above asset(s) is (are) listed for sale at auction and no bids are made, the Purchasing Director may dispose of or donate this (these) asset(s). A list of the (these) asset(s) to be donated or disposed of will be sent to the Auditor's Office with a date of donation or disposal.

Forward to County Auditor's Office

This Change Status was approved as agenda item # _____ in Commissioner's Court on _____

If for Sale, the asset(s) was(were) delivered to warehouse on _____ by _____

Auction List of phones starting on 3-17

4612IP- 1 phone, no info on outside of phone

4606IP-19 phones

041641542052
041641542064
041641542087
02DR08300383
041641542110
041641542117
041641542099
041641542126
041641542104
041641542108
041641542097
041641542101
02DR07310530
041641542076
041641542038
041641542034
02DR08300400
02DR08301105
041641542028
041641546338

Williamson County

Asset Status Change Form

[Print Form](#)
The following asset(s) is(are) considered for: (select one)

- ☐ TRANSFER bet ween county departments
 ☐ TRADE-IN for new assets of similar type for the county
 ☐ DESTRUCTION due to Public Health / Safety
☒ SALE at the earliest auction *
 ☐ DONATION to a non-county entity

Asset List:

Quantity	Description (year, make, model, etc.)	Manufacturer ID# (serial, service tag, or VIN)	County Tag#	Condition of Assets (Working, Non-Working)
1	VUALCAN STEAM KETTLE	MODEL # VGL40 E SER # AP-1038528-2Y-0681	NONE	Non-Working

Parties involved:
FROM (Transferor Department): 570 JAIL

**Transferor - Elected Official/Department Head/
Authorized Staff:**

L C MARSHALL

Print Name

Signature

Contact Person:

KENNETH FONTENOT

Print Name

35258

Date Phone Number

TO (Transferee Department/Auction/Trade-in/Donor): AUCTION

**Transferee - Elected Official/Department Head/
Authorized Staff OR Donor - Representative:** (If being
approved for Sale or Trade-in, no signature is necessary.)

Contact Person:

Print Name

Print Name

Signature

Date Phone Number

* If the above asset(s) is (are) listed for sale at auction and no bids are made, the Purchasing Director may dispose of or donate this (these) asset(s). A list of the (these) asset(s) to be donated or disposed of will be sent to the Auditor's Office with a date of donation or disposal.

Forward to County Auditor's Office

This Change Status was approved as agenda item # _____ in Commissioner's Court on _____

If for Sale, the asset(s) was(were) delivered to warehouse on _____ by _____



Williamson County

Vehicle Status Change Form

To be completed by **department** releasing vehicle:

1) Identify Vehicle:				
1GCEC19VX2Z265542		EMS - 0540		EB0209
Vehicle Identification Number		Department		Door Number
1087625	2002	Chevrolet	1500	White
License Plate Number	Year	Make	Model	Color
2) Reason for Status Change:				
<input checked="" type="checkbox"/> Accident				
Attach:				
1. Williamson County Fleet Incident/Crash/Vandalism Report				
2. The Official Accident Report				
3. A Vehicle Insurance / Litigation Release Form				
<input type="checkbox"/> High Mileage: List actual mileage 37469				
<input checked="" type="checkbox"/> Not mechanically sound Frame Bent <i>From Wreck</i>				
<input type="checkbox"/> Other: Explain				
3) Elected Official/Department Head/Authorized Staff				
Print Kenny Schnell		Signature <i>[Signature]</i>		Date February 28, 2011

To be completed by **Fleet**: Forward to Fleet Services Manager - Mike Fox

1) Method of Status Change: This vehicle is to be considered for: (Select one)	
<input checked="" type="radio"/> SALVAGE for parts / SALE at the earliest auction based on Fleet's recommendation	<input type="radio"/> TRANSFER between county departments
<input type="radio"/> TRADE-IN for new assets of same general type for the county	Comments:
<input type="radio"/> SALE to a government entity / civil or charitable organization in the county at fair market value	Receiving Department:
<input type="radio"/> OTHER	Elected Official/Department Head/Authorized Staff or Donee - Representative:
	Print Name:
	Signature and Date:
	Contact name and Number:
2) <input type="checkbox"/> Vehicle Marked for Auction and moved to Auction Yard	
<input type="checkbox"/> Forward forms and reports to County Auditor's Office	
Print <i>Mike Fox</i>	Signature <i>[Signature]</i> Date <i>3-2-11</i>

Continuing Education Hours Commissioner Birkman Commissioners Court - Regular Session

Date: 03/29/2011
Submitted By: Mary Clark, Commissioner Pct. #1
Submitted For: Mary Clark
Department: Commissioner Pct. #1
Agenda Category: Consent

Information

Agenda Item

Consider recognizing continuing education hours for Commissioner Lisa Birkman as required in Section 81.0025 of the Local Government Code.

Background

see attached

Fiscal Impact

From/To	Acct No.	Description	Amount	Sort Seq
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Attachments

Link: [CommissionerLisaBirkmanCE](#)

Form Routing/Status

Form Started By: Mary Clark Started On: 03/23/2011 03:45 PM
Final Approval Date: 03/24/2011

COUNTY JUDGES & COMMISSIONERS ASSOCIATION OF TEXAS

COMMISSIONERS EDUCATION CERTIFICATE OF COMPLETION

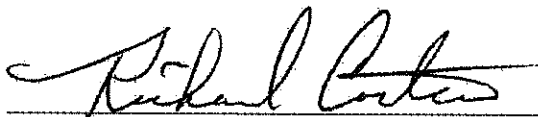
This is to certify that

Lisa Birkman

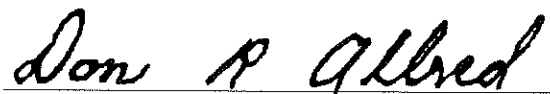
Williamson County Commissioner

*has successfully completed the continuing education
provisions of Article 81.0025 of the
Texas Local Government Code*

2010



Richard Cortese, Chairman
Commissioners Education Committee



Don R. Allred, President
County Judges and Commissioners
Association of Texas

COUNTY JUDGES AND COMMISSIONERS ASSOCIATION OF TEXAS

County Commissioner Continuing Education Transcript

Reporting Period: 1/1/ 2010- 12/31/2010

Honorable Lisa Birkman
Williamson County Commissioner, Pct. 1
1801 Old Settlers Blvd Ste 110
Round Rock, TX 78681

Term:
6/8/2004 - 12/31/2012

Phone: (512) 733-5380
Fax: (512) 733-5384

Last 4 digits of SSN
3577

01/01/2010	Excess hours carried from prior period	8.00
09/03/2010	TAC Annual Conference and Trade Show	8.25

Total Hours Earned: 16.25

You have met your 2010 Commissioner Statutory Continuing Education requirement.

You will carry forward 0.25 hours to the next reporting period.

See Statute: Section 81.0025 Continuing Education, Local Government Code

Because continuing education sponsors are not required by law to report attendance to the Association, this transcript may not be a complete list of continuing education hours earned by the commissioner for this calendar year.

2010 Continuing Education Certificate for Commissioner Ron Morrison Commissioners Court - Regular Session

Date: 03/29/2011
Submitted By: Linda Wipff, Commissioner Pct. #4
Submitted For: Ron Morrison
Department: Commissioner Pct. #4
Agenda Category: Consent

Information

Agenda Item

Consider approving 2010 Continuing Education Certificate of Completion for Commissioner Ron Morrison.

Background

Consider recognizing and noting in the minutes that Commissioner Ron Morrison successfully completed the 2010 Commissioner Statutory Continuing Education Requirement.

See statute: Section 81.0025 Continuing Education, Texas Local Government Code

Fiscal Impact

From/To	Acct No.	Description	Amount	Sort Seq
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Attachments

Link: [CE 2010 Certificate](#)

Link: [CE 2010 Transcript](#)

Form Routing/Status

Form Started By: Linda Wipff
 Started On: 03/21/2011 07:24 AM
 Final Approval Date: 03/21/2011

COUNTY JUDGES & COMMISSIONERS ASSOCIATION OF TEXAS

COMMISSIONERS EDUCATION CERTIFICATE OF COMPLETION

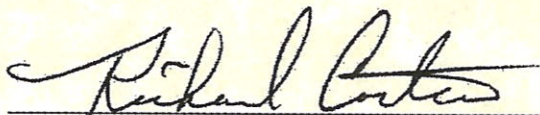
This is to certify that

Ron Morrison

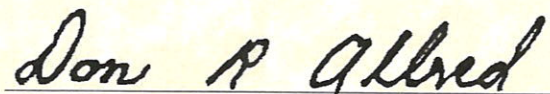
Williamson County Commissioner

*has successfully completed the continuing education
provisions of Article 81.0025 of the
Texas Local Government Code*

2010



Richard Cortese, Chairman
Commissioners Education Committee



Don R Allred, President
County Judges and Commissioners
Association of Texas

**COUNTY JUDGES AND COMMISSIONERS
ASSOCIATION OF TEXAS**
County Commissioner Continuing Education Transcript
Reporting Period: 1/1/ 2010- 12/31/2010

Honorable Ron Morrison
Williamson County Commissioner, Pct.4
350 Exchange Blvd Ste 100
Hutto, TX 78634-5556

Term:
1/1/2007 - 12/31/2014

Phone: (512) 238-2111

Last 4 digits of SSN
1758

Fax:

01/01/2010	Excess hours carried from prior period	8.00
10/07/2010	CJCA State Conference	10.00

Total Hours Earned: 18.00

You have met your 2010 Commissioner Statutory Continuing Education requirement.

You will carry forward 2.00 hours to the next reporting period.

See Statute: Section 81.0025 Continuing Education, Local Government Code

Because continuing education sponsors are not required by law to report attendance to the Association, this transcript may not be a complete list of continuing education hours earned by the commissioner for this calendar year.

Continuing Education Hours Commissioners Court - Regular Session

Date: 03/29/2011
Submitted By: Grimes Kathy, Commissioner Pct. #2
Submitted For: Cynthia Long
Department: Commissioner Pct. #2
Agenda Category: Consent

Information

Agenda Item

Consider acceptance of certificate for successful completion by Commissioner Cynthia P. Long of continuing education hours as required by the Texas Local Government Code.

Background

Fiscal Impact

From/To	Acct No.	Description	Amount	Sort Seq
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Attachments

No file(s) attached.

Form Routing/Status

Form Started By: Grimes Kathy Started On: 03/21/2011 08:28 AM
Final Approval Date: 03/21/2011

Continuing Education Hours Commissioners Court - Regular Session

Date: 03/29/2011
Submitted By: Grimes Kathy, Commissioner Pct. #2
Submitted For: Cynthia Long
Department: Commissioner Pct. #2
Agenda Category: Consent

Information

Agenda Item

Consider acceptance of certificate for successful completion by Commissioner Cynthia P. Long of continuing education hours as required by the Texas Local Government Code.

Background

Fiscal Impact

From/To	Acct No.	Description	Amount	Sort Seq
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Attachments

Link: [2010 Continuing Ed Hours](#)

Form Routing/Status

Form Started By: Grimes Kathy Started On: 03/21/2011 09:41 AM
Final Approval Date: 03/23/2011

COUNTY JUDGES & COMMISSIONERS ASSOCIATION OF TEXAS

COMMISSIONERS EDUCATION CERTIFICATE OF COMPLETION

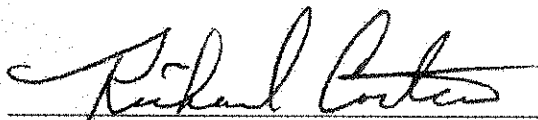
This is to certify that

Cynthia Long

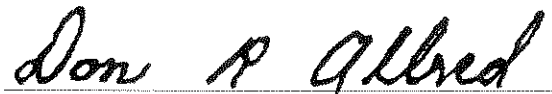
Williamson County Commissioner

*has successfully completed the continuing education
provisions of Article 81.0025 of the
Texas Local Government Code*

2010



Richard Cortese, Chairman
Commissioners Education Committee



Don R. Allred, President
County Judges and Commissioners
Association of Texas

Recognize WCEMS New Members completion of training academy Commissioners Court - Regular Session

Date: 03/29/2011
Submitted By: Kenny Schnell, EMS
Submitted For: Kenny Schnell
Department: EMS
Agenda Category: Regular Agenda Items

Information

Agenda Item

Recognition of Williamson County EMS New Members successful completion of training academy.

Background

WCEMS would like to introduce our new members to the court and recognize their successful completion of the training academy.

Fiscal Impact

From/To	Acct No.	Description	Amount	Sort Seq
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Attachments

No file(s) attached.

Form Routing/Status

Form Started By: Kenny Schnell
Started On: 03/15/2011 09:57 AM
Final Approval Date: 03/17/2011

County Government Month and Week Commissioners Court - Regular Session

Date: 03/29/2011
Submitted By: Mary Tomasek, Human Resources
Submitted For: Lisa Zirkle
Department: Human Resources
Agenda Category: Regular Agenda Items

Information

Agenda Item

Discuss and take appropriate action on a resolution declaring April 2011 as County Government Month and Week of April 11-15 as Williamson County Employee Appreciation Week.

Background

Fiscal Impact

From/To	Acct No.	Description	Amount	Sort Seq
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Attachments

Link: [Resolution](#)

Form Routing/Status

Form Started By: Mary Tomasek
Started On: 03/07/2011 10:34 AM
Final Approval Date: 03/24/2011

State of Texas
County of Williamson
Know all men by these presents:

THAT ON THIS, the 12th day of April 2011, the Commissioners' Court of Williamson County, Texas, met in duly called session at the Courthouse in Georgetown, with the following members present;

Dan A. Gattis, County Judge
Lisa Birkman, Commissioner, Precinct One
Cynthia Long, Commissioner, Precinct Two
Valerie Covey, Commissioner, Precinct Three
Ron Morrison, Commissioner, Precinct Four

And at said meeting, among other business, the Court considered the following

RESOLUTION

Whereas, county government is the oldest form of local government in the United States; and

Whereas, counties are on the front line of addressing many of the state's and nation's most critical issues, including the criminal justice system, public safety, transportation, indigent health care, records management, an equitable property tax system, emergency management and the wise use of our natural resources; and

Whereas, since 1990, the National Association of Counties has celebrated a time of national county government recognition to raise public awareness and understanding about the roles and responsibilities of the nation's counties with this year's theme being "Serving Our Veterans, Armed Forces and Their Families"; and

Whereas Williamson County has had a Veteran's Services office for many years and works diligently in assisting Veterans to obtain the benefits that they so richly deserve from the Federal and State government, and in finding help with other agencies for other needs, and

Whereas, Williamson County is the 12th most populous county in the State of Texas and ranks in the top 10% of counties in the United States in housing starts; and

Whereas, Williamson County continues to work to provide better customer service to its growing population through offering more services and information online at www.wilco.org; and

Whereas, more than 13 miles of trails and five parks are maintained by the Williamson County Parks and Recreation Department designed to promote an active lifestyle;

Therefore Be It Resolved that the Williamson County Commissioners Court declares the month of April 2011, to be National County Government Month in honor of the 1,500 men and women who serve Williamson County residents daily making it an exceptional and healthy place to live.

RESOLVED THIS 12th DAY OF APRIL, 2011

Attest: _____
Nancy E. Rister
Williamson County Clerk

Dan A Gattis
Williamson County Judge

2010 Census Update Commissioners Court - Regular Session

Date: 03/29/2011
Submitted By: Richard Semple, Information Technology
Submitted For: Richard Semple
Department: Information Technology
Agenda Category: Regular Agenda Items

Information

Agenda Item

Hear an update on the 2010 Census and redistricting efforts

Background

The 2010 data has been released by the Census bureau that breaks down population and demographics. County staff have begun to analyze this data and are ready to make a presentation on the new data as well as provide an update on the redistricting effort.

Fiscal Impact

From/To	Acct No.	Description	Amount	Sort Seq
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Attachments

No file(s) attached.

Form Routing/Status

Form Started By: Richard Semple Started On: 03/21/2011 09:30 AM
Final Approval Date: 03/23/2011

PBS&J construction observation PSA
Commissioners Court - Regular Session

Date: 03/29/2011
Submitted By: Marie Walters, Road Bond
Department: Road Bond
Contract Oversight:
Agenda Category: Regular Agenda Items

Information

Agenda Item

Discuss and consider approving PBS&J, an Atkins Company, Professional Service Agreement (PSA) for construction inspection and/or observation services on transportation projects.

Background

Fiscal Impact

From/To	Acct No.	Description	Amount
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Attachments

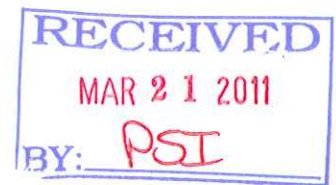
Link: [PBS&J construction observation PSA](#)

Form Routing/Status

Route Seq	Inbox	Approved By	Date	Status
1	Hal Hawes	Hal Hawes	03/23/2011 12:33 PM	APRV
2	Jim Gilger	Jim Gilger	03/23/2011 12:36 PM	APRV
3	County Judge Exec Asst. Wendy Coco	Wendy Coco	03/23/2011 12:55 PM	APRV

Form Started By: Marie Walters
 Started On: 03/23/2011 12:24 PM
 Final Approval Date: 03/23/2011

Contract No. PBS&J - Construction Observer



Checklist

Prior to Initiation of Work

- ☒ Signed and Executed Agreement
- ☒ Scope of Services – Appendix A
 - ☒ Exhibit V – Services to be provided by County
 - ☒ Exhibit IX – Services to be provided by Engineer
 - ☒ Exhibit C – Work Schedule
 - ☒ Exhibit D – Fee Schedule
- ☒ Production Schedule – Exhibit IV
- ☒ Hourly Rates of Engineer – Exhibit II
- ☒ Work Authorization - Exhibit II
 - ☐ Supplemental Work Authorization for Additional Work (if applicable)
- ☒ Data to be provided to Engineer by County
 - ☐ Plans
 - ☐ Maps
 - ☐ Studies
 - ☐ Reports
 - ☐ Field Notes
 - ☐ Statistics
 - ☐ Computations
 - ☐ Other: _____
- ☒ Contractors Qualification Statement – Appendix B
- ☒ Insurance
 - ☐ Worker's Compensation
 - ☐ Commercial General Liability Insurance
 - ☐ Automobile Liability Insurance
 - ☐ Professional Liability Errors and Omissions Insurance
 - ☐ Self Insurance Documentation
 - ☐ Insurance Certificates for Subcontractors and/or Sub-consultants
 - ☐ Approval of Insurance by County

RFQ - pre-qualifications list

Course of Work

- ☐ Original Engineering Work Product submittal
- ☐ "Completed" Engineering Work Product
- ☐ "Accepted" Engineering Work Product
- ☐ Modifications and/or Changes for Approval of Engineering Work Product
- ☐ "Approved" Engineering Work Product
- ☐ Revisions to Work Product
- ☐ Seal of Endorsement on all Engineering Work Product
- ☐ Data necessary for applications or documentation for permits and/or grants to be provided by Engineer to County

Notices (as applicable)

Contract No. _____

- ☐ Notice of Suspension
- ☐ Notice of Reinstatement
- ☐ Notice of Termination
- ☐ Notice of Staffing Changes
- ☐ Written Report of Accident

Documentation for Payment

- ☐ Internal Revenue Form W-9
- ☐ Invoice for Services Rendered
 - Supporting Documentation
 - Report of Completion Percentage
- ☐ Invoice for Reimbursables
 - Proof of prior payment by Engineer of Reimbursables

Contract No. _____

PROFESSIONAL SERVICES AGREEMENT

TABLE OF CONTENTS

<u>SECTION:</u>	<u>TITLE:</u>	<u>PAGE</u>
I.	<i>Employment of the Engineer</i>	1
II.	<i>Professional Services of the Engineer</i>	2
III.	<i>Fee Schedule</i>	2
IV.	<i>Period of Service</i>	3
V.	<i>Coordination with the County</i>	4
VI.	<i>Review of Instruments of Service</i>	4
VII.	<i>Revision to Instruments of Service</i>	5
VIII.	<i>Engineer's Responsibility and Liability</i>	6
IX.	<i>Ownership of Documents</i>	8
X.	<i>Maintenance of and Right of Access to Records</i>	8
XI.	<i>Miscellaneous:</i>	
A.	Severability	9
B.	Venue and Governing Law	9
C.	Equal Opportunity in Employment	9
D.	Certificate of Engineer	10
E.	Notice	10
F.	Insurance Requirements	11
G.	Property Taxes	11
H.	Successors and Assigns	11
I.	Bidding Exemption	11
J.	Taxpayer Identification	11
K.	Compliance with Laws	11
L.	Reports of Accidents	11
M.	Definition of Engineer	12
N.	Gender, Number and Headings	12
O.	Incorporation of Exhibits & Attachments	12
P.	Entity Status	12
Q.	Construction	12
R.	Independent Contractor Relationship	12
S.	No Waiver of Immunities	12
T.	Interest and Late Payments	12
U.	Texas Public Information Act	13
V.	Acknowledgement	13
W.	Governing Terms and conditions	13
X.	Entire Agreement	13
	Signature Page	14

Contract No. _____

TABLE OF CONTENTS (cont'd)

EXHIBIT I	<i>Compensation for Professional Engineering Services</i>	15
EXHIBIT II	<i>Work Authorization</i>	17
EXHIBIT III	<i>Hourly Rates</i>	18
EXHIBIT IV	<i>Compensation for Additional Professional Services</i>	19
EXHIBIT V	<i>Services To Be Provided By County</i>	20
EXHIBIT VI	<i>Procedures for Termination or Suspension</i>	21
EXHIBIT VII	<i>Equal Opportunity in Employment</i>	23
EXHIBIT VIII	<i>Insurance Requirements</i>	25
EXHIBIT IX	<i>Scope of Services</i>	26
EXHIBIT X	<i>Engineer's Qualification Statement</i>	29

[illegible]

WHEREAS, *County* proposes to construct various transportation projects;

WHEREAS, *Engineer* has the professional ability and expertise to fulfill the requirements of the *Project*, and to provide advice to the *County* in the selection and analysis of cost-effective alternatives;

WHEREAS, Engineer agrees to provide the Professional Engineering Services as more fully set forth in Exhibit IX ("Scope of Services");

WHEREAS, all of the Professional Engineering Services to be provided by *Engineer* pursuant to this Agreement are professional services, the essence of which entails the provision of advice, judgment, or opinion;

WHEREAS, the **County** has separately contracted with a separate engineering firm or individual (*the “Designer”*) for the preparation of the Plans, Specifications, and Estimates (*the “PS&E”*) for the **Project**.

NOW, THEREFORE, *County* and *Engineer* agree to the performance of the Professional Engineering Services by *Engineer* and the payment for these services by *County* as set forth herein.

Section I

Employment of the Engineer

County agrees to employ *Engineer* and *Engineer* agrees to perform the Professional Engineering Services for the *Project* as stated in the Sections to follow. As a condition to employment, it is specifically agreed that any disputes arising hereunder shall be submitted to the County Judge or his designee and/or agent, as designated in writing by the County Judge (*individually or collectively the "County Judge"*). The *County Judge* shall have complete authority for the purpose of resolving disputes arising under this Agreement. The *County Judge's* decision shall be final and binding, subject to any civil remedies otherwise deemed appropriate by the parties hereto.

However, nothing in this Section I or in any other provision of this Agreement regarding submission

of disputes to the *County Judge* and the *County Judge's* ability to resolve disputed matters shall be construed to establish anything other than a *de novo* standard of review by a court of competent jurisdiction in the event that the parties hereto avail themselves of their right to seek civil remedies for any dispute. In the event of a dispute between the terms and conditions of this provision and any other provision of this Agreement, the terms and condition of this provision shall govern.

It is the intention of the *County* and the *County Judge*, and agreed to and hereby acknowledged by the *Engineer*, that no provision of this Agreement shall be construed to require the *County* or the *County Judge* to submit to mandatory arbitration or mediation in the settlement of any claim, cause of action or dispute.

Section II

Professional Services of the Engineer

- A. In consideration of the compensation herein provided, *Engineer* shall perform Professional Engineering Services for the *Project*, which are acceptable to the *County Judge*, based on standard engineering practices and the scope of work described on the Exhibits attached to this Agreement. *Engineer* shall also serve as *County's* professional engineer in those phases of the *Project* to which this Agreement applies and will consult with and give advice to *County* during the performance of *Engineer's* services.
- B. *Engineer* shall not commence work until *Engineer* has been thoroughly briefed on the scope of the *Project* and has been notified in writing by the *County Judge* to proceed, as evidenced by a work authorization substantially in the form of Exhibit II ("Work Authorization"), attached to this Agreement.
- C. *County* shall provide *Engineer* with all Plans, Specifications, and Estimates (PS&E) to this particular *Project* at no cost to *Engineer*; however, any and all such information shall remain the property of *County* and shall be returned, if the *County Judge* so instructs *Engineer*.
- D. *Engineer* shall perform the following Professional Engineering Services:
 - 1. The basic Scope of Services shall generally consist of all elements of Professional Engineering Services required for the *Project* (as more fully set out in Exhibit IX to this Agreement, "Scope of 'Service'"), satisfactory to the *County Judge* and the County's Commissioners Court, in accordance with the requirements, policies, and general practices of Williamson County.

Section III

Fee schedule

- A. For and in consideration of the performance by *Engineer* of the Professional Engineering Services described in the Scope of Services, *County* shall pay and *Engineer* shall receive the fee set forth in Exhibit I. The fee is based upon the hourly rates set forth in Exhibit III. Exhibits I and III are attached hereto and made a part hereof. Invoices shall be submitted by *Engineer* on a monthly basis and are due upon presentation of all items required hereunder, and shall be considered past due if not paid within thirty (30) calendar days of the due date.

- B. For the performance of services not specifically described in the Scope of Services *Engineer* shall receive the additional services compensation described in Exhibit IV, which is attached hereto and made a part hereof. In the event of any dispute over the classification of *Engineer's* services as basic or additional services under this agreement, the decision of the *County Judge* shall be final and binding on *Engineer*.

Section IV Period of Service

- A. *Engineer* shall perform the Professional Engineering Services described in Exhibit IX, the Scope of Services.
- B. This Agreement shall become effective upon the date approved by *County* and will remain in full force and effect for the period required for the construction contract award and construction of the *Project*, including warranty periods provided by the contractor pursuant to the construction contract and any extensions of time, unless terminated earlier as provided for herein. *Engineer* shall complete all work as described in the Scope of Services upon receipt by *Engineer* of *County's* written Work Authorization.
- C. Neither *Engineer* nor *County* shall be responsible for delays caused by "Acts of God", non-county governmental processes, national emergency, or any other causes beyond *Engineer's* or *County's* reasonable control. Upon the discovery of such an event, *Engineer* shall notify *County*, and attend a special meeting with the *County Judge* to propose a program for a solution to the problem, and, if necessary, to establish an estimated period of time of suspension or extension of the work. A written request for an extension of time, when properly documented and justified by the circumstances, will be granted by the *County Judge*.
- D. *County* may suspend the work at any time for any reason without terminating this Agreement by giving written Notice of Suspension and the work may be reinstated and this Agreement resumed in full force and effect within sixty (60) days of receipt by *Engineer* of written Notice of Reinstatement from *County*. *Engineer*, upon receipt of a Notice of Suspension shall follow the procedures described in the attached Exhibit VI, which is attached hereto and made a part hereof. In the event such suspension of the *Project* or the *Engineer's* services hereunder extends for a period of ninety (90) days or more, consecutive or in the aggregate, *Engineer* may terminate this Agreement in writing and such termination shall be treated as a Notice of Termination as provided herein.
- E. Either party may terminate this Agreement for the material failure of the other party to perform in accordance with the terms of this Agreement (the materiality of such failure to be based on standard engineering practices and the scope of work described on the Exhibits attached to this Agreement), through no material fault of the terminating party. *County* may unilaterally terminate this Agreement for reasons other than material failure by *Engineer* to perform by delivering a written Notice of Termination which shall take effect on the tenth day following *Engineer's* receipt of same. If mutually agreed upon, the obligation to provide

services under this Agreement may be terminated without cause upon thirty (30) days written notice. *Engineer* shall follow the procedures specified in Exhibit VI upon issuance or receipt of such notice. In the event of termination of this Agreement because of the material failure of *Engineer* to perform, *County* may prosecute the work to completion by contract or otherwise and, in such a case, *Engineer* shall be liable for any additional costs incurred by *County*.

- F. All references to time in this Agreement shall be measured in calendar days unless otherwise specified.

Section V

Coordination with the County

- A. The *County Judge* will act on behalf of *County* with respect to the work to be performed under this Agreement. The *County Judge* shall have complete authority to interpret and define *County's* policies and decisions with respect to *Engineer's* services. The *County Judge* may, in writing, designate representatives to transmit instructions and receive information.
- B. *Engineer* shall not commence work on any phase of the *Project* until a thorough briefing on the scope of the *Project* is received and a written Work Authorization is issued by the *County Judge* in substantially the form of that in Exhibit II.
- C. *Engineer* shall have the responsibility at all times under the terms of this Agreement to advise *County* whether in *Engineer's* judgment it is feasible to proceed with the recommendations given any known constraints affecting the *Project*.
- D. *Engineer* shall cooperate and coordinate with *County's* staff, and other engineers and contractors as reasonable and necessary and as required by the *County Judge*.

Section VI

Review of Engineer's Instruments of Service

- A. *Engineer's* engineering Instruments of Service will be reviewed by *County* under its applicable technical requirements and procedures.
- B. Reports and supporting documents, (*the "Instruments of Service"*), shall be submitted by *Engineer* on or before the date specified in Exhibit IX. Upon receipt of the Instruments of Service, the submission shall be checked for acceptance. "Acceptance" shall mean that in the *County Judge's* opinion substantial conformance with the requirements of the Scope of Service of this Agreement has been achieved. The acceptability of any Instruments of Service submitted to *County* shall be determined by *County* within fourteen (14) days of such submittal and *County* shall notify *Engineer* in writing within such 14-day period if such work product has been found to be acceptable.
- C. If the submission is acceptable, *County* shall notify *Engineer*, in writing within fourteen (14)

days of the submission, that the submission is acceptable.

- D. If the submission is deemed not acceptable, **County** shall notify **Engineer**, who shall perform such Professional Engineering Services as are required to make the Instruments of Service in conformance with the Scope of Services and resubmit it to **County**. This process shall be repeated until a submission is deemed acceptable.
- E. **County** shall review the Instruments of Service for conformance with the Scope of Services. If necessary, the Instruments of Service shall be returned to **Engineer**, who shall perform any required Professional Engineering Services and resubmit it to **County**. This process shall be repeated until the Instruments of Service is accepted.
- F. After acceptance, **Engineer** shall perform any required modifications, changes, alterations, corrections, and additional work necessary to receive final approval by the **County Judge**. "Approval" in this sense shall mean formal recognition that the Scope of Services have been fully performed and submitted in conformance with Exhibit IX.
- G. After approval of final Instruments of Service, **Engineer** shall without additional compensation perform any Professional Engineering Service required as a result of **Engineer's** development of the Instruments of Service which is found to be in error or omission due to **Engineer's** negligence. However, any Professional Engineering Services required or occasioned for the convenience of **County** after approval of a final Instruments of Service shall be paid for as Additional Services.
- H. In the event of any dispute over the classification of **Engineer's** Instruments of Service as conforming, accepted, or approved under this Agreement, the decision of the **County Judge** shall be final and binding on **Engineer**, subject to any civil remedy or determination otherwise available to the parties and deemed appropriate by the parties.

Section VII

Revision to Instruments of Service

Engineer shall make, without expense to **County**, such revisions to the Instruments of Service as may be required to correct negligent acts, errors or omissions that result from **Engineer's** Scope of Service herein so the Instruments of Service meets the Quality Assurance Plan, but after the approval of the Instruments of Service any revisions, additions, or other modifications made at **County's** request which involve extra services and expenses to **Engineer** shall entitle **Engineer** to additional compensation for such extra services and expenses, provided however, that **Engineer** agrees to perform any necessary corrections to the Instruments of Service, which are found to be negligent acts, error or omission as a result of the **Engineer's** development of the Instruments of Service, at any time, without additional compensation. Nothing in this Section or any other provision of this Agreement shall require **Engineer** to make any revisions or changes to the PS&E developed and provided by **Designer** except as necessary to comply with the desired *Scope of Services* as detailed in Exhibit IX related to performance of duties necessary to comply with Part III Section E of the Texas Pollution Discharge Elimination System (TPDES) permit TXR150000. The **Engineer**

shall be considered "engaged", as described in Section 137.33 of the Texas Engineering Practice Act and Rules Concerning The Practice of Engineering and Professional Engineering Licensure, upon execution of this Agreement by all parties. In the event of any dispute over the classification of *Engineer's* services as Basic or Additional Services under this Agreement, the decision of the *County Judge* shall be final and binding on *Engineer*, subject to any civil remedy or determination otherwise available to the parties and deemed appropriate by the parties.

Section VIII Engineer's Responsibility and Liability

- A. *Engineer* covenants to undertake no task in which a professional license or certificate is required unless it or someone under its direction is appropriately licensed. In the event such licensed individual's license expires, is revoked, or is canceled, *Engineer* shall inform *County* of such event within five working days.
- B. *Engineer* shall be responsible for conformance with applicable federal and state laws, county permitting requirements, and city ordinances currently in effect, except as otherwise directed by the *County Judge* regarding county permitting or similar requirements, applicable to the Scope of Services described Exhibit IX to this Agreement, properly waivable by the *County Judge*.
- C. **ENGINEER SHALL INDEMNIFY, AND HOLD HARMLESS COUNTY, ITS OFFICIALS AND EMPLOYEES FROM AND AGAINST ALL SUITS, ACTIONS, LIABILITY, LOSS, DAMAGE, REASONABLE ATTORNEY'S FEES, COSTS, AND EXPENSES (INCLUDING, BUT NOT LIMITED TO EXPENSES RELATED TO EXPERT WITNESSES) OF ANY KIND WHATSOEVER, TO THE EXTENT ARISING FROM ANY NEGLIGENT ACT, ERROR OR OMISSION OF ENGINEER OR ANY OF ITS SUBCONSULTANTS IN CONNECTION WITH THE PERFORMANCE OF SERVICES UNDER THIS AGREEMENT; PROVIDED, HOWEVER, ENGINEER SHALL NOT BE RESPONSIBLE FOR THE NEGLIGENT ACTS, ERRORS, OR OMISSIONS OF ANY OTHER PARTY, OTHER THAN ITSELF OR THAT OF ITS SUBCONSULTANTS AND FOR A SUBCONSULTANT ONLY AS A DIRECT RESULT OF NEGLIGENT ACTS, ERRORS, OR OMISSIONS WHILE PERFORMING PROFESSIONAL SERVICES PURSUANT TO THE SCOPE OF THIS AGREEMENT.**
- D. *Engineer's* opinions of probable *Project* cost or construction cost represent *Engineer's* professional judgment as a professional familiar with the construction industry, but *Engineer* does not guarantee that proposals, bids, or the construction cost, itself, will not vary from *Engineer's* opinions of probable cost and shall not be responsible for proposals, bids, or the construction costs, should they vary from *Engineer's* opinions of probable costs.
- E. *Engineer* shall perform all services and responsibilities required of *Engineer* under this Agreement using at least that standard of care which a reasonably prudent engineer in Texas, who is licensed by the State Board of Engineers or the State Board of Registered Professional

Surveyors, as applicable, would use in similar circumstances.

- F. **Engineer** represents that it presently has, or is able to obtain, adequate qualified personnel in its employment for performance of the services required under this Agreement and that **Engineer** shall furnish and maintain, at its own expense, adequate and sufficient personnel and equipment, in the reasonable opinion of **County**, to perform the services when and as required and without delays. It is understood that **County** will approve assignment and release of all key **Engineer** and professional personnel.
- G. All employees of **Engineer** shall have such knowledge and experience as will enable them to perform the duties assigned to them. Any employee of **Engineer**, who in the opinion of **County** is incompetent or whose conduct becomes detrimental to the work or coordination with **County**, shall upon **County's** and/or **County Judge's** request be immediately removed from association with the **Project**.
- H. **Engineer** shall furnish all equipment, transportation, supplies, and materials required for its performance of the Professional Engineering Services as set forth in the Scope of Services attached as Exhibit IX to this Agreement.
- I. **Engineer** shall place its Texas Professional Engineer's seal of endorsement on all documents of Instruments of Service furnished to **County**, as required by law.
- J. **Engineer** is an independent contractor under this Agreement. Neither it nor any officer, agent or employee of **Engineer** shall be classified as an employee of **County**.
- K. **Safety.** The **Engineer** shall not have control or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures or for the safety precautions and programs in connection with the Project construction, for the acts or omissions of the contractor, subcontractors, any of their agents or the subcontractors' employees, or any other person performing any of the work or for the failure of such persons to carry out the work in accordance with the contract documents; provided however, the **Engineer** shall not be relieved from its obligation to notify the County or any other applicable authority of any unsafe condition resulting from an act, omission or failure on the part of the construction if **Engineer** becomes aware of such an unsafe condition in the normal course of providing its Scope of Services or as otherwise required by the **Engineer's** professional duties as prescribed by the Rules of Professional Practice promulgated by the Texas Board of Professional Engineers.

Engineer's obligation to report any observed unsafe job conditions to the County ^{shall} not make **Engineer** responsible for construction ^{job} site safety, the responsibility of which shall remain solely with the construction contractor. **Engineer's** obligation to report unsafe job conditions to the County runs solely to the County. There are no third party beneficiaries intended by this obligation, in particular, construction contractor's employees do not have the right to rely on **Engineer's** obligation to report unsafe job conditions to the County so as to provide for a safe work environment for construction contractor's employees.

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No provision of this Agreement requires *Engineer* to make exhaustive inspections of the contractor's work under the construction contract for the *Project*. *Engineer's* inspections, observations, and documentation of construction activities and work is to confirm the construction's conformance with the PS&E and acceptable engineering standards and practices.

The County shall enter into a third party contract for the construction of the project. The contract between the County and the contractor shall require the contractor to indemnify the *Engineer* and name the *Engineer* as additional insured under contractor's commercial general liability, builder's risk, and umbrella liability coverage for the insured liabilities assumed by the contractor. The contractor's insurance coverage shall be primary insurance for the insured liabilities under the Agreement with respect to the contractor, its officers, directors, agents and consultants including the *Engineer*.

The construction contractor retained by the County has sole responsibility for providing materials, means, and methods of construction, for controlling the individual work area and safety of said areas for all parties.

The *Engineer* shall be responsible for taking all appropriate steps to ensure the safety of its employees in connection with its performance of the services provided under this agreement.

Section IX

Ownership of Documents

- A. Any and all Instruments of Service, including the original drawings, estimates, computer tapes, graphic files, tracings, calculations, analyses, reports, specifications, field notes, and data prepared by *Engineer* are the property of *County* and upon completion of the work or termination of this Agreement or as otherwise instructed by *County* and/or *County Judge*, shall be delivered to *County* in an organized fashion with *Engineer* retaining a copy.
- B. Any reuse by *Engineer* of any such documents described in subsection A above, without the specific written consent of *County* shall be at *Engineer's* sole risk and without liability or legal exposure to *County*. Should *Engineer* be terminated, *Engineer* shall not be liable for *County's* use of partially completed Instruments of Service on this *Project* or any other project, except to the extent such Instruments of Service were deemed complete or otherwise "Accepted" or "Approved" as provided herein by *Engineer*, or Surveyor, as applicable, as specified by professional standards.
- C. *Engineer* will not be responsible for any use or any modifications to the Instruments of Service described in subsection A performed by any entity without the specific written consent of *Engineer*. Any modification by an entity or individual other than the *Engineer* as described in this paragraph shall be made in accordance with all applicable professional standards and shall necessitate the removal of the *Engineer's* Texas Professional Engineer's seal of endorsement from all such modified documents.

Section X
Maintenance of and Right of Access to Records

- A. **Engineer** agrees to maintain appropriate accounting records of costs, expenses, and payrolls of employees working on the **Project** for a period of three (3) years after final payment for completed services and all other pending matters concerning this Agreement have been closed.
- B. **Engineer** further agrees that **County** or its duly authorized representatives shall, until the expiration of three (3) years after final payment under this Agreement, have access to and the right to examine and photocopy any and all books, documents, papers and records of **Engineer**, which are directly pertinent to the services to be performed under this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions. **Engineer** agrees that **County** shall have access during normal working hours to all necessary **Engineer** facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. **County** shall give **Engineer** reasonable advance notice of intended audits.
- C. **Engineer** further agrees to include in all its sub-consultant agreements hereunder a provision to the effect that the sub-consultant agrees that **County** shall, until the expiration of three (3) years after final payment under the subcontract, have access to and the right to examine and photocopy any directly pertinent books, documents, papers and records of such sub-consultant, involving transactions to the subcontract, and further, that **County** shall have access during normal working hours to all sub-consultant facilities, and shall be provided adequate and appropriate work space, in order to conduct audits in compliance with the provisions of this section together with subsection (D) hereof. **County** shall give sub-consultant reasonable advance notice of intended audits.
- D. **Engineer** and sub-consultant agree to photocopy such documents as may be requested by **County**. **County** agrees to reimburse **Engineer** for the cost of copies at the rate published in the Texas Administrative Code in effect as of the time copying is performed. **County** also agrees to compensate **Engineer** for services performed pursuant to this Section as requested by **County**, or by a third-party pursuant to a validly determined Texas Public Information Act request. For any such services, **Engineer** shall receive the additional services compensation described in Exhibit IV, which is attached hereto and made a part hereof.

Section XI
Miscellaneous

- A. **Severability.** If any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof, but rather this entire Agreement will be construed as if not containing the particular invalid or unenforceable provision or provisions, and the rights and obligation of the parties shall be construed and enforced in accordance therewith. The parties acknowledge that if any provision of this Agreement is determined to be invalid or unenforceable, it is the desire and intention of each that such provision be reformed and

construed in such a manner that it will, to the maximum extent practicable, give effect to the intent of this Agreement and be deemed to be validated and enforceable.

- B. ***Venue and Governing Law.*** It is contemplated that this Agreement shall be performed in Williamson County, Texas, and the venue and jurisdiction of any suit, right, or cause of action arising out of or in connection with this Agreement shall lie exclusively in Williamson County, Texas. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas.
- C. ***Equal Opportunity in Employment.*** *Engineer* agrees, during the performance of the services under this Agreement, to comply with the equal opportunity in employment provisions cited in Exhibit VII, which is attached hereto and made a part hereof.
- D. ***Certificate of Engineer.*** *Engineer* certifies that neither *Engineer* nor any members of *Engineer's* firm has:
- (1) Employed or retained for a commission, percentage, brokerage, contingency fee, or other consideration, any firm or person (other than a bona fide employee working solely for *Engineer*) to solicit or secure the work provided by the Agreement.
 - (2) Agreed, as an expressed or implied condition for obtaining this contract, to employ or retain the services of any firm or person other than in connection with carrying out the work to be performed under this Agreement.
 - (3) Paid or agreed to pay to any firm, organization, or person (other than bona fide employees working solely for *Engineer*) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the work provided under this Agreement.

Engineer further agrees that this certification may be furnished to any local, state or federal governmental agencies in connection with this Agreement and for those portions of the ***Project*** involving participation of agency grant funds and is subject to all applicable state and federal, criminal and civil laws.

- E. ***Notice.*** Any notice to be given hereunder shall be in writing and may be affected by personal delivery in writing or by registered or certified mail, return receipt requested, addressed to the proper party, at the following address:

ENGINEER: PBS&J, an Atkins Company
 6505 Bridge Point Parkway, Suite 200
 Austin, Texas 78730
 Attn: Lynn M. Isaak _____

COUNTY: Williamson County Judge
 Dan Gattis (or successor)
 710 Main Street, Suite 101
 Georgetown, Texas 78626

with copy to: Hal C. Hawes
Legal Advisor
Office of Williamson County Judge
710 Main Street, Suite 200
Georgetown, Texas 78626

and to: Prime Strategies, Inc.
1508 South Lamar Blvd.
Austin, Texas 78704
Attn: Michael Weaver

and to: HNTB
14 Galloping Road
Round Rock, Texas 78681
Attn: James Klotz, P.E.

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- F. **Insurance Requirements.** *Engineer* agrees during the performance of the services under this Agreement to comply with the INSURANCE REQUIREMENTS provisions described in Exhibit VIII, which is attached hereto and made a part hereof.
- G. **Property Taxes.** Notwithstanding anything to the contrary herein, to the extent *County* becomes aware that *Engineer* is delinquent in the payment of property taxes related to property located in Williamson County at the time of invoicing, *Engineer* hereby assigns any payments to be made for services rendered hereunder to the Williamson County Tax Assessor-Collector for the payment of said delinquent taxes. Notwithstanding the above, *County* shall not have an affirmative duty to determine if *Engineer* is delinquent in the payment of property taxes.
- H. **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of *County* and *Engineer* and their respective successors, executors, administrators, and assigns. Neither *County* nor *Engineer* may assign, sublet, or transfer his interest in or obligations under this Agreement without the written consent of the other party hereto.
- I. **Bidding Exemption.** This Agreement is exempted from the bidding requirements of the County Purchasing Act pursuant to Section 262.024(a)(4) of the Local Government Code as this is a contract for professional services.
- J. **Taxpayer Identification.** *Engineer* shall provide to *County Judge* upon submittal of *Engineer's* initial invoice requesting payment Internal Revenue Form W-9 Request for Taxpayer Identification Number and Certification that is completed in compliance with the Internal Revenue Code, its rules and regulations.
- K. **Compliance with Laws.** *Engineer* shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or

administrative bodies or tribunals in any matter affecting the performance of this Agreement, including, without limitation, Worker's Compensation laws, minimum and maximum salary and wage statutes and regulations, licensing laws and regulations. When required, the **Engineer** shall furnish the **County** with certification of compliance with said laws, statutes, ordinances, rules, regulations, orders, and decrees above specified.

- L. **Reports of Accidents.** Within 24 hours after **Engineer** becomes aware of the occurrence of any accident or other event on or relating to the Project which results in, or might result in, injury to the person or property of any third person (other than an employee of the **Engineer**), whether or not it results from or involves any action or failure to act by the **Engineer** or any employee or agent of the **Engineer** and which arises in any manner from the performance of this Agreement, the **Engineer** shall send a written report of such accident or other event to the County, setting forth a full and concise statement of the facts pertaining thereto. The **Engineer** shall also immediately send the County a copy of any summons, subpoena, notice, or other documents served upon the **Engineer**, its agents, employees, or representatives, or received by it or them, in connection with any matter before any court arising in any manner from the **Engineer's** performance of work under this Agreement.
- M. **Definition of Engineer.** The term "**Engineer**" as used herein is defined as including Registered Professional Surveyors, as applicable to the work to be performed under this Agreement, and any reference to professional standards in regards to a Registered Professional Surveyor shall relate to those standards promulgated by the State Board of Registered Professional Surveyors.
- N. **Gender, Number and Headings.** Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires. The headings and section numbers are for convenience only and shall not be considered in interpreting or construing this Agreement.
- O. **Incorporation of Exhibits.** All of the Exhibits referred to in the Agreement are incorporated by reference as if set forth verbatim herein.
- P. **Entity Status.** By my signature below, I certify that **Engineer** is a Corporation, duly authorized to transact and do business in the State of Texas.
- Q. **Construction.** Each party hereto acknowledges that it and its counsel have reviewed this Agreement and that the normal rules of construction are not applicable and there will be no presumption that any ambiguities will be resolved against the drafting party in the interpretation of this Agreement.
- R. **Independent Contractor Relationship.** Both parties hereto, in the performance of this Agreement, shall act in an individual capacity and not as agents, employees, partners, joint ventures or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever.

- S. **No Waiver of Immunities.** Nothing in this Agreement shall be deemed to waive, modify or amend any legal defense available at law or in equity to **County**, its past or present officers, employees, or agents or employees, nor to create any legal rights or claim on behalf of any third party. **County** does not waive, modify, or alter to any extent whatsoever the availability of the defense of governmental immunity under the laws of the State of Texas and of the United States.
- T. **Interest and Late Payments.** **County's** payment for the Professional Engineering Services shall be governed by Chapter 2251 of the Texas Government Code. Invoices shall be paid by **County** within thirty (30) days from the date of the Williamson County Auditor's receipt of an invoice. Interest charges for any late payments shall be paid by **County** in accordance with Texas Government Code Section 2251.025. More specifically, the rate of interest that shall accrue on a late payment is the rate in effect on September 1 of **County's** fiscal year in which the payment becomes due. The said rate in effect on September 1 shall be equal to the sum of one percent (1%); and (2) the prime rate published in the Wall Street Journal on the first day of July of the preceding fiscal year that does not fall on a Saturday or Sunday. In the event that a discrepancy arises in relation to an invoice, such as an incorrect amount on an invoice or a lack of documentation that is required to be attached to an invoice to evidence the amount claimed to be due, **County** shall notify the party requesting payment of such an invoice of the discrepancy. Following **County's** notification of any discrepancy as to an invoice, the party requesting payment must resolve the discrepancy and resubmit a corrected or revised invoice, which includes all required support documentation, to the Williamson County Auditor. **County** shall pay the invoice within thirty (30) days from the date of the Williamson County Auditor's receipt of the corrected or revised invoice. **County's** payment of an invoice that contains a discrepancy shall not be considered late, nor shall any interest begin to accrue until the thirty-first (31st) day following the Williamson County Auditor's receipt of the corrected or revised invoice.
- U. **Texas Public Information Act.** To the extent, if any, that any provision in this Agreement is in conflict with Tex. Gov't Code 552.001 *et seq.*, as amended (the "Public Information Act"), the same shall be of no force or effect. Furthermore, it is expressly understood and agreed that **County**, its officers and employees may request advice, decisions and opinions of the Attorney General of the State of Texas in regard to the application of the Public Information Act to any items or data furnished to **County** as to whether or not the same are available to the public. It is further understood that **County's** officers and employees shall have the right to rely on the advice, decisions and opinions of the Attorney General, and that **County**, its officers and employees shall have no liability or obligation to any party hereto for the disclosure to the public, or to any person or persons, of any items or data furnished to **County** by a party hereto, in reliance of any advice, decision or opinion of the Attorney General of the State of Texas.
- V. **Acknowledgement.** As a duly authorized representative of **Engineer**, I acknowledge by my signature below that I have read and understand the above paragraphs and that **Engineer** has the obligation to ensure compliance with its provisions by itself and its employees, agents, and representatives.

- W. **Governing Terms and Conditions.** If there is an irreconcilable conflict between the terms and conditions set forth in Sections I. through XI. of this Agreement and the terms and conditions set forth in any Exhibit to this Agreement, the terms and conditions set forth in Sections I. through XI. of this Agreement shall control over the terms and conditions set forth in any Exhibit to this Agreement.
- X. **Entire Agreement.** This Agreement represents the entire and integrated Agreement between **County** and **Engineer** and supersedes all prior negotiations, representations, or agreements, either oral or written. This Agreement may be amended only by written instrument signed by both **County** and **Engineer**. NO OFFICIAL, EMPLOYEE, AGENT, OR REPRESENTATIVE OF THE COUNTY HAS ANY AUTHORITY, EITHER EXPRESS OR IMPLIED, TO AMEND THIS CONTRACT, EXCEPT PURSUANT TO SUCH EXPRESS AUTHORITY AS MAY BE GRANTED BY THE COUNTY COMMISSIONERS COURT.
- Y. **No Third-Party Beneficiaries.** No provision of this Agreement shall be construed to establish a cause of action in favor of any party other than the parties hereto. It is the express intention of the **County** and the **Engineer** that there be no third-party beneficiaries to this Agreement.
- Z. **Waiver of Consequential Damages.** **County** and **Engineer** agree to waive recovery of any consequential damages which arise as a proximate result of a breach of this Agreement.

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EXECUTED this _____ day of _____, 201____.

THE ENGINEER:

_PBS&J, an Atkins Company_____

BY: _____

Printed Name: _Lynn M. Isaak, PE_____

Title: __Group Manager_____

THE COUNTY:

WILLIAMSON COUNTY:

BY: _____

Printed Name: Dan A. Gattis, County Judge

Reviewed as to Form By: _____

Legal Advisor to the Williamson
County Commissioners Court

County Auditor

EXHIBIT I

COMPENSATION FOR PROFESSIONAL ENGINEERING SERVICES

ACTUAL COST OF SERVICES METHOD

[Note: A separate Compensation Agreement will be attached for Compensation on a Work-Order Basis]

SECTION 1 - BASIS FOR COMPENSATION

- 1.1 The not-to-be-exceeded fee for the performance of the Scope of Services described in the Agreement shall be the sum of \$ 193,498.10.
- 1.2 The basis of compensation for the services of principals and employees engaged in the performance of the work shall be the hourly rates set forth in attached Exhibit III.
- 1.3 *Engineer* shall be reimbursed for actual non-labor and subcontract expenses incurred in the performance of the services under this Agreement at the *Engineer's* invoice cost.

SECTION 2 - NOT-TO-BE-EXCEEDED FEE

- 2.1 *Engineer* and *County* acknowledge the fact that the not-to-be-exceeded fee is the total estimated costs of services to be rendered under this Agreement. This not-to-be-exceeded fee is based upon the labor and non-labor costs set forth in Exhibit III to this Agreement and described above, estimated to be required in the performance of the various phases of work provided for under this Agreement. Should the actual costs of the services rendered under this Agreement be less than such estimated cost, then *Engineer* shall receive compensation for only those services actually rendered.

SECTION 3 – WORK AUTHORIZATIONS

- 3.1 *County* will prepare and issue Work Authorizations, in the form identified and attached hereto as Exhibit II to authorize the *Engineer* to perform one or more tasks. Each Work Authorization will include a description of the work to be performed, a description of the tasks and milestones, a work schedule for the tasks, and a fee amount agreed upon by the *County* and *Engineer*. The amount payable for a Work Authorization shall be supported by the estimated cost of each work task as described in the Work Authorization. The Work Authorization will not waive the *Engineer's* responsibilities and obligations established in this Agreement. The executed Work Authorizations shall become part of this Agreement.
- 3.2 Work included in a Work Authorization shall not begin until *County* and *Engineer* have signed the Work Authorization. All work must be completed on or before the completion date specified in the Work Authorization. The *Engineer* shall promptly notify the *County* of any event which will affect completion of the Work Authorization, although such notification shall not relieve the *Engineer* from costs or liabilities resulting from delays in completion of

the Work Authorization. Any changes in the Work Authorization shall be enacted by a written Supplemental Work Authorization before additional work may be performed or additional costs incurred. Any Supplemental Work Authorization must be executed by both parties within the period specified in the Work Authorization. The *Engineer* shall not perform any proposed work or incur any additional costs prior to the execution, by both parties, of a Supplemental Work Authorization.

SECTION 4 - ADDITIONAL SERVICES

- 4.1 For additional services, compensation shall be negotiated in accordance with Exhibit IV.
- 4.2 *Engineer* shall be compensated for extra services not included in the Scope of Services described in the Agreement on the basis specified in Exhibit IV; however, *Engineer* shall not be compensated for work made necessary by *Engineer's* negligent acts, errors or omissions.
- 4.3 The maximum amount payable under this Agreement without modification (the "*Compensation Cap*") is \$ 193,498.10, provided that any amounts paid or payable shall be solely pursuant to a validly issued Work Authorization or any Supplemental Work Authorization related thereto. In no event may the aggregate amount of compensation authorized under Work Authorizations and Supplemental Work Authorizations exceed the *Compensation Cap*.

SECTION 5 – REQUIRED SUPPORTING DOCUMENTATION

- 5.1 Upon submittal of the initial invoice for service, *Engineer* shall provide *County Judge* with an Internal Revenue Form W-9, Request for Taxpayer Identification Number and Certification that is complete in compliance with the Internal Revenue Code, its rules and regulations.
- 5.2 All invoices submitted to *County Judge* will be accompanied by an original, complete packet of supporting documentation. Invoices should detail hours worked by staff person, with a description of the work performed by individuals.
- 5.3 For additional services performed pursuant to Section III B of this Agreement, a separate invoice or itemization of this work will be presented with the same requirements for supporting documentation as in Section 5.2 of this Exhibit.
- 5.4 Invoices requesting reimbursement for expenditures related to the project (reimbursables) must be accompanied by copies of the provider's invoice which was previously paid by *Engineer*.
- 5.5 Payments for Direct and Reimbursable Expenses will be made in compliance with the approved 2009-2010 Budget Order, as amended. The Budget Order can be viewed on the Williamson County web site at www.wilco.org.

EXHIBIT II

WORK AUTHORIZATION NO. Sample

This Work Authorization is made pursuant to the terms and conditions of the Agreement entered into by and between Williamson County, Texas, a political subdivision of the State of Texas, (*the "County"*) and _____ (*the "Engineer"*).

Part 1. The *Engineer* will provide the following engineering services:

Professional Engineering Services for Construction Inspection and/or Observation on XXX (*the "Project"*)

Part 2. The maximum amount payable for services under this Work Authorization without modification is \$ _____.

Part 3. Payment to the *Engineer* for the services established under this Work Authorization shall be made in accordance with the Agreement.

Part 4. This Work Authorization shall become effective on the date of final acceptance of the parties hereto and shall terminate on _____, unless extended by a Supplemental Work Authorization.

Part 5. This Work Authorization does not waive the parties' responsibilities and obligations provided under the Agreement.

Part 6. This Work Authorization is hereby accepted and acknowledged below.

EXECUTED this ____ day of _____, 201__.

ENGINEER:

By: _____
Signature

Printed Name

Title

COUNTY:
Williamson County, Texas
By: Sample
Signature

Printed Name

Title

EXHIBIT III

<u>Position</u>	<u>Hourly Rates</u>	
	<u>On-Site</u>	
3. Senior Inspector	\$	93.72/hr.

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EXHIBIT IV

COMPENSATION FOR ADDITIONAL PROFESSIONAL SERVICES

1. The fees described in Exhibits I and II to this Agreement shall provide compensation to ***Engineer*** for the Professional Engineering Services described in the Basic Scope of Services of the Agreement.
2. For the performance of work not described in the Basic Scope of Services of the Agreement, ***County*** shall pay and ***Engineer*** shall receive, under a negotiated contract modification, compensation based upon the method and rates set forth in Exhibits I and II to the Agreement.
3. The performance of any additional services must be authorized in writing in advance by the ***County Judge***.
4. In the event of any dispute over the classification of ***Engineer's*** services as either basic or additional services, the decision of the ***County Judge*** shall be final and binding.

EXHIBIT V

SERVICES TO BE PROVIDED BY COUNTY The County will assist the Engineer by providing assistance, service, or data items as required to advance the completion of assigned work authorizations.

- Provide existing data files, to include but not limited to:
 - Survey data;
 - Roadway construction plans, design documents for the construction of *the Project*;
 - Right-of-Way mapping;
- Approved environmental documents.
- Applicable special specifications, special provisions, and unit price bid tabulation.

Provide timely review, comment or direction, as required, to aid the Engineer in completing an assigned task or maintaining the established project schedule. The County will provide the *Engineer* with:

- Temporary shared offsite location with internet access.
- Offsite work space to complete and store records.
- Access to combination color printer/copier/scanner.

EXHIBIT VI

PROCEDURES FOR TERMINATION OR SUSPENSION

Procedures for *Engineer* to follow upon receipt of Notice of Termination:

1. Upon receipt of a Notice of Termination and prior to the effective date of the termination, *Engineer* shall, unless the Notice otherwise directs, immediately begin to phase out and discontinue all services in connection with the performance of this Agreement and shall proceed to promptly cancel all existing orders and contracts insofar as such orders and contracts are chargeable to this Agreement. Within thirty (30) days after receipt of the Notice of Termination, *Engineer* shall submit a statement, showing in detail the services performed under this Agreement prior to the effective date of termination.
2. Copies of all Instruments of Service prepared under this Agreement prior to the effective date of termination shall be delivered to *County* as a pre-condition to final payment. The foregoing language notwithstanding, *County* and *Engineer* agree that *Engineer*, in its sole discretion, will be allowed to sign and seal such Instruments of Service, or place any other appropriate comment on the Instruments of Service, as appropriate for the phase of preparation of the Instruments of Service as more fully set out in Section 137.33 of the Texas Board of Professional Engineer's Rules Concerning the Practice of Engineering, effective as of the date of delivery of the Instruments of Service.
3. Upon the above conditions being met, *County* shall pay *Engineer* for approved services actually performed under this Agreement, less previous payments.
4. Failure by *Engineer* to submit the required statement and to comply with the above stated conditions without good and reasonable cause shall constitute a waiver by *Engineer* of any and all rights or claims to collect the fee that *Engineer* may rightfully be entitled to for services performed under this Agreement.

Procedures for *Engineer* to follow upon receipt of Notice of Suspension:

1. Upon receipt of a Notice of Suspension and prior to the effective date of the suspension, *Engineer* shall, unless the Notice otherwise directs, immediately begin to phase-out and discontinue all services in connection with the performance of this Agreement and shall prepare a statement detailing the services performed under this Agreement prior to the effective date of suspension. Copies of all completed or partially completed Instruments of Service prepared under this Agreement prior to the effective date of suspension shall be prepared for possible delivery to *County*, but shall be retained by *Engineer* unless requested by *County*.
2. During the period of suspension, *Engineer* may submit the above-referenced statement to *County* for payment of the approved services actually performed under this Agreement, less previous payments.

Procedures for *Engineer* to follow upon exercise of right to terminate for substantial failure of *County* to perform:

1. In the event that *Engineer* exercises such right to terminate, within thirty (30) days after receipt by *County* of *Engineer's* Notice of Termination, *Engineer* shall submit a statement detailing the services performed under this Agreement prior to the effective date of termination.
2. Copies of all completed or partially completed Instruments of Service shall be delivered to *County* as a pre-condition to final payment. Upon the above conditions being met, *County* shall pay *Engineer* for approved services actually performed under this Agreement, less previous payments. . The foregoing language notwithstanding, *County* and *Engineer* agree that *Engineer*, in its sole discretion, will be allowed to sign and seal such Instruments of Service, or place any other appropriate comment on the Instruments of Service, as appropriate for the phase of preparation of the Instruments of Service as more fully set out in Section 137.33 of the Texas Board of Professional Engineer's Rules Concerning the Practice of Engineering, effective as of the date of delivery of the Instruments of Service.
3. Failure by *Engineer* to submit the required statement and to comply with the above stated conditions without good and reasonable cause shall constitute a waiver by *Engineer* of any and all rights or claims to collect the fee that *Engineer* may rightfully be entitled to for services performed under this Agreement.

EXHIBIT VII

EQUAL OPPORTUNITY IN EMPLOYMENT

- A. *Engineer* will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. *Engineer* will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; termination; rates of pay or other forms of compensation, and selection for training, including apprenticeship. *Engineer* agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this non-discrimination clause.
- B. *Engineer* will, in all solicitations or advertisements for employees placed by or on behalf of *Engineer*, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
- C. *Engineer* will send to the labor union representative or workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the Contract Compliance Officer advising the said labor union or worker's representatives of *Engineer's* obligations under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- D. *Engineer* will comply with the Regulations of the Department of Transportation (49 CFR 21 and 23 CFR 710.405) and all provisions of Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 (41 CFR 60) and of the rules, regulations and relevant order of the Secretary of Labor. In the event that federal financial assistance is provided for the *Project*, *Engineer* shall comply with 49 CFR 26, TxDOT's Disadvantaged Business Enterprises Program and any Memorandum of Understanding between the *County* and TxDOT pertaining to such Disadvantaged Business Enterprise Program.
- E. *Engineer* will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations and orders of the Secretary of Labor, or pursuant thereto; and will permit access to his books, records, and accounts by the Department and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- F. In the event of *Engineer's* non-compliance with the non-discrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and *Engineer* may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 (41 CFR 60) or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

- G. *Engineer* will include the provisions of paragraph (A.) through (F.) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 or Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 (41 CFR 60), so that such provisions will be binding upon each subcontractor or vendor. *Engineer* will take such action with respect to any subcontractor purchase order as the Department may direct as a means of enforcing such provisions, including sanctions for non-compliance: provided, however, that in the event *Engineer* becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by *County* or Federal Agency, *Engineer* may request *County* and United States to enter into such litigation to protect the interest of the United States.

EXHIBIT VIII

INSURANCE REQUIREMENTS

During the life of this Agreement, *Engineer* agrees to provide and maintain the following insurance:

- A. Worker's Compensation in accordance with statutory requirements.
- B. Commercial General Liability Insurance with a combined minimum Bodily Injury and Property Damage limits of \$1 million per occurrence and \$2 million in the aggregate, including coverage on same for independent subcontractor(s). WILLIAMSON COUNTY SHALL BE NAMED AS AN ADDITIONAL INSURED UNDER THIS COVERAGE.
- C. Automobile Liability Insurance for all owned, non-owned, and hired vehicles with combined minimum limits for Bodily Injury and Property Damage limits of \$1 million per occurrence and \$2 million in the aggregate. *Engineer* shall require any subcontractor(s) to provide Automobile Liability Insurance in the same minimum amounts.
- D. Professional Liability Errors and Omissions Insurance in the amount of \$1 million.
- E. In the event *Engineer* is self-insured in connection with any or all of the above-required insurance policies, *Engineer* shall submit proof of such self-insurance and all financial statements as reasonably required by the *County* in order to determine the acceptability of such self-insurance.

Engineer shall not commence any field work under this Agreement until he has obtained all required insurance and such insurance or self-insurance has been approved by *County*. *Engineer* shall not allow any subcontractor(s) to commence work to be performed in connection with this Agreement until all required insurance has been obtained and approved. Approval of the insurance by *County* shall not relieve or decrease the liability of *Engineer* hereunder.

The required insurance must be written by a company approved to do business in the State or Texas with a financial standing of at least an A- rating, as reflected in Best's insurance ratings or by a similar rating system recognized within the insurance industry at the time the policy is issued. *Engineer* shall furnish *County* with a certification of coverage issued by the insurer. *Engineer* shall not cause any insurance to be canceled nor permit any insurance to lapse. ALL INSURANCE CERTIFICATES REQUIRED PURSUANT TO PARAGRAPH B, ABOVE, SHALL INCLUDE A CLAUSE TO THE EFFECT THAT THE POLICY SHALL NOT BE CANCELED OR REDUCED, RESTRICTED OR LIMITED UNTIL TEN (10) DAYS AFTER COUNTY HAS RECEIVED WRITTEN NOTICE AS EVIDENCED BY RETURN RECEIPT OF REGISTERED OR CERTIFIED LETTER.

It is the intention of the *County* and the *County Judge*, and agreed to and hereby acknowledged by the *Engineer*, that no provision of this Professional Services Agreement shall be construed to require the *County* or the *County Judge* to submit to mandatory arbitration or mediation in the settlement of any claim, cause of action or dispute, except as specifically required in direct connection with an insurance claim or threat of claim under an insurance policy required under

this Exhibit which absolutely requires arbitration or mediation of such claim, or as otherwise required by law or a court of law with jurisdiction over the provisions of this Agreement.

EXHIBIT IX
SCOPE OF SERVICES
FOR PROFESSIONAL ENGINEERING SERVICES

THE FOLLOWING SCOPE OF SERVICES IS INTENDED TO BE CONSISTENT WITH THE WILLIAMSON COUNTY PROFESSIONAL SERVICES AGREEMENT. TO THE EXTENT THE SCOPE IS INCONSISTENT WITH THE PROFESSIONAL SERVICES AGREEMENT, THE PROFESSIONAL SERVICES AGREEMENT WILL SUPERSEDE THE SCOPE AND WILL BE CONTROLLING.

THE ENGINEER SHALL PROVIDE EXPERT TESTIMONY IN ANY ADMINISTRATIVE OR COURT PROCEEDINGS THROUGH AN APPROPRIATE ENGINEERING PROFESSIONAL TO BE DETERMINED MUTUALLY BY COUNTY AND ENGINEER AS ADDITIONAL SERVICES AT THE RATE OF COMPENSATION SET FORTH IN EXHIBIT IV AND IN A MANNER CONSISTENT WITH THE TEXAS BOARD OF PROFESSIONAL ENGINEER'S RULES CONCERNING THE PRACTICE OF ENGINEERING, EFFECTIVE AS OF THE RELEVANT DATE.

The *Engineer* will provide Professional Engineering Services for the *Project*, as set forth below.

Services performed will include the appropriate records and documentation in accordance with TxDOT and Federal requirements.

Professional Engineering Construction Management

- Verify receipt of the Contractor's schedule of operations
- Manage the Request for Information (RFI) process.
- Negotiate and make recommendations for Change Orders. Prepare Change Orders for execution.
- Evaluate and provide advice to the County on the approval of contractor's CPM schedules.
- Maintain a current approved set of construction contract documents.
- Review and provide recommendation of acceptance to the County on the Contractor's monthly pay estimate. Review and verify quantities of work performed and materials used.
- Manage Contractor receipt and dispersal of Contractor submittals to the *GEC*, then back to the Contractor.

- Revise or update the storm water pollution prevention plan in accordance with TPDES Permit TXR150000 Part III Section E.
- Sign, Seal and Date changes to *the Designer's* plan sheets representing the requirements of TPDES Permit TXR 150000 Part III Section F 1. (f) as necessary to comply with TPDES TXR 150000 Part III Section E.
- Identify and advise the County in the resolution of construction issues that arise.
- Provide advice to the County in dispute negotiations and claim resolutions.
- Monitor utility relocation/adjustments for compliance with approved plans for the *Project*.
- Monitor Compliance with DBE requirements of construction contract provisions.
- Provide vehicles, communication devices (i.e cell phones, radios), computers, office supplies and internet service, as needed.
- Review and provide recommendation to the County on the acceptance of As-built drawings provided by the Contractor.
- Verify line, grade and dimensions of roadways and structures as deemed necessary.
- Observe to see if specified procedures, specified in the plans and specifications are being followed.
- Advise the Contractor and request corrective action be taken, if an inspection reveals that work has not been properly performed.
- Re-inspect non-conforming work.
- Evaluate and document the Contractor's operations and production with respect to quality and progress.
- Verify and perform spot checks on quantities being identified, measured, recorded and verified by comparisons against plan, contract quantities and dimensions.
- Receive and transmit, to the Manager, the Contractors "trench safety plan" prepared and sealed by a registered professional engineer.
- Evaluate damages to existing vegetation the formula in Section XXV. **Tree and Plant Protection** of the Special Conditions.

Provide Reports of Construction Activities

- Perform a review of the construction of the *Project* to monitor compliance with the *Designer's* plans and specifications and document construction activities using daily reports, journal, logs, or other, as necessary or required.
- Provide digital and video photo logging of project activities.

- Perform inspections in accordance with the environmental provisions of the PS&E, relating to the SW3P and provide reports to the County containing the results of the inspection.
- Perform monthly inspections of the implemented Traffic Control Plan of the PS&E, provide inspection and reports to the County.
- Provide advice to the County on modifications to the Traffic Control Plans to be provided by *the Designer*.
- Develop project progress meeting minutes and distribute to attendees.
- Provide weekly report of the construction project progress to the County and the GEC.
- Provide reports of the results of tests performed on materials used in construction.
- Provide non-conformance reports as needed.
- Provide reports of Contractor compliance with DBE provisions of construction contract.
- Provide reports of Contractor compliance with Wage Rate provisions of construction contract at the end of the project.
- Provide notification of lane closures to GEC and the County, and others as necessary, received from the Contractor.
- Provide report of accidents in accordance with Section XI L. of the Agreement.

Meetings and Record Keeping

- Attend the Pre-Construction Conferences.
- Attend project progress meetings.
- Maintain all records as required.
- Maintain a status report of change orders, RFIs, barricade inspection reports, schedule updates, shop drawing review and time extensions.
- Maintain "redline" drawings to document the changes made to the constructed project. These redline drawings will be used to verify the Contractor's As-Built plan submittal.
- Verify transmittal, by the Contractor to the County, of an affidavit stating that all bills related to any work, labor, equipment or supplies have been paid and that there are no outstanding claims or bills remaining. Review and verify submission, to the Engineer, of the "As-Built" drawings dated and signed by the Contractor

and his project superintendent prior to final acceptance.

Materials Testing

- Order or Verify contractor's order of materials sampling and testing in accordance with the "Quality Assurance Program".
- Receive, review, verify, and log all "project test" or QC test results from the Contractor.
- Request, Validate, and record QC/QA test results by verification tests from independent samples.
- Report to the Manager on the contractors' compliance with the identification of test results with the test number, date of testing, at the station and elevation of the test on the appropriate plan sheet.
- When test requirements are not met, order the performance of independent material testing in accordance with the "Quality Assurance Program".
- Receive from the Contractor, and verify compliance with specifications, Manufacturer Certificates of Compliance of each and every specified material or manufactured equipment item.

Other

Exclusions

EXHIBIT X

ENGINEER'S QUALIFICATIONS STATEMENT

CP&Y construction observation PSA
Commissioners Court - Regular Session

Date: 03/29/2011
Submitted By: Marie Walters, Road Bond
Department: Road Bond
Contract Oversight:
Agenda Category: Regular Agenda Items

Information

Agenda Item

Discuss and consider approving CP&Y, Inc. Professional Service Agreement (PSA) for construction inspection and/or observation for transportation projects.

Background

Fiscal Impact

From/To	Acct No.	Description	Amount
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Attachments

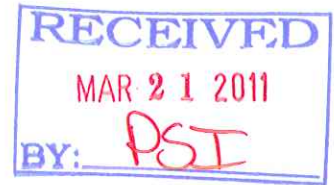
Link: [CP&Y construction observation PSA](#)

Form Routing/Status

Route Seq	Inbox	Approved By	Date	Status
1	Hal Hawes	Hal Hawes	03/23/2011 01:55 PM	APRV
2	Jim Gilger	Jim Gilger	03/23/2011 01:57 PM	APRV
3	County Judge Exec Asst. Wendy Coco	Wendy Coco	03/23/2011 03:43 PM	APRV

Form Started By: Marie Walters
 Started On: 03/23/2011 12:34 PM
 Final Approval Date: 03/23/2011

Contract No. CP&Y - Construction Observer



Checklist

Prior to Initiation of Work

- ☒ Signed and Executed Agreement
- ☒ Scope of Services - Appendix A
 - o Exhibit V - Services to be provided by County
 - o Exhibit IX - Services to be provided by Engineer
 - o Exhibit C - Work Schedule
 - o Exhibit D - Fee Schedule
- ☒ Production Schedule - Exhibit IV
- ☒ Hourly Rates of Engineer - Exhibit III
- ☒ Work Authorization - Exhibit II
 - o Supplemental Work Authorization for Additional Work (if applicable)
- ☒ Data to be provided to Engineer by County
 - o Plans
 - o Maps
 - o Studies
 - o Reports
 - o Field Notes
 - o Statistics
 - o Computations
 - o Other: _____
- ☒ Engineer's Qualification Statement - Appendix X
- ☒ Insurance *RFI - pre-qualified list*
 - o Worker's Compensation
 - o Commercial General Liability Insurance
 - o Automobile Liability Insurance
 - o Professional Liability Errors and Omissions Insurance
 - o Self Insurance Documentation
 - o Insurance Certificates for Subcontractors and/or Sub-consultants
 - o Approval of Insurance by County

Course of Work

- ☐ Original Engineering Work Product submittal
- ☐ "Completed" Engineering Work Product
- ☐ "Accepted" Engineering Work Product
- ☐ Modifications and/or Changes for Approval of Engineering Work Product
- ☐ "Approved" Engineering Work Product
- ☐ Revisions to Work Product
- ☐ Seal of Endorsement on all Engineering Work Product
- ☐ Data necessary for applications or documentation for permits and/or grants to be provided by Engineer to County

Contract No. _____

Notices (as applicable)

- ☐ Notice of Suspension
- ☐ Notice of Reinstatement
- ☐ Notice of Termination
- ☐ Notice of Staffing Changes
- ☐ Written Report of Accident

Documentation for Payment

- ☐ Internal Revenue Form W-9
- ☐ Invoice for Services Rendered
 - Supporting Documentation
 - Report of Completion Percentage
- ☐ Invoice for Reimbursables
 - Proof of prior payment by Engineer of Reimbursables

Contract No. _____

PROFESSIONAL SERVICES AGREEMENT

TABLE OF CONTENTS

<u>SECTION:</u>	<u>TITLE:</u>	<u>PAGE</u>
I.	<i>Employment of the Engineer</i>	1
II.	<i>Professional Services of the Engineer</i>	2
III.	<i>Fee Schedule</i>	2
IV.	<i>Period of Service</i>	3
V.	<i>Coordination with the County</i>	4
VI.	<i>Review of Instruments of Service</i>	4
VII.	<i>Revision to Instruments of Service</i>	5
VIII.	<i>Engineer's Responsibility and Liability</i>	6
IX.	<i>Ownership of Documents</i>	8
X.	<i>Maintenance of and Right of Access to Records</i>	9
XI.	<i>Miscellaneous:</i>	
A.	Severability	9
B.	Venue and Governing Law	10
C.	Equal Opportunity in Employment	10
D.	Certificate of Engineer	10
E.	Notice	10
F.	Insurance Requirements	11
G.	Property Taxes	11
H.	Successors and Assigns	11
I.	Bidding Exemption	11
J.	Taxpayer Identification	11
K.	Compliance with Laws	11
L.	Reports of Accidents	12
M.	Definition of Engineer	12
N.	Gender, Number and Headings	12
O.	Incorporation of Exhibits & Attachments	12
P.	Entity Status	12
Q.	Construction	12
R.	Independent Contractor Relationship	12
S.	No Waiver of Immunities	13
T.	Interest and Late Payments	13
U.	Texas Public Information Act	13
V.	Acknowledgement	13
W.	Governing Terms and conditions	14
X.	Entire Agreement	14
	Signature Page	14

Contract No. _____

TABLE OF CONTENTS (cont'd)

EXHIBIT I	<i>Compensation for Professional Engineering Services</i>	15
EXHIBIT II	<i>Work Authorization</i>	17
EXHIBIT III	<i>Hourly Rates</i>	18
EXHIBIT IV	<i>Compensation for Additional Professional Services</i>	19
EXHIBIT V	<i>Services To Be Provided By County</i>	20
EXHIBIT VI	<i>Procedures for Termination or Suspension</i>	21
EXHIBIT VII	<i>Equal Opportunity in Employment</i>	23
EXHIBIT VIII	<i>Insurance Requirements</i>	25
EXHIBIT IX	<i>Scope of Services</i>	27
EXHIBIT X	<i>Engineer's Qualification Statement</i>	31

PROFESSIONAL SERVICES AGREEMENT

STATE OF TEXAS §
 §
COUNTY OF WILLIAMSON §

This Professional Services Agreement (**the "Agreement"**) is made and entered into this day by and between Williamson County, Texas, a political subdivision of the State of Texas, (**the "County"**) and CP&Y, Inc. (**the "Engineer"**).

WHEREAS, **County** proposes to construct various transportation projects;

WHEREAS, **County** desires to obtain Professional Engineering Services for Construction Inspection and/or Observation (**the "Project"**);

WHEREAS, **Engineer** has the professional ability and expertise to fulfill the requirements of the **Project**, and to provide advice to the **County** in the selection and analysis of cost-effective alternatives;

WHEREAS, **Engineer** agrees to provide the Professional Engineering Services as more fully set forth in Exhibit IX ("Scope of Services");

WHEREAS, all of the Professional Engineering Services to be provided by **Engineer** pursuant to this Agreement are professional services, the essence of which entails the provision of advice, judgment, or opinion;

WHEREAS, the **County** has separately contracted with a separate engineering firm or individual (**the "Designer"**) for the preparation of the Plans, Specifications, and Estimates (**the "PS&E"**) for the **Project**.

NOW, THEREFORE, **County** and **Engineer** agree to the performance of the Professional Engineering Services by **Engineer** and the payment for these services by **County** as set forth herein.

Section I
Employment of the Engineer

County agrees to employ **Engineer** and **Engineer** agrees to perform the Professional Engineering Services for the **Project** as stated in the Sections to follow. As a condition to employment, it is specifically agreed that any disputes arising hereunder shall be submitted to the County Judge or his designee and/or agent, as designated in writing by the County Judge (**individually or collectively the "County Judge"**). The **County Judge** shall have complete authority for the purpose of resolving disputes arising under this Agreement. The **County Judge's** decision shall be final and binding, subject to any civil remedies otherwise deemed appropriate by the parties hereto.

However, nothing in this Section I or in any other provision of this Agreement regarding submission

of disputes to the **County Judge** and the **County Judge's** ability to resolve disputed matters shall be construed to establish anything other than a *de novo* standard of review by a court of competent jurisdiction in the event that the parties hereto avail themselves of their right to seek civil remedies for any dispute. In the event of a dispute between the terms and conditions of this provision and any other provision of this Agreement, the terms and condition of this provision shall govern.

It is the intention of the **County** and the **County Judge**, and agreed to and hereby acknowledged by the **Engineer**, that no provision of this Agreement shall be construed to require the **County** or the **County Judge** to submit to mandatory arbitration or mediation in the settlement of any claim, cause of action or dispute.

Section II

Professional Services of the Engineer

- A. In consideration of the compensation herein provided, **Engineer** shall perform Professional Engineering Services for the **Project**, which are acceptable to the **County Judge**, based on standard engineering practices and the scope of work described on the Exhibits attached to this Agreement. **Engineer** shall also serve as **County's** professional engineer in those phases of the **Project** to which this Agreement applies and will consult with and give advice to **County** during the performance of **Engineer's** services.
- B. **Engineer** shall not commence work until **Engineer** has been thoroughly briefed on the scope of the **Project** and has been notified in writing by the **County Judge** to proceed, as evidenced by a work authorization substantially in the form of Exhibit II ("Work Authorization"), attached to this Agreement.
- C. **County** shall provide **Engineer** with all Plans, Specifications, and Estimates (PS&E) to this particular **Project** at no cost to **Engineer**; however, any and all such information shall remain the property of **County** and shall be returned, if the **County Judge** so instructs **Engineer**.
- D. **Engineer** shall perform the following Professional Engineering Services:
 - 1. The basic Scope of Services shall generally consist of all elements of Professional Engineering Services required for the **Project** (as more fully set out in Exhibit IX to this Agreement, "Scope of 'Service'"), satisfactory to the **County Judge** and the County's Commissioners Court, in accordance with the requirements, policies, and general practices of Williamson County.

Section III

Fee schedule

- A. For and in consideration of the performance by **Engineer** of the Professional Engineering Services described in the Scope of Services, **County** shall pay and **Engineer** shall receive the fee set forth in Exhibit I. The fee is based upon the hourly rates set forth in Exhibit III. Exhibits I and III are attached hereto and made a part hereof. Invoices shall be submitted by **Engineer** on a monthly basis and are due upon presentation of all items required hereunder, and shall be considered past due if not paid within thirty (30) calendar days of the due date.

- B. For the performance of services not specifically described in the Scope of Services *Engineer* shall receive the additional services compensation described in Exhibit IV, which is attached hereto and made a part hereof. In the event of any dispute over the classification of *Engineer's* services as basic or additional services under this agreement, the decision of the *County Judge* shall be final and binding on *Engineer*.

Section IV Period of Service

- A. *Engineer* shall perform the Professional Engineering Services described in Exhibit IX, the Scope of Services.
- B. This Agreement shall become effective upon the date approved by *County* and will remain in full force and effect for the period required for the construction contract award and construction of the *Project*, including warranty periods provided by the contractor pursuant to the construction contract and any extensions of time, unless terminated earlier as provided for herein. *Engineer* shall complete all work as described in the Scope of Services upon receipt by *Engineer* of *County's* written Work Authorization.
- C. Neither *Engineer* nor *County* shall be responsible for delays caused by "Acts of God", non-county governmental processes, national emergency, or any other causes beyond *Engineer's* or *County's* reasonable control. Upon the discovery of such an event, *Engineer* shall notify *County*, and attend a special meeting with the *County Judge* to propose a program for a solution to the problem, and, if necessary, to establish an estimated period of time of suspension or extension of the work. A written request for an extension of time, when properly documented and justified by the circumstances, will be granted by the *County Judge*.
- D. *County* may suspend the work at any time for any reason without terminating this Agreement by giving written Notice of Suspension and the work may be reinstated and this Agreement resumed in full force and effect within sixty (60) days of receipt by *Engineer* of written Notice of Reinstatement from *County*. *Engineer*, upon receipt of a Notice of Suspension shall follow the procedures described in the attached Exhibit VI, which is attached hereto and made a part hereof. In the event such suspension of the *Project* or the *Engineer's* services hereunder extends for a period of ninety (90) days or more, consecutive or in the aggregate, *Engineer* may terminate this Agreement in writing and such termination shall be treated as a Notice of Termination as provided herein.
- E. Either party may terminate this Agreement for the material failure of the other party to perform in accordance with the terms of this Agreement (the materiality of such failure to be based on standard engineering practices and the scope of work described on the Exhibits attached to this Agreement), through no material fault of the terminating party. *County* may unilaterally terminate this Agreement for reasons other than material failure by *Engineer* to perform by delivering a written Notice of Termination which shall take effect on the tenth day following *Engineer's* receipt of same. If mutually agreed upon, the obligation to provide

services under this Agreement may be terminated without cause upon thirty (30) days written notice. *Engineer* shall follow the procedures specified in Exhibit VI upon issuance or receipt of such notice. In the event of termination of this Agreement because of the material failure of *Engineer* to perform, *County* may prosecute the work to completion by contract or otherwise and, in such a case, *Engineer* shall be liable for any additional costs incurred by *County*.

- F. All references to time in this Agreement shall be measured in calendar days unless otherwise specified.

Section V

Coordination with the County

- A. The *County Judge* will act on behalf of *County* with respect to the work to be performed under this Agreement. The *County Judge* shall have complete authority to interpret and define *County's* policies and decisions with respect to *Engineer's* services. The *County Judge* may, in writing, designate representatives to transmit instructions and receive information.
- B. *Engineer* shall not commence work on any phase of the *Project* until a thorough briefing on the scope of the *Project* is received and a written Work Authorization is issued by the *County Judge* in substantially the form of that in Exhibit II.
- C. *Engineer* shall have the responsibility at all times under the terms of this Agreement to advise *County* whether in *Engineer's* judgment it is feasible to proceed with the recommendations given any known constraints affecting the *Project*.
- D. *Engineer* shall cooperate and coordinate with *County's* staff, and other engineers and contractors as reasonable and necessary and as required by the *County Judge*.

Section VI

Review of Engineer's Instruments of Service

- A. *Engineer's* engineering Instruments of Service will be reviewed by *County* under its applicable technical requirements and procedures.
- B. Reports and supporting documents, (*the "Instruments of Service"*), shall be submitted by *Engineer* on or before the date specified in Exhibit IX. Upon receipt of the Instruments of Service, the submission shall be checked for acceptance. "Acceptance" shall mean that in the *County Judge's* opinion substantial conformance with the requirements of the Scope of Service of this Agreement has been achieved. The acceptability of any Instruments of Service submitted to *County* shall be determined by *County* within fourteen (14) days of such submittal and *County* shall notify *Engineer* in writing within such 14-day period if such work product has been found to be acceptable.
- C. If the submission is acceptable, *County* shall notify *Engineer*, in writing within fourteen (14)

days of the submission, that the submission is acceptable.

- D. If the submission is deemed not acceptable, *County* shall notify *Engineer*, who shall perform such Professional Engineering Services as are required to make the Instruments of Service in conformance with the Scope of Services and resubmit it to *County*. This process shall be repeated until a submission is deemed acceptable.
- E. *County* shall review the Instruments of Service for conformance with the Scope of Services. If necessary, the Instruments of Service shall be returned to *Engineer*, who shall perform any required Professional Engineering Services and resubmit it to *County*. This process shall be repeated until the Instruments of Service is accepted.
- F. After acceptance, *Engineer* shall perform any required modifications, changes, alterations, corrections, and additional work necessary to receive final approval by the *County Judge*. "Approval" in this sense shall mean formal recognition that the Scope of Services have been fully performed and submitted in conformance with Exhibit IX.
- G. After approval of final Instruments of Service, *Engineer* shall without additional compensation perform any Professional Engineering Service required as a result of *Engineer's* development of the Instruments of Service which is found to be in error or omission due to *Engineer's* negligence. However, any Professional Engineering Services required or occasioned for the convenience of *County* after approval of a final Instruments of Service shall be paid for as Additional Services.
- H. In the event of any dispute over the classification of *Engineer's* Instruments of Service as conforming, accepted, or approved under this Agreement, the decision of the *County Judge* shall be final and binding on *Engineer*, subject to any civil remedy or determination otherwise available to the parties and deemed appropriate by the parties.

Section VII Revision to Instruments of Service

Engineer shall make, without expense to *County*, such revisions to the Instruments of Service as may be required to correct negligent acts, errors or omissions that result from *Engineer's* Scope of Service herein so the Instruments of Service meets the Quality Assurance Plan, but after the approval of the Instruments of Service any revisions, additions, or other modifications made at *County's* request which involve extra services and expenses to *Engineer* shall entitle *Engineer* to additional compensation for such extra services and expenses, provided however, that *Engineer* agrees to perform any necessary corrections to the Instruments of Service, which are found to be negligent acts, error or omission as a result of the *Engineer's* development of the Instruments of Service, at any time, without additional compensation. Nothing in this Section or any other provision of this Agreement shall require *Engineer* to make any revisions or changes to the PS&E developed and provided by *Designer* except as necessary to comply with the desired *Scope of Services* as detailed in Exhibit IX related to performance of duties necessary to comply with Part III Section E of the Texas Pollution Discharge Elimination System (TPDES) permit TXR150000. The *Engineer*

shall be considered "engaged", as described in Section 137.33 of the Texas Engineering Practice Act and Rules Concerning The Practice of Engineering and Professional Engineering Licensure, upon execution of this Agreement by all parties. In the event of any dispute over the classification of *Engineer's* services as Basic or Additional Services under this Agreement, the decision of the *County Judge* shall be final and binding on *Engineer*, subject to any civil remedy or determination otherwise available to the parties and deemed appropriate by the parties.

Section VIII Engineer's Responsibility and Liability

- A. *Engineer* covenants to undertake no task in which a professional license or certificate is required unless it or someone under its direction is appropriately licensed. In the event such licensed individual's license expires, is revoked, or is canceled, *Engineer* shall inform *County* of such event within five working days.
- B. *Engineer* shall be responsible for conformance with applicable federal and state laws, county permitting requirements, and city ordinances currently in effect, except as otherwise directed by the *County Judge* regarding county permitting or similar requirements, applicable to the Scope of Services described Exhibit IX to this Agreement, properly waivable by the *County Judge*.
- C. **ENGINEER SHALL INDEMNIFY, AND HOLD HARMLESS COUNTY, ITS OFFICIALS AND EMPLOYEES FROM AND AGAINST ALL SUITS, ACTIONS, LIABILITY, LOSS, DAMAGE, REASONABLE ATTORNEY'S FEES, COSTS, AND EXPENSES (INCLUDING, BUT NOT LIMITED TO EXPENSES RELATED TO EXPERT WITNESSES) OF ANY KIND WHATSOEVER, TO THE EXTENT ARISING FROM ANY NEGLIGENT ACT, ERROR OR OMISSION OF ENGINEER OR ANY OF ITS SUBCONSULTANTS IN CONNECTION WITH THE PERFORMANCE OF SERVICES UNDER THIS AGREEMENT; PROVIDED, HOWEVER, ENGINEER SHALL NOT BE RESPONSIBLE FOR THE NEGLIGENT ACTS, ERRORS, OR OMISSIONS OF ANY OTHER PARTY, OTHER THAN ITSELF OR THAT OF ITS SUBCONSULTANTS AND FOR A SUBCONSULTANT ONLY AS A DIRECT RESULT OF NEGLIGENT ACTS, ERRORS, OR OMISSIONS WHILE PERFORMING PROFESSIONAL SERVICES PURSUANT TO THE SCOPE OF THIS AGREEMENT.**
- D. *Engineer's* opinions of probable *Project* cost or construction cost represent *Engineer's* professional judgment as a professional familiar with the construction industry, but *Engineer* does not guarantee that proposals, bids, or the construction cost, itself, will not vary from *Engineer's* opinions of probable cost and shall not be responsible for proposals, bids, or the construction costs, should they vary from *Engineer's* opinions of probable costs.
- E. *Engineer* shall perform all services and responsibilities required of *Engineer* under this Agreement using at least that standard of care which a reasonably prudent engineer in Texas, who is licensed by the State Board of Engineers or the State Board of Registered Professional

Surveyors, as applicable, would use in similar circumstances.

- F. **Engineer** represents that it presently has, or is able to obtain, adequate qualified personnel in its employment for performance of the services required under this Agreement and that **Engineer** shall furnish and maintain, at its own expense, adequate and sufficient personnel and equipment, in the reasonable opinion of **County**, to perform the services when and as required and without delays. It is understood that **County** will approve assignment and release of all key **Engineer** and professional personnel.
- G. All employees of **Engineer** shall have such knowledge and experience as will enable them to perform the duties assigned to them. Any employee of **Engineer**, who in the opinion of **County** is incompetent or whose conduct becomes detrimental to the work or coordination with **County**, shall upon **County's** and/or **County Judge's** request be immediately removed from association with the **Project**.
- H. **Engineer** shall furnish all equipment, transportation, supplies, and materials required for its performance of the Professional Engineering Services as set forth in the Scope of Services attached as Exhibit IX to this Agreement.
- I. **Engineer** shall place its Texas Professional Engineer's seal of endorsement on all documents of Instruments of Service furnished to **County**, as required by law.
- J. **Engineer** is an independent contractor under this Agreement. Neither it nor any officer, agent or employee of **Engineer** shall be classified as an employee of **County**.
- K. **Safety.** The **Engineer** shall not have control or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures or for the safety precautions and programs in connection with the Project construction, for the acts or omissions of the contractor, subcontractors, any of their agents or the subcontractors' employees, or any other person performing any of the work or for the failure of such persons to carry out the work in accordance with the contract documents; provided however, the **Engineer** shall not be relieved from its obligation to notify the County or any other applicable authority of any unsafe condition resulting from an act, omission or failure on the part of the construction if **Engineer** becomes aware of such an unsafe condition in the normal course of providing its Scope of Services or as otherwise required by the **Engineer's** professional duties as prescribed by the Rules of Professional Practice promulgated by the Texas Board of Professional Engineers.

Engineer's obligation to report any observed unsafe job conditions to the County shall not make **Engineer** responsible for construction job site safety, the responsibility of which shall remain solely with the construction contractor. **Engineer's** obligation to report unsafe job conditions to the County runs solely to the County. There are no third party beneficiaries intended by this obligation, in particular, construction contractor's employees do not have the right to rely on **Engineer's** obligation to report unsafe job conditions to the County so as to provide for a safe work environment for construction contractor's employees.

No provision of this Agreement requires *Engineer* to make exhaustive inspections of the contractor's work under the construction contract for the *Project*. *Engineer's* inspections, observations, and documentation of construction activities and work is to confirm the construction's conformance with the PS&E and acceptable engineering standards and practices.

The County shall enter into a third party contract for the construction of the project. The contract between the County and the contractor shall require the contractor to indemnify the *Engineer* and name the *Engineer* as additional insured under contractor's commercial general liability, builder's risk, and umbrella liability coverage for the insured liabilities assumed by the contractor. The contractor's insurance coverage shall be primary insurance for the insured liabilities under the Agreement with respect to the contractor, its officers, directors, agents and consultants including the *Engineer*.

The construction contractor retained by the County has sole responsibility for providing materials, means, and methods of construction, for controlling the individual work area and safety of said areas for all parties.

The *Engineer* shall be responsible for taking all appropriate steps to ensure the safety of its employees in connection with its performance of the services provided under this agreement.

Section IX Ownership of Documents

- A. Any and all Instruments of Service, including the original drawings, estimates, computer tapes, graphic files, tracings, calculations, analyses, reports, specifications, field notes, and data prepared by *Engineer* are the property of *County* and upon completion of the work or termination of this Agreement or as otherwise instructed by *County* and/or *County Judge*, shall be delivered to *County* in an organized fashion with *Engineer* retaining a copy. ✓
- B. Any reuse by *Engineer* of any such documents described in subsection A above, without the specific written consent of *County* shall be at *Engineer's* sole risk and without liability or legal exposure to *County*. Should *Engineer* be terminated, *Engineer* shall not be liable for *County's* use of partially completed Instruments of Service on this *Project* or any other project, except to the extent such Instruments of Service were deemed complete or otherwise "Accepted" or "Approved" as provided herein by *Engineer*, or Surveyor, as applicable, as specified by professional standards.
- C. *Engineer* will not be responsible for any use or any modifications to the Instruments of Service described in subsection A performed by any entity without the specific written consent of *Engineer*. Any modification by an entity or individual other than the *Engineer* as described in this paragraph shall be made in accordance with all applicable professional standards and shall necessitate the removal of the *Engineer's* Texas Professional Engineer's seal of endorsement from all such modified documents.

Section X
Maintenance of and Right of Access to Records

- A. **Engineer** agrees to maintain appropriate accounting records of costs, expenses, and payrolls of employees working on the **Project** for a period of three (3) years after final payment for completed services and all other pending matters concerning this Agreement have been closed.
- B. **Engineer** further agrees that **County** or its duly authorized representatives shall, until the expiration of three (3) years after final payment under this Agreement, have access to and the right to examine and photocopy any and all books, documents, papers and records of **Engineer**, which are directly pertinent to the services to be performed under this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions. **Engineer** agrees that **County** shall have access during normal working hours to all necessary **Engineer** facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. **County** shall give **Engineer** reasonable advance notice of intended audits.
- C. **Engineer** further agrees to include in all its sub-consultant agreements hereunder a provision to the effect that the sub-consultant agrees that **County** shall, until the expiration of three (3) years after final payment under the subcontract, have access to and the right to examine and photocopy any directly pertinent books, documents, papers and records of such sub-consultant, involving transactions to the subcontract, and further, that **County** shall have access during normal working hours to all sub-consultant facilities, and shall be provided adequate and appropriate work space, in order to conduct audits in compliance with the provisions of this section together with subsection (D) hereof. **County** shall give sub-consultant reasonable advance notice of intended audits.
- D. **Engineer** and sub-consultant agree to photocopy such documents as may be requested by **County**. **County** agrees to reimburse **Engineer** for the cost of copies at the rate published in the Texas Administrative Code in effect as of the time copying is performed. **County** also agrees to compensate **Engineer** for services performed pursuant to this Section as requested by **County**, or by a third-party pursuant to a validly determined Texas Public Information Act request. For any such services, **Engineer** shall receive the additional services compensation described in Exhibit IV, which is attached hereto and made a part hereof.

Section XI
Miscellaneous

- A. **Severability.** If any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof, but rather this entire Agreement will be construed as if not containing the particular invalid or unenforceable provision or provisions, and the rights and obligation of the parties shall be construed and enforced in accordance therewith. The parties acknowledge that if any provision of this Agreement is determined to be invalid or unenforceable, it is the desire and intention of each that such provision be reformed and

construed in such a manner that it will, to the maximum extent practicable, give effect to the intent of this Agreement and be deemed to be validated and enforceable.

- B. ***Venue and Governing Law.*** It is contemplated that this Agreement shall be performed in Williamson County, Texas, and the venue and jurisdiction of any suit, right, or cause of action arising out of or in connection with this Agreement shall lie exclusively in Williamson County, Texas. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas.
- C. ***Equal Opportunity in Employment.*** *Engineer* agrees, during the performance of the services under this Agreement, to comply with the equal opportunity in employment provisions cited in Exhibit VII, which is attached hereto and made a part hereof.
- D. ***Certificate of Engineer.*** *Engineer* certifies that neither *Engineer* nor any members of *Engineer's* firm has:
- (1) Employed or retained for a commission, percentage, brokerage, contingency fee, or other consideration, any firm or person (other than a bona fide employee working solely for *Engineer*) to solicit or secure the work provided by the Agreement.
 - (2) Agreed, as an expressed or implied condition for obtaining this contract, to employ or retain the services of any firm or person other than in connection with carrying out the work to be performed under this Agreement.
 - (3) Paid or agreed to pay to any firm, organization, or person (other than bona fide employees working solely for *Engineer*) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the work provided under this Agreement.

Engineer further agrees that this certification may be furnished to any local, state or federal governmental agencies in connection with this Agreement and for those portions of the *Project* involving participation of agency grant funds and is subject to all applicable state and federal, criminal and civil laws.

- E. ***Notice.*** Any notice to be given hereunder shall be in writing and may be affected by personal delivery in writing or by registered or certified mail, return receipt requested, addressed to the proper party, at the following address:

ENGINEER: CP&Y, Inc.
10415 Morado Circle, Building I, Suite 200
Austin, TX 78759
Attn: James J. Roohms, P.E.

COUNTY: Williamson County Judge
Dan Gattis (or successor)
710 Main Street, Suite 101
Georgetown, Texas 78626

with copy to: Hal C. Hawes
Legal Advisor
Office of Williamson County Judge
710 Main Street, Suite 200
Georgetown, Texas 78626

and to: Prime Strategies, Inc.
1508 South Lamar Blvd.
Austin, Texas 78704
Attn: Michael Weaver

and to: HNTB
14 Galloping Road
Round Rock, Texas 78681
Attn: James Klotz, P.E.

OK
MM 3/22/2017

- F. **Insurance Requirements.** *Engineer* agrees during the performance of the services under this Agreement to comply with the INSURANCE REQUIREMENTS provisions described in Exhibit VIII, which is attached hereto and made a part hereof.
- G. **Property Taxes.** Notwithstanding anything to the contrary herein, to the extent *County* becomes aware that *Engineer* is delinquent in the payment of property taxes related to property located in Williamson County at the time of invoicing, *Engineer* hereby assigns any payments to be made for services rendered hereunder to the Williamson County Tax Assessor-Collector for the payment of said delinquent taxes. Notwithstanding the above, *County* shall not have an affirmative duty to determine if *Engineer* is delinquent in the payment of property taxes.
- H. **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of *County* and *Engineer* and their respective successors, executors, administrators, and assigns. Neither *County* nor *Engineer* may assign, sublet, or transfer his interest in or obligations under this Agreement without the written consent of the other party hereto.
- I. **Bidding Exemption.** This Agreement is exempted from the bidding requirements of the County Purchasing Act pursuant to Section 262.024(a)(4) of the Local Government Code as this is a contract for professional services.
- J. **Taxpayer Identification.** *Engineer* shall provide to *County Judge* upon submittal of *Engineer's* initial invoice requesting payment Internal Revenue Form W-9 Request for Taxpayer Identification Number and Certification that is completed in compliance with the Internal Revenue Code, its rules and regulations.
- K. **Compliance with Laws.** *Engineer* shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or

administrative bodies or tribunals in any matter affecting the performance of this Agreement, including, without limitation, Worker's Compensation laws, minimum and maximum salary and wage statutes and regulations, licensing laws and regulations. When required, the **Engineer** shall furnish the **County** with certification of compliance with said laws, statutes, ordinances, rules, regulations, orders, and decrees above specified.

- L. **Reports of Accidents.** Within 24 hours after **Engineer** becomes aware of the occurrence of any accident or other event on or relating to the Project which results in, or might result in, injury to the person or property of any third person (other than an employee of the **Engineer**), whether or not it results from or involves any action or failure to act by the **Engineer** or any employee or agent of the **Engineer** and which arises in any manner from the performance of this Agreement, the **Engineer** shall send a written report of such accident or other event to the County, setting forth a full and concise statement of the facts pertaining thereto. The **Engineer** shall also immediately send the County a copy of any summons, subpoena, notice, or other documents served upon the **Engineer**, its agents, employees, or representatives, or received by it or them, in connection with any matter before any court arising in any manner from the **Engineer's** performance of work under this Agreement.
- M. **Definition of Engineer.** The term "**Engineer**" as used herein is defined as including Registered Professional Surveyors, as applicable to the work to be performed under this Agreement, and any reference to professional standards in regards to a Registered Professional Surveyor shall relate to those standards promulgated by the State Board of Registered Professional Surveyors.
- N. **Gender, Number and Headings.** Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires. The headings and section numbers are for convenience only and shall not be considered in interpreting or construing this Agreement.
- O. **Incorporation of Exhibits.** All of the Exhibits referred to in the Agreement are incorporated by reference as if set forth verbatim herein.
- P. **Entity Status.** By my signature below, I certify that **Engineer** is a Corporation, duly authorized to transact and do business in the State of Texas.
- Q. **Construction.** Each party hereto acknowledges that it and its counsel have reviewed this Agreement and that the normal rules of construction are not applicable and there will be no presumption that any ambiguities will be resolved against the drafting party in the interpretation of this Agreement.
- R. **Independent Contractor Relationship.** Both parties hereto, in the performance of this Agreement, shall act in an individual capacity and not as agents, employees, partners, joint ventures or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever.

- S. **No Waiver of Immunities.** Nothing in this Agreement shall be deemed to waive, modify or amend any legal defense available at law or in equity to **County**, its past or present officers, employees, or agents or employees, nor to create any legal rights or claim on behalf of any third party. **County** does not waive, modify, or alter to any extent whatsoever the availability of the defense of governmental immunity under the laws of the State of Texas and of the United States.
- T. **Interest and Late Payments.** **County's** payment for the Professional Engineering Services shall be governed by Chapter 2251 of the Texas Government Code. Invoices shall be paid by **County** within thirty (30) days from the date of the Williamson County Auditor's receipt of an invoice. Interest charges for any late payments shall be paid by **County** in accordance with Texas Government Code Section 2251.025. More specifically, the rate of interest that shall accrue on a late payment is the rate in effect on September 1 of **County's** fiscal year in which the payment becomes due. The said rate in effect on September 1 shall be equal to the sum of one percent (1%); and (2) the prime rate published in the Wall Street Journal on the first day of July of the preceding fiscal year that does not fall on a Saturday or Sunday. In the event that a discrepancy arises in relation to an invoice, such as an incorrect amount on an invoice or a lack of documentation that is required to be attached to an invoice to evidence the amount claimed to be due, **County** shall notify the party requesting payment of such an invoice of the discrepancy. Following **County's** notification of any discrepancy as to an invoice, the party requesting payment must resolve the discrepancy and resubmit a corrected or revised invoice, which includes all required support documentation, to the Williamson County Auditor. **County** shall pay the invoice within thirty (30) days from the date of the Williamson County Auditor's receipt of the corrected or revised invoice. **County's** payment of an invoice that contains a discrepancy shall not be considered late, nor shall any interest begin to accrue until the thirty-first (31st) day following the Williamson County Auditor's receipt of the corrected or revised invoice.
- U. **Texas Public Information Act.** To the extent, if any, that any provision in this Agreement is in conflict with Tex. Gov't Code 552.001 *et seq.*, as amended (the "Public Information Act"), the same shall be of no force or effect. Furthermore, it is expressly understood and agreed that **County**, its officers and employees may request advice, decisions and opinions of the Attorney General of the State of Texas in regard to the application of the Public Information Act to any items or data furnished to **County** as to whether or not the same are available to the public. It is further understood that **County's** officers and employees shall have the right to rely on the advice, decisions and opinions of the Attorney General, and that **County**, its officers and employees shall have no liability or obligation to any party hereto for the disclosure to the public, or to any person or persons, of any items or data furnished to **County** by a party hereto, in reliance of any advice, decision or opinion of the Attorney General of the State of Texas.
- V. **Acknowledgement.** As a duly authorized representative of **Engineer**, I acknowledge by my signature below that I have read and understand the above paragraphs and that **Engineer** has the obligation to ensure compliance with its provisions by itself and its employees, agents, and representatives.

- W. **Governing Terms and Conditions.** If there is an irreconcilable conflict between the terms and conditions set forth in Sections I. through XI. of this Agreement and the terms and conditions set forth in any Exhibit to this Agreement, the terms and conditions set forth in Sections I. through XI. of this Agreement shall control over the terms and conditions set forth in any Exhibit to this Agreement.
- X. **Entire Agreement.** This Agreement represents the entire and integrated Agreement between **County** and **Engineer** and supersedes all prior negotiations, representations, or agreements, either oral or written. This Agreement may be amended only by written instrument signed by both **County** and **Engineer**. NO OFFICIAL, EMPLOYEE, AGENT, OR REPRESENTATIVE OF THE COUNTY HAS ANY AUTHORITY, EITHER EXPRESS OR IMPLIED, TO AMEND THIS CONTRACT, EXCEPT PURSUANT TO SUCH EXPRESS AUTHORITY AS MAY BE GRANTED BY THE COUNTY COMMISSIONERS COURT.
- Y. **No Third-Party Beneficiaries.** No provision of this Agreement shall be construed to establish a cause of action in favor of any party other than the parties hereto. It is the express intention of the **County** and the **Engineer** that there be no third-party beneficiaries to this Agreement.
- Z. **Waiver of Consequential Damages.** **County** and **Engineer** agree to waive recovery of any consequential damages which arise as a proximate result of a breach of this Agreement.

EXECUTED this 18th day of March, 2011.

THE ENGINEER:

CP&Y, INC.:

BY: _____

Printed Name: James J. Roohms

Title: Senior Vice President

THE COUNTY:

WILLIAMSON COUNTY:

BY: _____

Printed Name: Dan A. Gattis, County Judge

Date: _____

Reviewed as to Form By:

Legal Advisor to the Williamson
County Commissioners Court

County Auditor

OK
my 3/22/2011

EXHIBIT I

COMPENSATION FOR PROFESSIONAL ENGINEERING SERVICES

ACTUAL COST OF SERVICES METHOD

[Note: A separate Compensation Agreement will be attached for Compensation on a Work-Order Basis]

SECTION 1 - BASIS FOR COMPENSATION

- 1.1 The not-to-be-exceeded fee for the performance of the Scope of Services described in the Agreement shall be the sum of \$300,000.00.
- 1.2 The basis of compensation for the services of principals and employees engaged in the performance of the work shall be the hourly rates set forth in attached Exhibit III.
- 1.3 *Engineer* shall be reimbursed for actual non-labor and subcontract expenses incurred in the performance of the services under this Agreement at the *Engineer's* invoice cost.

SECTION 2 - NOT-TO-BE-EXCEEDED FEE

- 2.1 *Engineer* and *County* acknowledge the fact that the not-to-be-exceeded fee is the total estimated costs of services to be rendered under this Agreement. This not-to-be-exceeded fee is based upon the labor and non-labor costs set forth in Exhibit III to this Agreement and described above, estimated to be required in the performance of the various phases of work provided for under this Agreement. Should the actual costs of the services rendered under this Agreement be less than such estimated cost, then *Engineer* shall receive compensation for only those services actually rendered.

SECTION 3 – WORK AUTHORIZATIONS

- 3.1 *County* will prepare and issue Work Authorizations, in the form identified and attached hereto as Exhibit II to authorize the *Engineer* to perform one or more tasks. Each Work Authorization will include a description of the work to be performed, a description of the tasks and milestones, a work schedule for the tasks, and a fee amount agreed upon by the *County* and *Engineer*. The amount payable for a Work Authorization shall be supported by the estimated cost of each work task as described in the Work Authorization. The Work Authorization will not waive the *Engineer's* responsibilities and obligations established in this Agreement. The executed Work Authorizations shall become part of this Agreement.
- 3.2 Work included in a Work Authorization shall not begin until *County* and *Engineer* have signed the Work Authorization. All work must be completed on or before the completion date specified in the Work Authorization. The *Engineer* shall promptly notify the *County* of any event which will affect completion of the Work Authorization, although such notification shall not relieve the *Engineer* from costs or liabilities resulting from delays in completion of

the Work Authorization. Any changes in the Work Authorization shall be enacted by a written Supplemental Work Authorization before additional work may be performed or additional costs incurred. Any Supplemental Work Authorization must be executed by both parties within the period specified in the Work Authorization. The **Engineer** shall not perform any proposed work or incur any additional costs prior to the execution, by both parties, of a Supplemental Work Authorization.

SECTION 4 - ADDITIONAL SERVICES

- 4.1 For additional services, compensation shall be negotiated in accordance with Exhibit IV.
- 4.2 **Engineer** shall be compensated for extra services not included in the Scope of Services described in the Agreement on the basis specified in Exhibit IV; however, **Engineer** shall not be compensated for work made necessary by **Engineer's** negligent acts, errors or omissions.
- 4.3 The maximum amount payable under this Agreement without modification (the "**Compensation Cap**") is \$300,000.00, provided that any amounts paid or payable shall be solely pursuant to a validly issued Work Authorization or any Supplemental Work Authorization related thereto. In no event may the aggregate amount of compensation authorized under Work Authorizations and Supplemental Work Authorizations exceed the **Compensation Cap**.

SECTION 5 – REQUIRED SUPPORTING DOCUMENTATION

- 5.1 Upon submittal of the initial invoice for service, **Engineer** shall provide **County Judge** with an Internal Revenue Form W-9, Request for Taxpayer Identification Number and Certification that is complete in compliance with the Internal Revenue Code, its rules and regulations.
- 5.2 All invoices submitted to **County Judge** will be accompanied by an original, complete packet of supporting documentation. Invoices should detail hours worked by staff person, with a description of the work performed by individuals. .
- 5.3 For additional services performed pursuant to Section III B of this Agreement, a separate invoice or itemization of this work will be presented with the same requirements for supporting documentation as in Section 5.2 of this Exhibit.
- 5.4 Invoices requesting reimbursement for expenditures related to the project (reimbursables) must be accompanied by copies of the provider's invoice which was previously paid by **Engineer**.
- 5.5 Payments for Direct and Reimbursable Expenses will be made in compliance with the approved 2009-2010 Budget Order, as amended. The Budget Order can be viewed on the Williamson County web site at www.wilco.org.

EXHIBIT II

WORK AUTHORIZATION NO. Sample

This Work Authorization is made pursuant to the terms and conditions of the Agreement entered into by and between Williamson County, Texas, a political subdivision of the State of Texas, (*the "County"*) and CP&Y, Inc. (*the "Engineer"*).

Part 1. The *Engineer* will provide the following engineering services:

Professional Engineering Services for Construction Inspection and/or Observation on _____ (*the "Project"*).

Part 2. The maximum amount payable for services under this Work Authorization without modification is \$_____.

Part 3. Payment to the *Engineer* for the services established under this Work Authorization shall be made in accordance with the Agreement.

Part 4. This Work Authorization shall become effective on the date of final acceptance of the parties hereto and shall terminate on _____, unless extended by a Supplemental Work Authorization.

Part 5. This Work Authorization does not waive the parties' responsibilities and obligations provided under the Agreement.

Part 6. This Work Authorization is hereby accepted and acknowledged below.

EXECUTED this ____ day of _____, 201__.

ENGINEER:
CP&Y, Inc.

COUNTY:
Williamson County, Texas

By: _____
Signature

By: Sample
Signature

Printed Name

Printed Name

Title

Title

EXHIBIT III

Hourly Rates

<u>Position</u>	<u>On-Site</u>
3. Senior Inspector	\$100.00 /hr.

OK
my 3/22/2011

EXHIBIT IV

COMPENSATION FOR ADDITIONAL PROFESSIONAL SERVICES

1. The fees described in Exhibits I and II to this Agreement shall provide compensation to ***Engineer*** for the Professional Engineering Services described in the Basic Scope of Services of the Agreement.
2. For the performance of work not described in the Basic Scope of Services of the Agreement, ***County*** shall pay and ***Engineer*** shall receive, under a negotiated contract modification, compensation based upon the method and rates set forth in Exhibits I and II to the Agreement.
3. The performance of any additional services must be authorized in writing in advance by the ***County Judge***.
4. In the event of any dispute over the classification of ***Engineer's*** services as either basic or additional services, the decision of the ***County Judge*** shall be final and binding.

EXHIBIT V

SERVICES TO BE PROVIDED BY COUNTY. The County will assist the Engineer by providing assistance, service, or data items as required to advance the completion of assigned work authorizations.

- Provide existing data files, to include but not limited to:
 - Survey data;
 - Roadway construction plans, design documents for the construction of *the Project*;
 - Right-of-Way mapping;
- Approved environmental documents.
- Applicable special specifications, special provisions, and unit price bid tabulation.

Provide timely review, comment or direction, as required, to aid the Engineer in completing an assigned task or maintaining the established project schedule. The County will provide the *Engineer* with:

- Temporary shared offsite location with internet access.
- Offsite work space to complete and store records.
- Access to combination color printer/copier/scanner.

EXHIBIT VI

PROCEDURES FOR TERMINATION OR SUSPENSION

Procedures for **Engineer** to follow upon receipt of Notice of Termination:

1. Upon receipt of a Notice of Termination and prior to the effective date of the termination, **Engineer** shall, unless the Notice otherwise directs, immediately begin to phase out and discontinue all services in connection with the performance of this Agreement and shall proceed to promptly cancel all existing orders and contracts insofar as such orders and contracts are chargeable to this Agreement. Within thirty (30) days after receipt of the Notice of Termination, **Engineer** shall submit a statement, showing in detail the services performed under this Agreement prior to the effective date of termination.
2. Copies of all Instruments of Service prepared under this Agreement prior to the effective date of termination shall be delivered to **County** as a pre-condition to final payment. The foregoing language notwithstanding, **County** and **Engineer** agree that **Engineer**, in its sole discretion, will be allowed to sign and seal such Instruments of Service, or place any other appropriate comment on the Instruments of Service, as appropriate for the phase of preparation of the Instruments of Service as more fully set out in Section 137.33 of the Texas Board of Professional Engineer's Rules Concerning the Practice of Engineering, effective as of the date of delivery of the Instruments of Service.
3. Upon the above conditions being met, **County** shall pay **Engineer** for approved services actually performed under this Agreement, less previous payments.
4. Failure by **Engineer** to submit the required statement and to comply with the above stated conditions without good and reasonable cause shall constitute a waiver by **Engineer** of any and all rights or claims to collect the fee that **Engineer** may rightfully be entitled to for services performed under this Agreement.

Procedures for **Engineer** to follow upon receipt of Notice of Suspension:

1. Upon receipt of a Notice of Suspension and prior to the effective date of the suspension, **Engineer** shall, unless the Notice otherwise directs, immediately begin to phase-out and discontinue all services in connection with the performance of this Agreement and shall prepare a statement detailing the services performed under this Agreement prior to the effective date of suspension. Copies of all completed or partially completed Instruments of Service prepared under this Agreement prior to the effective date of suspension shall be prepared for possible delivery to **County**, but shall be retained by **Engineer** unless requested by **County**.
2. During the period of suspension, **Engineer** may submit the above-referenced statement to **County** for payment of the approved services actually performed under this Agreement, less previous payments.

Procedures for **Engineer** to follow upon exercise of right to terminate for substantial failure of **County** to perform:

1. In the event that **Engineer** exercises such right to terminate, within thirty (30) days after receipt by **County** of **Engineer's** Notice of Termination, **Engineer** shall submit a statement detailing the services performed under this Agreement prior to the effective date of termination.
2. Copies of all completed or partially completed Instruments of Service shall be delivered to **County** as a pre-condition to final payment. Upon the above conditions being met, **County** shall pay **Engineer** for approved services actually performed under this Agreement, less previous payments. . The foregoing language notwithstanding, **County** and **Engineer** agree that **Engineer**, in its sole discretion, will be allowed to sign and seal such Instruments of Service, or place any other appropriate comment on the Instruments of Service, as appropriate for the phase of preparation of the Instruments of Service as more fully set out in Section 137.33 of the Texas Board of Professional Engineer's Rules Concerning the Practice of Engineering, effective as of the date of delivery of the Instruments of Service.
3. Failure by **Engineer** to submit the required statement and to comply with the above stated conditions without good and reasonable cause shall constitute a waiver by **Engineer** of any and all rights or claims to collect the fee that **Engineer** may rightfully be entitled to for services performed under this Agreement.

EXHIBIT VII

EQUAL OPPORTUNITY IN EMPLOYMENT

- A. **Engineer** will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. **Engineer** will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; termination; rates of pay or other forms of compensation, and selection for training, including apprenticeship. **Engineer** agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this non-discrimination clause.
- B. **Engineer** will, in all solicitations or advertisements for employees placed by or on behalf of **Engineer**, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
- C. **Engineer** will send to the labor union representative or workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the Contract Compliance Officer advising the said labor union or worker's representatives of **Engineer's** obligations under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- D. **Engineer** will comply with the Regulations of the Department of Transportation (49 CFR 21 and 23 CFR 710.405) and all provisions of Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 (41 CFR 60) and of the rules, regulations and relevant order of the Secretary of Labor. In the event that federal financial assistance is provided for the **Project**, **Engineer** shall comply with 49 CFR 26, TxDOT's Disadvantaged Business Enterprises Program and any Memorandum of Understanding between the **County** and TxDOT pertaining to such Disadvantaged Business Enterprise Program.
- E. **Engineer** will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations and orders of the Secretary of Labor, or pursuant thereto; and will permit access to his books, records, and accounts by the Department and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- F. In the event of **Engineer's** non-compliance with the non-discrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and **Engineer** may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 (41 CFR 60) or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

- G. *Engineer* will include the provisions of paragraph (A.) through (F.) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 or Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 (41 CFR 60), so that such provisions will be binding upon each subcontractor or vendor. *Engineer* will take such action with respect to any subcontractor purchase order as the Department may direct as a means of enforcing such provisions, including sanctions for non-compliance: provided, however, that in the event *Engineer* becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by *County* or Federal Agency, *Engineer* may request *County* and United States to enter into such litigation to protect the interest of the United States.

EXHIBIT VIII

INSURANCE REQUIREMENTS

During the life of this Agreement, *Engineer* agrees to provide and maintain the following insurance:

- A. Worker's Compensation in accordance with statutory requirements.
- B. Commercial General Liability Insurance with a combined minimum Bodily Injury and Property Damage limits of \$1 million per occurrence and \$2 million in the aggregate, including coverage on same for independent subcontractor(s). WILLIAMSON COUNTY SHALL BE NAMED AS AN ADDITIONAL INSURED UNDER THIS COVERAGE.
- C. Automobile Liability Insurance for all owned, non-owned, and hired vehicles with combined minimum limits for Bodily Injury and Property Damage limits of \$1 million per occurrence and \$2 million in the aggregate. *Engineer* shall require any subcontractor(s) to provide Automobile Liability Insurance in the same minimum amounts.
- D. Professional Liability Errors and Omissions Insurance in the amount of \$1 million.
- E. In the event *Engineer* is self-insured in connection with any or all of the above-required insurance policies, *Engineer* shall submit proof of such self-insurance and all financial statements as reasonably required by the *County* in order to determine the acceptability of such self-insurance.

Engineer shall not commence any field work under this Agreement until he has obtained all required insurance and such insurance or self-insurance has been approved by *County*. *Engineer* shall not allow any subcontractor(s) to commence work to be performed in connection with this Agreement until all required insurance has been obtained and approved. Approval of the insurance by *County* shall not relieve or decrease the liability of *Engineer* hereunder.

The required insurance must be written by a company approved to do business in the State or Texas with a financial standing of at least an A- rating, as reflected in Best's insurance ratings or by a similar rating system recognized within the insurance industry at the time the policy is issued. *Engineer* shall furnish *County* with a certification of coverage issued by the insurer. *Engineer* shall not cause any insurance to be canceled nor permit any insurance to lapse. ALL INSURANCE CERTIFICATES REQUIRED PURSUANT TO PARAGRAPH B, ABOVE, SHALL INCLUDE A CLAUSE TO THE EFFECT THAT THE POLICY SHALL NOT BE CANCELED OR REDUCED, RESTRICTED OR LIMITED UNTIL TEN (10) DAYS AFTER COUNTY HAS RECEIVED WRITTEN NOTICE AS EVIDENCED BY RETURN RECEIPT OF REGISTERED OR CERTIFIED LETTER.

It is the intention of the *County* and the *County Judge*, and agreed to and hereby acknowledged by the *Engineer*, that no provision of this Professional Services Agreement shall be construed to require the *County* or the *County Judge* to submit to mandatory arbitration or mediation in the settlement of any claim, cause of action or dispute, except as specifically required in direct connection with an insurance claim or threat of claim under an insurance policy required under

this Exhibit which absolutely requires arbitration or mediation of such claim, or as otherwise required by law or a court of law with jurisdiction over the provisions of this Agreement.

EXHIBIT IX

SCOPE OF SERVICES

FOR PROFESSIONAL ENGINEERING SERVICES

THE FOLLOWING SCOPE OF SERVICES IS INTENDED TO BE CONSISTENT WITH THE WILLIAMSON COUNTY PROFESSIONAL SERVICES AGREEMENT. TO THE EXTENT THE SCOPE IS INCONSISTENT WITH THE PROFESSIONAL SERVICES AGREEMENT, THE PROFESSIONAL SERVICES AGREEMENT WILL SUPERSEDE THE SCOPE AND WILL BE CONTROLLING.

THE ENGINEER SHALL PROVIDE EXPERT TESTIMONY IN ANY ADMINISTRATIVE OR COURT PROCEEDINGS THROUGH AN APPROPRIATE ENGINEERING PROFESSIONAL TO BE DETERMINED MUTUALLY BY COUNTY AND ENGINEER AS ADDITIONAL SERVICES AT THE RATE OF COMPENSATION SET FORTH IN EXHIBIT IV AND IN A MANNER CONSISTENT WITH THE TEXAS BOARD OF PROFESSIONAL ENGINEER'S RULES CONCERNING THE PRACTICE OF ENGINEERING, EFFECTIVE AS OF THE RELEVANT DATE.

The *Engineer* will provide Professional Engineering Services for the *Project*, as set forth below.

Services performed will include the appropriate records and documentation in accordance with TxDOT and Federal requirements.

Professional Engineering Construction Management

- Verify receipt of the Contractor's schedule of operations
- Manage the Request for Information (RFI) process.
- Negotiate and make recommendations for Change Orders. Prepare Change Orders for execution.
- Evaluate and provide advice to the County on the approval of contractor's CPM schedules.
- Maintain a current approved set of construction contract documents.
- Review and provide recommendation of acceptance to the County on the Contractor's monthly pay estimate. Review and verify quantities of work performed and materials used.
- Manage Contractor receipt and dispersal of Contractor submittals to the *GEC*, then back to the Contractor.
- Revise or update the storm water pollution prevention plan in accordance with TPDES Permit TXR150000 Part III Section E.

- Sign, Seal and Date changes to *the Designer's* plan sheets representing the requirements of TPDES Permit TXR 150000 Part III Section F 1. (f) as necessary to comply with TPDES TXR 150000 Part III Section E.
- Identify and advise the County in the resolution of construction issues that arise.
- Provide advice to the County in dispute negotiations and claim resolutions.
- Monitor utility relocation/adjustments for compliance with approved plans for the *Project*.
- Monitor Compliance with DBE requirements of construction contract provisions.
- Provide vehicles, communication devices (i.e. cell phones, radios), computers, office supplies and internet service, as needed.
- Review and provide recommendation to the County on the acceptance of As-built drawings provided by the Contractor.
- Verify line, grade and dimensions of roadways and structures as deemed necessary.
- Observe to see if specified procedures, specified in the plans and specifications are being followed.
- Advise the Contractor and request corrective action be taken, if an inspection reveals that work has not been properly performed.
- Re-inspect non-conforming work.
- Evaluate and document the Contractor's operations and production with respect to quality and progress.
- Verify and perform spot checks on quantities being identified, measured, recorded and verified by comparisons against plan, contract quantities and dimensions.
- Receive and transmit, to the Manager, the Contractors "trench safety plan" prepared and sealed by a registered professional engineer.
- Evaluate damages to existing vegetation the formula in Section XXV. **Tree and Plant Protection** of the Special Conditions.

Provide Reports of Construction Activities

- Perform a review of the construction of the *Project* to monitor compliance with the *Designer's* plans and specifications and document construction activities using daily reports, journal, logs, or other, as necessary or required.
- Provide digital and video photo logging of project activities.

- Perform inspections in accordance with the environmental provisions of the PS&E, relating to the SW3P and provide reports to the County containing the results of the inspection.
- Perform monthly inspections of the implemented Traffic Control Plan of the PS&E, provide inspection and reports to the County.
- Provide advice to the County on modifications to the Traffic Control Plans to be provided by *the Designer*.
- Develop project progress meeting minutes and distribute to attendees.
- Provide weekly report of the construction project progress to the County and the GEC.
- Provide reports of the results of tests performed on materials used in construction.
- Provide non-conformance reports as needed.
- Provide reports of Contractor compliance with DBE provisions of construction contract.
- Provide reports of Contractor compliance with Wage Rate provisions of construction contract at the end of the project.
- Provide notification of lane closures to GEC and the County, and others as necessary, received from the Contractor.
- Provide report of accidents in accordance with Section XI L. of the Agreement.

Meetings and Record Keeping

- Attend the Pre-Construction Conferences.
- Attend project progress meetings.
- Maintain all records as required.
- Maintain a status report of change orders, RFIs, barricade inspection reports, schedule updates, shop drawing review and time extensions.
- Maintain "redline" drawings to document the changes made to the constructed project. These redline drawings will be used to verify the Contractor's As-Built plan submittal.
- Verify transmittal, by the Contractor to the County, of an affidavit stating that all bills related to any work, labor, equipment or supplies have been paid and that there are no outstanding claims or bills remaining. Review and verify submission, to the Engineer, of the "As-Built" drawings dated and signed by the Contractor

and his project superintendent prior to final acceptance.

Materials Testing

- Order or Verify contractor's order of materials sampling and testing in accordance with the "Quality Assurance Program".
- Receive, review, verify, and log all "project test" or QC test results from the Contractor.
- Request, Validate, and record QC/QA test results by verification tests from independent samples.
- Report to the Manager on the contractors' compliance with the identification of test results with the test number, date of testing, at the station and elevation of the test on the appropriate plan sheet.
- When test requirements are not met, order the performance of independent material testing in accordance with the "Quality Assurance Program".
- Receive from the Contractor, and verify compliance with specifications, Manufacturer Certificates of Compliance of each and every specified material or manufactured equipment item.

Other

Exclusions

EXHIBIT X

ENGINEER'S QUALIFICATIONS STATEMENT

ACORD_{TM} CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

3/21/2011

PRODUCER

McLaughlin Brunson Insurance Agency, LLP
6600 LBJ Freeway, Suite 220
Dallas TX 75240
(214) 503-1212 (214) 503-8899

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE

NAIC #

INSURER A: Travelers Lloyds Ins. Co.

INSURER B: Travelers Indemnity Company

INSURER C: XL Specialty Insurance Co.

INSURER D: Travelers Prop Cas of America

INSURER E: St. Paul Fire & Marine Ins Co

INSURED

CP&Y, Inc.

1820 Regal Row, Suite 200
Dallas TX 75235

COVERAGES

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. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY	PACP1951L895 Valuable Papers \$2,245,000	6/1/2010	6/1/2011	EACH OCCURRENCE
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY				DAMAGE TO RENTED PREMISES (Ea occurrence)
	<input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR				MED EXP (Any one person)
	<input checked="" type="checkbox"/> Contractual Liab				PERSONAL & ADV INJURY
	<input checked="" type="checkbox"/> Severability of Int.				GENERAL AGGREGATE
	GEN'L AGGREGATE LIMIT APPLIES PER:				PRODUCTS - COM/OP AGG
	<input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC				
D	AUTOMOBILE LIABILITY	BA3865M855	6/1/2010	6/1/2011	COMBINED SINGLE LIMIT (Ea accident)
	<input checked="" type="checkbox"/> ANY AUTO				\$ 1,000,000
	<input type="checkbox"/> ALL OWNED AUTOS				
	<input type="checkbox"/> SCHEDULED AUTOS				BODILY INJURY (Per person)
	<input type="checkbox"/> HIRED AUTOS				\$
	<input type="checkbox"/> NON-OWNED AUTOS				BODILY INJURY (Per accident)
					\$
					PROPERTY DAMAGE (Per accident)
					\$
	GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT
	<input type="checkbox"/> ANY AUTO				\$
					OTHER THAN AUTO ONLY: EA ACC AGG
E	EXCESS/UMBRELLA LIABILITY	QK06501840	6/1/2010	6/1/2011	EACH OCCURRENCE
	<input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE				\$ 10,000,000
					AGGREGATE
					\$ 10,000,000
					\$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	UB 5609Y775	1/1/2011	1/1/2012	DEDUCTIBLE
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?				\$
	If yes, describe under SPECIAL PROVISIONS below				\$
					\$
					\$
C	OTHER Professional Liab	DPR9684961	4/1/2010	4/1/2011	RETENTION \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

The claims made professional liability coverage is the total aggregate limit for all claims presented within the policy period and is subject to a deductible. Williamson County is named as additional insured on the general and auto liability as required by contract.

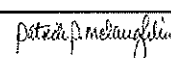
CERTIFICATE HOLDER

Williamson County Judge
Attn: Dan Gattis (or successor)
710 Main Street
Georgetown TX 78626

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 10 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE



IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

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).

DISCLAIMER

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

TBG construction observation PSA
Commissioners Court - Regular Session

Date: 03/29/2011
Submitted By: Marie Walters, Road Bond
Department: Road Bond
Contract Oversight:
Agenda Category: Regular Agenda Items

Information

Agenda Item

Discuss and consider approving The Broussard Group, Inc., dba TBG Partners Professional Service Agreement (PSA) for construction inspection and/or observation services on transportation projects.

Background

Fiscal Impact

From/To	Acct No.	Description	Amount
---------	----------	-------------	--------

Attachments

Link: [TBG construction observation PSA](#)

Link: [TBG SOQ](#)

Form Routing/Status

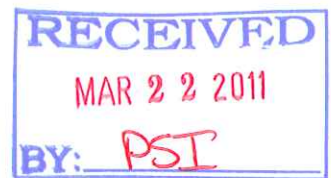
Route Seq	Inbox	Approved By	Date	Status
1	Hal Hawes	Hal Hawes	03/23/2011 01:55 PM	APRV
2	Jim Gilger	Jim Gilger	03/23/2011 01:57 PM	APRV
3	County Judge Exec Asst. Wendy Coco		03/23/2011 03:43 PM	APRV

Form Started By: Marie Walters

Started On: 03/23/2011 12:55 PM

Final Approval Date: 03/23/2011

Contract No. TBG1 - Construction Observation



Checklist

Prior to Initiation of Work

- ☒ Signed and Executed Agreement
- ☒ Scope of Services – Appendix A
 - Exhibit V – Services to be provided by County
 - Exhibit IX – Services to be provided by Landscape Architect
 - Exhibit C – Work Schedule
 - Exhibit D – Fee Schedule
- ☒ Production Schedule – Exhibit IV
- ☒ Hourly Rates of Landscape Architect – Exhibit II
- ☒ Work Authorization - Exhibit II
 - Supplemental Work Authorization for Additional Work (if applicable)
- ☒ Data to be provided to Landscape Architect by County
 - Plans
 - Maps
 - Studies
 - Reports
 - Field Notes
 - Statistics
 - Computations
 - Other: _____
- ☒ Contractors Qualification Statement – Appendix B
- ☒ Insurance
 - Worker's Compensation
 - Commercial General Liability Insurance
 - Automobile Liability Insurance
 - Professional Liability Errors and Omissions Insurance
 - Self Insurance Documentation
 - Insurance Certificates for Subcontractors and/or Sub-consultants
 - Approval of Insurance by County

Course of Work

- ☐ Original Work Product submittal
- ☐ "Completed" Work Product
- ☐ "Accepted" Work Product
- ☐ Modifications and/or Changes for Approval of Work Product
- ☐ "Approved" Work Product
- ☐ Revisions to Work Product
- ☐ Seal of Endorsement on all Work Product
- ☐ Data necessary for applications or documentation for permits and/or grants to be provided by Landscape Architect to County

Notices (as applicable)

Contract No. _____

- ☐ Notice of Suspension
- ☐ Notice of Reinstatement
- ☐ Notice of Termination
- ☐ Notice of Staffing Changes
- ☐ Written Report of Accident

Documentation for Payment

- ☐ Internal Revenue Form W-9
- ☐ Invoice for Services Rendered
 - Supporting Documentation
 - Report of Completion Percentage
- ☐ Invoice for Reimbursables
 - Proof of prior payment by Landscape Architect of Reimbursables

Contract No. _____

PROFESSIONAL SERVICES AGREEMENT

TABLE OF CONTENTS

<u>SECTION:</u>	<u>TITLE:</u>	<u>PAGE</u>
I.	<i>Employment of the Landscape Architect</i>	1
II.	<i>Professional Services of the Landscape Architect</i>	2
III.	<i>Fee Schedule</i>	2
IV.	<i>Period of Service</i>	3
V.	<i>Coordination with the County</i>	4
VI.	<i>Review of Instruments of Service</i>	4
VII.	<i>Revision to Instruments of Service</i>	5
VIII.	<i>Landscape Architect's Responsibility and Liability</i>	6
IX.	<i>Ownership of Documents</i>	8
X.	<i>Maintenance of and Right of Access to Records</i>	8
XI.	<i>Miscellaneous:</i>	
A.	Severability	9
B.	Venue and Governing Law	9
C.	Equal Opportunity in Employment	9
D.	Certificate of Landscape Architect	10
E.	Notice	10
F.	Insurance Requirements	11
G.	Property Taxes	11
H.	Successors and Assigns	11
I.	Bidding Exemption	11
J.	Taxpayer Identification	11
K.	Compliance with Laws	11
L.	Reports of Accidents	11
M.	Definition of Landscape Architect	12
N.	Gender, Number and Headings	12
O.	Incorporation of Exhibits & Attachments	12
P.	Entity Status	12
Q.	Construction	12
R.	Independent Contractor Relationship	12
S.	No Waiver of Immunities	12
T.	Interest and Late Payments	12
U.	Texas Public Information Act	13
V.	Acknowledgement	13
W.	Governing Terms and conditions	13
X.	Entire Agreement	13
	Signature Page	14

Contract No. _____

TABLE OF CONTENTS (cont'd)

EXHIBIT I	<i>Compensation for Professional Services</i>	15
EXHIBIT II	Work Authorization	17
EXHIBIT III	<i>Hourly Rates</i>	18
EXHIBIT IV	<i>Compensation for Additional Professional Services</i>	19
EXHIBIT V	<i>Services To Be Provided By County</i>	20
EXHIBIT VI	<i>Procedures for Termination or Suspension</i>	21
EXHIBIT VII	<i>Equal Opportunity in Employment</i>	23
EXHIBIT VIII	<i>Insurance Requirements</i>	25
EXHIBIT IX	<i>Scope of Services</i>	26
EXHIBIT X	<i>Landscape Architect's Qualification Statement</i>	29

PROFESSIONAL SERVICES AGREEMENT

STATE OF TEXAS §

§

COUNTY OF WILLIAMSON §

§

This Professional Services Agreement (**the "Agreement"**) is made and entered into this day by and between Williamson County, Texas, a political subdivision of the State of Texas, (*the "County"*) and The Broussard Group, Inc., dba TBG Partners (*the "Landscape Architect"*).

WHEREAS, *County* proposes to construct various transportation projects;

WHEREAS, *County* desires to obtain Professional Services for Construction Inspection and/or Observation (the "Project");

WHEREAS, *Landscape Architect* has the professional ability and expertise to fulfill the requirements of the *Project*, and to provide advice to the *County* in the selection and analysis of cost-effective alternatives;

WHEREAS, Landscape Architect agrees to provide the Professional Services as more fully set forth in Exhibit IX ("Scope of Services");

WHEREAS, all of the Professional Services to be provided by *Landscape Architect* pursuant to this Agreement are professional services, the essence of which entails the provision of advice, judgment, or opinion;

WHEREAS, the *County* has separately contracted with a separate firm or individual (*the “Designer”*) for the preparation of the Plans, Specifications, and Estimates (*the “PS&E”*) for the *Project*.

NOW, THEREFORE, *County* and *Landscape Architect* agree to the performance of the Professional Services by *Landscape Architect* and the payment for these services by *County* as set forth herein.

Section I

Employment of the Landscape Architect

County agrees to employ *Landscape Architect* and *Landscape Architect* agrees to perform the Professional Services for the *Project* as stated in the Sections to follow. As a condition to employment, it is specifically agreed that any disputes arising hereunder shall be submitted to the County Judge or his designee and/or agent, as designated in writing by the County Judge (*individually or collectively the "County Judge"*). The *County Judge* shall have complete authority for the purpose of resolving disputes arising under this Agreement. The *County Judge's* decision shall be final and binding, subject to any civil remedies otherwise deemed appropriate by the parties hereto.

However, nothing in this Section I or in any other provision of this Agreement regarding submission of disputes to the *County Judge* and the *County Judge's* ability to resolve disputed matters shall be construed to establish anything other than a *de novo* standard of review by a court of competent jurisdiction in the event that the parties hereto avail themselves of their right to seek civil remedies for any dispute. In the event of a dispute between the terms and conditions of this provision and any other provision of this Agreement, the terms and condition of this provision shall govern.

It is the intention of the *County* and the *County Judge*, and agreed to and hereby acknowledged by the *Landscape Architect*, that no provision of this Agreement shall be construed to require the *County* or the *County Judge* to submit to mandatory arbitration or mediation in the settlement of any claim, cause of action or dispute.

Section II

Professional Services of the Landscape Architect

- A. In consideration of the compensation herein provided, *Landscape Architect* shall perform Professional Services for the *Project*, which are acceptable to the *County Judge*, based on standard practices and the scope of work described on the Exhibits attached to this Agreement. *Landscape Architect* shall also serve as *County's* professional landscape architect in those phases of the *Project* to which this Agreement applies and will consult with and give advice to *County* during the performance of *Landscape Architect's* services.
- B. *Landscape Architect* shall not commence work until *Landscape Architect* has been thoroughly briefed on the scope of the *Project* and has been notified in writing by the *County Judge* to proceed, as evidenced by a work authorization substantially in the form of Exhibit II ("Work Authorization"), attached to this Agreement.
- C. *County* shall provide *Landscape Architect* with all Plans, Specifications, and Estimates (PS&E) to this particular *Project* at no cost to *Landscape Architect*; however, any and all such information shall remain the property of *County* and shall be returned, if the *County Judge* so instructs *Landscape Architect*.
- D. *Landscape Architect* shall perform the following Professional Services:
 - 1. The basic Scope of Services shall generally consist of all elements of Professional Services required for the *Project* (as more fully set out in Exhibit IX to this Agreement, "Scope of 'Service'"), satisfactory to the *County Judge* and the County's Commissioners Court, in accordance with the requirements, policies, and general practices of Williamson County.

Section III

Fee schedule

- A. For and in consideration of the performance by *Landscape Architect* of the Professional Services described in the Scope of Services, *County* shall pay and *Landscape Architect* shall receive the fee set forth in Exhibit I. The fee is based upon the hourly rates set forth in

Exhibit III. Exhibits I and III are attached hereto and made a part hereof. Invoices shall be submitted by *Landscape Architect* on a monthly basis and are due upon presentation of all items required hereunder, and shall be considered past due if not paid within thirty (30) calendar days of the due date.

- B. For the performance of services not specifically described in the Scope of Services *Landscape Architect* shall receive the additional services compensation described in Exhibit IV, which is attached hereto and made a part hereof. In the event of any dispute over the classification of *Landscape Architect's* services as basic or additional services under this agreement, the decision of the *County Judge* shall be final and binding on *Landscape Architect*.

Section IV Period of Service

- A. *Landscape Architect* shall perform the Professional Services described in Exhibit IX, the Scope of Services.
- B. This Agreement shall become effective upon the date approved by *County* and will remain in full force and effect for the period required for the construction contract award and construction of the *Project*, including warranty periods provided by the contractor pursuant to the construction contract and any extensions of time, unless terminated earlier as provided for herein. *Landscape Architect* shall complete all work as described in the Scope of Services upon receipt by *Landscape Architect* of *County's* written Work Authorization.
- C. Neither *Landscape Architect* nor *County* shall be responsible for delays caused by "Acts of God", non-county governmental processes, national emergency, or any other causes beyond *Landscape Architect's* or *County's* reasonable control. Upon the discovery of such an event, *Landscape Architect* shall notify *County*, and attend a special meeting with the *County Judge* to propose a program for a solution to the problem, and, if necessary, to establish an estimated period of time of suspension or extension of the work. A written request for an extension of time, when properly documented and justified by the circumstances, will be granted by the *County Judge*.
- D. *County* may suspend the work at any time for any reason without terminating this Agreement by giving written Notice of Suspension and the work may be reinstated and this Agreement resumed in full force and effect within sixty (60) days of receipt by *Landscape Architect* of written Notice of Reinstatement from *County*. *Landscape Architect*, upon receipt of a Notice of Suspension shall follow the procedures described in the attached Exhibit VI, which is attached hereto and made a part hereof. In the event such suspension of the *Project* or the *Landscape Architect's* services hereunder extends for a period of ninety (90) days or more, consecutive or in the aggregate, *Landscape Architect* may terminate this Agreement in writing and such termination shall be treated as a Notice of Termination as provided herein.
- E. Either party may terminate this Agreement for the material failure of the other party to perform in accordance with the terms of this Agreement (the materiality of such failure to be

based on standard practices and the scope of work described on the Exhibits attached to this Agreement), through no material fault of the terminating party. *County* may unilaterally terminate this Agreement for reasons other than material failure by *Landscape Architect* to perform by delivering a written Notice of Termination which shall take effect on the tenth day following *Landscape Architect's* receipt of same. If mutually agreed upon, the obligation to provide services under this Agreement may be terminated without cause upon thirty (30) days written notice. *Landscape Architect* shall follow the procedures specified in Exhibit VI upon issuance or receipt of such notice. In the event of termination of this Agreement because of the material failure of *Landscape Architect* to perform, *County* may prosecute the work to completion by contract or otherwise and, in such a case, *Landscape Architect* shall be liable for any additional costs incurred by *County*.

- F. All references to time in this Agreement shall be measured in calendar days unless otherwise specified.

Section V

Coordination with the County

- A. The *County Judge* will act on behalf of *County* with respect to the work to be performed under this Agreement. The *County Judge* shall have complete authority to interpret and define *County's* policies and decisions with respect to *Landscape Architect's* services. The *County Judge* may, in writing, designate representatives to transmit instructions and receive information.
- B. *Landscape Architect* shall not commence work on any phase of the *Project* until a thorough briefing on the scope of the *Project* is received and a written Work Authorization is issued by the *County Judge* in substantially the form of that in Exhibit II.
- C. *Landscape Architect* shall have the responsibility at all times under the terms of this Agreement to advise *County* whether in *Landscape Architect's* judgment it is feasible to proceed with the recommendations given any known constraints affecting the *Project*.
- D. *Landscape Architect* shall cooperate and coordinate with *County's* staff, engineers and other landscape architects and contractors as reasonable and necessary and as required by the *County Judge*.

Section VI

Review of Landscape Architect's Instruments of Service

- A. *Landscape Architect's* Instruments of Service will be reviewed by *County* under its applicable technical requirements and procedures.
- B. Reports and supporting documents, (*the "Instruments of Service"*), shall be submitted by *Landscape Architect* on or before the date specified in Exhibit IX. Upon receipt of the Instruments of Service, the submission shall be checked for acceptance. "Acceptance" shall mean that in the *County Judge's* opinion substantial conformance with the requirements of

the Scope of Service of this Agreement has been achieved. The acceptability of any Instruments of Service submitted to **County** shall be determined by **County** within fourteen (14) days of such submittal and **County** shall notify **Landscape Architect** in writing within such 14-day period if such work product has been found to be acceptable.

- C. If the submission is acceptable, **County** shall notify **Landscape Architect**, in writing within fourteen (14) days of the submission, that the submission is acceptable.
- D. If the submission is deemed not acceptable, **County** shall notify **Landscape Architect**, who shall perform such Professional Services as are required to make the Instruments of Service in conformance with the Scope of Services and resubmit it to **County**. This process shall be repeated until a submission is deemed acceptable.
- E. **County** shall review the Instruments of Service for conformance with the Scope of Services. If necessary, the Instruments of Service shall be returned to **Landscape Architect**, who shall perform any required Professional Services and resubmit it to **County**. This process shall be repeated until the Instruments of Service is accepted.
- F. After acceptance, **Landscape Architect** shall perform any required modifications, changes, alterations, corrections, and additional work necessary to receive final approval by the **County Judge**. "Approval" in this sense shall mean formal recognition that the Scope of Services have been fully performed and submitted in conformance with Exhibit IX.
- G. After approval of final Instruments of Service, **Landscape Architect** shall without additional compensation perform any Professional Service required as a result of **Landscape Architect's** development of the Instruments of Service which is found to be in error or omission due to **Landscape Architect's** negligence. However, any Professional Services required or occasioned for the convenience of **County** after approval of a final Instruments of Service shall be paid for as Additional Services.
- H. In the event of any dispute over the classification of **Landscape Architect's** Instruments of Service as conforming, accepted, or approved under this Agreement, the decision of the **County Judge** shall be final and binding on **Landscape Architect**, subject to any civil remedy or determination otherwise available to the parties and deemed appropriate by the parties.

Section VII

Revision to Instruments of Service

Landscape Architect shall make, without expense to **County**, such revisions to the Instruments of Service as may be required to correct negligent acts, errors or omissions that result from **Landscape Architect's** Scope of Service herein so the Instruments of Service meets the Quality Assurance Plan, but after the approval of the Instruments of Service any revisions, additions, or other modifications made at **County's** request which involve extra services and expenses to **Landscape Architect** shall entitle **Landscape Architect** to additional compensation for such extra services and expenses, provided however, that **Landscape Architect** agrees to perform any necessary corrections to the Instruments of Service, which

are found to be negligent acts, error or omission as a result of the *Landscape Architect's* development of the Instruments of Service, at any time, without additional compensation. Nothing in this Section or any other provision of this Agreement shall require *Landscape Architect* to make any revisions or changes to the PS&E developed and provided by *Designer*. The *Landscape Architect* shall be considered "engaged" upon execution of this Agreement by all parties. In the event of any dispute over the classification of *Landscape Architect's* services as Basic or Additional Services under this Agreement, the decision of the *County Judge* shall be final and binding on *Landscape Architect*, subject to any civil remedy or determination otherwise available to the parties and deemed appropriate by the parties.

Section VIII Landscape Architect's Responsibility and Liability

- A. *Landscape Architect* covenants to undertake no task in which a professional license or certificate is required unless it or someone under its direction is appropriately licensed. In the event such licensed individual's license expires, is revoked, or is canceled, *Landscape Architect* shall inform *County* of such event within five working days.
- B. *Landscape Architect* shall be responsible for conformance with applicable federal and state laws, county permitting requirements, and city ordinances currently in effect, except as otherwise directed by the *County Judge* regarding county permitting or similar requirements, applicable to the Scope of Services described Exhibit IX to this Agreement, properly waivable by the *County Judge*.
- C. **LANDSCAPE ARCHITECT SHALL INDEMNIFY, AND HOLD HARMLESS COUNTY, ITS OFFICIALS AND EMPLOYEES FROM AND AGAINST ALL SUITS, ACTIONS, LIABILITY, LOSS, DAMAGE, REASONABLE ATTORNEY'S FEES, COSTS, AND EXPENSES (INCLUDING, BUT NOT LIMITED TO EXPENSES RELATED TO EXPERT WITNESSES) OF ANY KIND WHATSOEVER, TO THE EXTENT ARISING FROM ANY NEGLIGENT ACT, ERROR OR OMISSION OF LANDSCAPE ARCHITECT OR ANY OF ITS SUBCONSULTANTS IN CONNECTION WITH THE PERFORMANCE OF SERVICES UNDER THIS AGREEMENT; PROVIDED, HOWEVER, LANDSCAPE ARCHITECT SHALL NOT BE RESPONSIBLE FOR THE NEGLIGENT ACTS, ERRORS, OR OMISSIONS OF ANY OTHER PARTY, OTHER THAN ITSELF OR THAT OF ITS SUBCONSULTANTS AND FOR A SUBCONSULTANT ONLY AS A DIRECT RESULT OF NEGLIGENT ACTS, ERRORS, OR OMISSIONS WHILE PERFORMING PROFESSIONAL SERVICES PURSUANT TO THE SCOPE OF THIS AGREEMENT.**
- D. *Landscape Architect's* opinions of probable *Project* cost or construction cost represent *Landscape Architect's* professional judgment as a professional familiar with the construction industry, but *Landscape Architect* does not guarantee that proposals, bids, or the construction cost, itself, will not vary from *Landscape Architect's* opinions of probable cost

and shall not be responsible for proposals, bids, or the construction costs, should they vary from *Landscape Architect's* opinions of probable costs.

- E. *Landscape Architect* shall perform all services and responsibilities required of *Landscape Architect* under this Agreement using at least that standard of care which a reasonably prudent landscape architect in Texas, who is licensed by the Texas Board of Architectural Examiners would use in similar circumstances.
- F. *Landscape Architect* represents that it presently has, or is able to obtain, adequate qualified personnel in its employment for performance of the services required under this Agreement and that *Landscape Architect* shall furnish and maintain, at its own expense, adequate and sufficient personnel and equipment, in the reasonable opinion of *County*, to perform the services when and as required and without delays. It is understood that *County* will approve assignment and release of all key *Landscape Architect* and professional personnel.
- G. All employees of *Landscape Architect* shall have such knowledge and experience as will enable them to perform the duties assigned to them. Any employee of *Landscape Architect*, who in the opinion of *County* is incompetent or whose conduct becomes detrimental to the work or coordination with *County*, shall upon *County's* and/or *County Judge's* request be immediately removed from association with the *Project*.
- H. *Landscape Architect* shall furnish all equipment, transportation, supplies, and materials required for its performance of the Professional Services as set forth in the Scope of Services attached as Exhibit IX to this Agreement.
- I. *Landscape Architect* shall place its Landscape Architect's seal of endorsement on all documents of Instruments of Service furnished to *County*, as required by law.
- J. *Landscape Architect* is an independent contractor under this Agreement. Neither it nor any officer, agent or employee of *Landscape Architect* shall be classified as an employee of *County*.
- K. **Safety.** The *Landscape Architect* shall not have control or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures or for the safety precautions and programs in connection with the Project construction, for the acts or omissions of the contractor, subcontractors, any of their agents or the subcontractors' employees, or any other person performing any of the work or for the failure of such persons to carry out the work in accordance with the contract documents; provided however, the *Landscape Architect* shall not be relieved from its obligation to notify the County or any other applicable authority of any unsafe condition resulting from an act, omission or failure on the part of the construction if *Landscape Architect* becomes aware of such an unsafe condition in the normal course of providing its Scope of Services or as otherwise required by the *Landscape Architect's* professional duties as prescribed by the Rules of Professional Practice promulgated by the Texas Board of Architectural Examiners.

Landscape Architect's obligation to report any observed unsafe job conditions to the

County shall not make **Landscape Architect** responsible for construction job site safety, the responsibility of which shall remain solely with the construction contractor. **Landscape Architect's** obligation to report unsafe job conditions to the County runs solely to the County. There are no third party beneficiaries intended by this obligation, in particular, construction contractor's employees do not have the right to rely on **Landscape Architect's** obligation to report unsafe job conditions to the County so as to provide for a safe work environment for construction contractor's employees.

No provision of this Agreement requires *Landscape Architect* to make exhaustive inspections of the contractor's work under the construction contract for the *Project*. *Landscape Architect's* inspections, observations, and documentation of construction activities and work is to confirm the construction's conformance with the PS&E and acceptable standards and practices.

The County shall enter into a third party contract for the construction of the project. The contract between the County and the contractor shall require the contractor to indemnify the *Landscape Architect* and name the *Landscape Architect* as additional insured under contractor's commercial general liability, builder's risk, and umbrella liability coverage for the insured liabilities assumed by the contractor. The contractor's insurance coverage shall be primary insurance for the insured liabilities under the Agreement with respect to the contractor, its officers, directors, agents and consultants including the *Landscape Architect*.

The construction contractor retained by the County has sole responsibility for providing materials, means, and methods of construction, for controlling the individual work area and safety of said areas for all parties.

The *Landscape Architect* shall be responsible for taking all appropriate steps to ensure the safety of its employees in connection with its performance of the services provided under this agreement.

Section IX Ownership of Documents

- A. Any and all Instruments of Service, including the original drawings, estimates, computer tapes, graphic files, tracings, calculations, analyses, reports, specifications, field notes, and data prepared by *Landscape Architect* are the property of *County* and upon completion of the work or termination of this Agreement or as otherwise instructed by *County* and/or *County Judge*, shall be delivered to *County* in an organized fashion with *Landscape Architect* retaining a copy.
- B. Any reuse by *Landscape Architect* of any such documents described in subsection A above, without the specific written consent of *County* shall be at *Landscape Architect's* sole risk and without liability or legal exposure to *County*. Should *Landscape Architect* be terminated, *Landscape Architect* shall not be liable for *County's* use of partially completed Instruments of Service on this *Project* or any other project, except to the extent such Instruments of Service were deemed complete or otherwise "Accepted" or "Approved" as

provided herein by *Landscape Architect*, as applicable, as specified by professional standards.

- C. *Landscape Architect* will not be responsible for any use or any modifications to the Instruments of Service described in subsection A performed by any entity without the specific written consent of *Landscape Architect*. Any modification by an entity or individual other than the *Landscape Architect* as described in this paragraph shall be made in accordance with all applicable professional standards and shall necessitate the removal of the *Landscape Architect's* Landscape Architect's seal of endorsement from all such modified documents.

Section X

Maintenance of and Right of Access to Records

- A. *Landscape Architect* agrees to maintain appropriate accounting records of costs, expenses, and payrolls of employees working on the *Project* for a period of three (3) years after final payment for completed services and all other pending matters concerning this Agreement have been closed.
- B. *Landscape Architect* further agrees that *County* or its duly authorized representatives shall, until the expiration of three (3) years after final payment under this Agreement, have access to and the right to examine and photocopy any and all books, documents, papers and records of *Landscape Architect*, which are directly pertinent to the services to be performed under this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions. *Landscape Architect* agrees that *County* shall have access during normal working hours to all necessary *Landscape Architect* facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. *County* shall give *Landscape Architect* reasonable advance notice of intended audits.
- C. *Landscape Architect* further agrees to include in all its sub-consultant agreements hereunder a provision to the effect that the sub-consultant agrees that *County* shall, until the expiration of three (3) years after final payment under the subcontract, have access to and the right to examine and photocopy any directly pertinent books, documents, papers and records of such sub-consultant, involving transactions to the subcontract, and further, that *County* shall have access during normal working hours to all sub-consultant facilities, and shall be provided adequate and appropriate work space, in order to conduct audits in compliance with the provisions of this section together with subsection (D) hereof. *County* shall give sub-consultant reasonable advance notice of intended audits.
- D. *Landscape Architect* and sub-consultant agree to photocopy such documents as may be requested by *County*. *County* agrees to reimburse *Landscape Architect* for the cost of copies at the rate published in the Texas Administrative Code in effect as of the time copying is performed. *County* also agrees to compensate *Landscape Architect* for services performed pursuant to this Section as requested by *County*, or by a third-party pursuant to a validly determined Texas Public Information Act request. For any such services, *Landscape Architect*

shall receive the additional services compensation described in Exhibit IV, which is attached hereto and made a part hereof.

Section XI Miscellaneous

- A. **Severability.** If any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof, but rather this entire Agreement will be construed as if not containing the particular invalid or unenforceable provision or provisions, and the rights and obligation of the parties shall be construed and enforced in accordance therewith. The parties acknowledge that if any provision of this Agreement is determined to be invalid or unenforceable, it is the desire and intention of each that such provision be reformed and construed in such a manner that it will, to the maximum extent practicable, give effect to the intent of this Agreement and be deemed to be validated and enforceable.
- B. **Venue and Governing Law.** It is contemplated that this Agreement shall be performed in Williamson County, Texas, and the venue and jurisdiction of any suit, right, or cause of action arising out of or in connection with this Agreement shall lie exclusively in Williamson County, Texas. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas.
- C. **Equal Opportunity in Employment.** *Landscape Architect* agrees, during the performance of the services under this Agreement, to comply with the equal opportunity in employment provisions cited in Exhibit VII, which is attached hereto and made a part hereof.
- D. **Certificate of Landscape Architect.** *Landscape Architect* certifies that neither *Landscape Architect* nor any members of *Landscape Architect's* firm has:
- (1) Employed or retained for a commission, percentage, brokerage, contingency fee, or other consideration, any firm or person (other than a bona fide employee working solely for *Landscape Architect*) to solicit or secure the work provided by the Agreement.
 - (2) Agreed, as an expressed or implied condition for obtaining this contract, to employ or retain the services of any firm or person other than in connection with carrying out the work to be performed under this Agreement.
 - (3) Paid or agreed to pay to any firm, organization, or person (other than bona fide employees working solely for *Landscape Architect*) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the work provided under this Agreement.

Landscape Architect further agrees that this certification may be furnished to any local, state or federal governmental agencies in connection with this Agreement and for those portions of the **Project** involving participation of agency grant funds and is subject to all applicable state and federal, criminal and civil laws.

- E. **Notice.** Any notice to be given hereunder shall be in writing and may be affected by personal delivery in writing or by registered or certified mail, return receipt requested, addressed to the proper party, at the following address:

LANDSCAPE ARCHITECT: TBG Partners
901 South Mopac, Bldg II, Suite 350
Austin, TX 78746
Attn: Sean Compton

COUNTY: Williamson County Judge
Dan Gattis (or successor)
710 Main Street, Suite 101
Georgetown, Texas 78626

with copy to: Hal C. Hawes
Legal Advisor
Office of Williamson County Judge
710 Main Street, Suite 200
Georgetown, Texas 78626

and to: Prime Strategies, Inc.
1508 South Lamar Blvd.
Austin, Texas 78704
Attn: Michael Weaver

and to: HNTB
14 Galloping Road
Round Rock, Texas 78681
Attn: James Klotz, P.E.

OK
m 3/22/2011

- F. **Insurance Requirements.** *Landscape Architect* agrees during the performance of the services under this Agreement to comply with the INSURANCE REQUIREMENTS provisions described in Exhibit VIII, which is attached hereto and made a part hereof.
- G. **Property Taxes.** Notwithstanding anything to the contrary herein, to the extent *County* becomes aware that *Landscape Architect* is delinquent in the payment of property taxes related to property located in Williamson County at the time of invoicing, *Landscape Architect* hereby assigns any payments to be made for services rendered hereunder to the Williamson County Tax Assessor-Collector for the payment of said delinquent taxes. Notwithstanding the above, *County* shall not have an affirmative duty to determine if *Landscape Architect* is delinquent in the payment of property taxes.
- H. **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of *County* and *Landscape Architect* and their respective successors, executors, administrators, and assigns. Neither *County* nor *Landscape Architect* may assign, sublet, or transfer his

interest in or obligations under this Agreement without the written consent of the other party hereto.

- I. **Bidding Exemption.** This Agreement is exempted from the bidding requirements of the County Purchasing Act pursuant to Section 262.024(a)(4) of the Local Government Code as this is a contract for professional services.
- J. **Taxpayer Identification.** *Landscape Architect* shall provide to *County Judge* upon submittal of *Landscape Architect's* initial invoice requesting payment Internal Revenue Form W-9 Request for Taxpayer Identification Number and Certification that is completed in compliance with the Internal Revenue Code, its rules and regulations.
- K. **Compliance with Laws.** *Landscape Architect* shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any matter affecting the performance of this Agreement, including, without limitation, Worker's Compensation laws, minimum and maximum salary and wage statutes and regulations, licensing laws and regulations. When required, the *Landscape Architect* shall furnish the *County* with certification of compliance with said laws, statutes, ordinances, rules, regulations, orders, and decrees above specified.
- L. **Reports of Accidents.** Within 24 hours after *Landscape Architect* becomes aware of the occurrence of any accident or other event on or relating to the Project which results in, or might result in, injury to the person or property of any third person (other than an employee of the *Landscape Architect*), whether or not it results from or involves any action or failure to act by the *Landscape Architect* or any employee or agent of the *Landscape Architect* and which arises in any manner from the performance of this Agreement, the *Landscape Architect* shall send a written report of such accident or other event to the County, setting forth a full and concise statement of the facts pertaining thereto. The *Landscape Architect* shall also immediately send the County a copy of any summons, subpoena, notice, or other documents served upon the *Landscape Architect*, its agents, employees, or representatives, or received by it or them, in connection with any matter before any court arising in any manner from the *Landscape Architect's* performance of work under this Agreement.
- M. **Definition of Landscape Architect.** The term "*Landscape Architect*" as used herein, as defined by the State of Texas and regulated by the Texas Board of Architectural Examiners, as applicable to the work to be performed under this Agreement.
- N. **Gender, Number and Headings.** Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires. The headings and section numbers are for convenience only and shall not be considered in interpreting or construing this Agreement.
- O. **Incorporation of Exhibits.** All of the Exhibits referred to in the Agreement are incorporated by reference as if set forth verbatim herein.

- P. **Entity Status.** By my signature below, I certify that **Landscape Architect** is a Corporation, duly authorized to transact and do business in the State of Texas.
- Q. **Construction.** Each party hereto acknowledges that it and its counsel have reviewed this Agreement and that the normal rules of construction are not applicable and there will be no presumption that any ambiguities will be resolved against the drafting party in the interpretation of this Agreement.
- R. **Independent Contractor Relationship.** Both parties hereto, in the performance of this Agreement, shall act in an individual capacity and not as agents, employees, partners, joint ventures or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever.
- S. **No Waiver of Immunities.** Nothing in this Agreement shall be deemed to waive, modify or amend any legal defense available at law or in equity to **County**, its past or present officers, employees, or agents or employees, nor to create any legal rights or claim on behalf of any third party. **County** does not waive, modify, or alter to any extent whatsoever the availability of the defense of governmental immunity under the laws of the State of Texas and of the United States.
- T. **Interest and Late Payments.** **County's** payment for the Professional Services shall be governed by Chapter 2251 of the Texas Government Code. Invoices shall be paid by **County** within thirty (30) days from the date of the Williamson County Auditor's receipt of an invoice. Interest charges for any late payments shall be paid by **County** in accordance with Texas Government Code Section 2251.025. More specifically, the rate of interest that shall accrue on a late payment is the rate in effect on September 1 of **County's** fiscal year in which the payment becomes due. The said rate in effect on September 1 shall be equal to the sum of one percent (1%); and (2) the prime rate published in the Wall Street Journal on the first day of July of the preceding fiscal year that does not fall on a Saturday or Sunday. In the event that a discrepancy arises in relation to an invoice, such as an incorrect amount on an invoice or a lack of documentation that is required to be attached to an invoice to evidence the amount claimed to be due, **County** shall notify the party requesting payment of such an invoice of the discrepancy. Following **County's** notification of any discrepancy as to an invoice, the party requesting payment must resolve the discrepancy and resubmit a corrected or revised invoice, which includes all required support documentation, to the Williamson County Auditor. **County** shall pay the invoice within thirty (30) days from the date of the Williamson County Auditor's receipt of the corrected or revised invoice. **County's** payment of an invoice that contains a discrepancy shall not be considered late, nor shall any interest begin to accrue until the thirty-first (31st) day following the Williamson County Auditor's receipt of the corrected or revised invoice.
- U. **Texas Public Information Act.** To the extent, if any, that any provision in this Agreement is in conflict with Tex. Gov't Code 552.001 *et seq.*, as amended (the "Public Information Act"), the same shall be of no force or effect. Furthermore, it is expressly understood and agreed that **County**, its officers and employees may request advice, decisions and opinions of

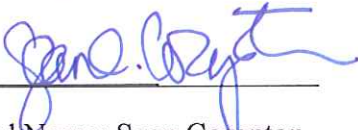
the Attorney General of the State of Texas in regard to the application of the Public Information Act to any items or data furnished to **County** as to whether or not the same are available to the public. It is further understood that **County's** officers and employees shall have the right to rely on the advice, decisions and opinions of the Attorney General, and that **County**, its officers and employees shall have no liability or obligation to any party hereto for the disclosure to the public, or to any person or persons, of any items or data furnished to **County** by a party hereto, in reliance of any advice, decision or opinion of the Attorney General of the State of Texas.

- V. **Acknowledgement.** As a duly authorized representative of **Landscape Architect**, I acknowledge by my signature below that I have read and understand the above paragraphs and that **Landscape Architect** has the obligation to ensure compliance with its provisions by itself and its employees, agents, and representatives.
- W. **Governing Terms and Conditions.** If there is an irreconcilable conflict between the terms and conditions set forth in Sections I. through XI. of this Agreement and the terms and conditions set forth in any Exhibit to this Agreement, the terms and conditions set forth in Sections I. through XI. of this Agreement shall control over the terms and conditions set forth in any Exhibit to this Agreement.
- X. **Entire Agreement.** This Agreement represents the entire and integrated Agreement between **County** and **Landscape Architect** and supersedes all prior negotiations, representations, or agreements, either oral or written. This Agreement may be amended only by written instrument signed by both **County** and **Landscape Architect**. NO OFFICIAL, EMPLOYEE, AGENT, OR REPRESENTATIVE OF THE COUNTY HAS ANY AUTHORITY, EITHER EXPRESS OR IMPLIED, TO AMEND THIS CONTRACT, EXCEPT PURSUANT TO SUCH EXPRESS AUTHORITY AS MAY BE GRANTED BY THE COUNTY COMMISSIONERS COURT.
- Y. **No Third-Party Beneficiaries.** No provision of this Agreement shall be construed to establish a cause of action in favor of any party other than the parties hereto. It is the express intention of the **County** and the **Landscape Architect** that there be no third-party beneficiaries to this Agreement.
- Z. **Waiver of Consequential Damages.** **County** and **Landscape Architect** agree to waive recovery of any consequential damages which arise as a proximate result of a breach of this Agreement.

EXECUTED this _____ day of _____, 201 _____.

THE LANDSCAPE ARCHITECT:

The Broussard Group, Inc., dba
TBG Partners

BY: 

Printed Name: Sean Compton

Title: Principal

THE COUNTY:

WILLIAMSON COUNTY:

BY: _____

Printed Name: Dan A. Gattis, County Judge

Reviewed as to Form By:

Legal Advisor to the Williamson
County Commissioners Court

County Auditor

OK
 3/22/2011

EXHIBIT I

COMPENSATION FOR PROFESSIONAL SERVICES

ACTUAL COST OF SERVICES METHOD

[Note: A separate Compensation Agreement will be attached for Compensation on a Work-Order Basis]

SECTION 1 - BASIS FOR COMPENSATION

- 1.1 The not-to-be-exceeded fee for the performance of the Scope of Services described in the Agreement shall be the sum of \$299,475.00.
- 1.2 The basis of compensation for the services of principals and employees engaged in the performance of the work shall be the hourly rates set forth in attached Exhibit III.
- 1.3 *Landscape Architect* shall be reimbursed for actual non-labor and subcontract expenses incurred in the performance of the services under this Agreement at the *Landscape Architect's* invoice cost.

SECTION 2 - NOT-TO-BE-EXCEEDED FEE

- 2.1 *Landscape Architect* and *County* acknowledge the fact that the not-to-be-exceeded fee is the total estimated costs of services to be rendered under this Agreement. This not-to-be-exceeded fee is based upon the labor and non-labor costs set forth in Exhibit III to this Agreement and described above, estimated to be required in the performance of the various phases of work provided for under this Agreement. Should the actual costs of the services rendered under this Agreement be less than such estimated cost, then *Landscape Architect* shall receive compensation for only those services actually rendered.

SECTION 3 – WORK AUTHORIZATIONS

- 3.1 *County* will prepare and issue Work Authorizations, in the form identified and attached hereto as Exhibit II to authorize the *Landscape Architect* to perform one or more tasks. Each Work Authorization will include a description of the work to be performed, a description of the tasks and milestones, a work schedule for the tasks, and a fee amount agreed upon by the *County* and *Landscape Architect*. The amount payable for a Work Authorization shall be supported by the estimated cost of each work task as described in the Work Authorization. The Work Authorization will not waive the *Landscape Architect's* responsibilities and obligations established in this Agreement. The executed Work Authorizations shall become part of this Agreement.
- 3.2 Work included in a Work Authorization shall not begin until *County* and *Landscape Architect* have signed the Work Authorization. All work must be completed on or before the completion date specified in the Work Authorization. The *Landscape Architect* shall

promptly notify the *County* of any event which will affect completion of the Work Authorization, although such notification shall not relieve the *Landscape Architect* from costs or liabilities resulting from delays in completion of the Work Authorization. Any changes in the Work Authorization shall be enacted by a written Supplemental Work Authorization before additional work may be performed or additional costs incurred. Any Supplemental Work Authorization must be executed by both parties within the period specified in the Work Authorization. The *Landscape Architect* shall not perform any proposed work or incur any additional costs prior to the execution, by both parties, of a Supplemental Work Authorization.

SECTION 4 - ADDITIONAL SERVICES

- 4.1 For additional services, compensation shall be negotiated in accordance with Exhibit IV.
- 4.2 *Landscape Architect* shall be compensated for extra services not included in the Scope of Services described in the Agreement on the basis specified in Exhibit IV; however, *Landscape Architect* shall not be compensated for work made necessary by *Landscape Architect's* negligent acts, errors or omissions.
- 4.3 The maximum amount payable under this Agreement without modification (the "*Compensation Cap*") is \$300,000.00, provided that any amounts paid or payable shall be solely pursuant to a validly issued Work Authorization or any Supplemental Work Authorization related thereto. In no event may the aggregate amount of compensation authorized under Work Authorizations and Supplemental Work Authorizations exceed the *Compensation Cap*.

SECTION 5 – REQUIRED SUPPORTING DOCUMENTATION

- 5.1 Upon submittal of the initial invoice for service, *Landscape Architect* shall provide *County Judge* with an Internal Revenue Form W-9, Request for Taxpayer Identification Number and Certification that is complete in compliance with the Internal Revenue Code, its rules and regulations.
- 5.2 All invoices submitted to *County Judge* will be accompanied by an original, complete packet of supporting documentation. Invoices should detail hours worked by staff person, with a description of the work performed by individuals. .
- 5.3 For additional services performed pursuant to Section III B of this Agreement, a separate invoice or itemization of this work will be presented with the same requirements for supporting documentation as in Section 5.2 of this Exhibit.
- 5.4 Invoices requesting reimbursement for expenditures related to the project (reimbursables) must be accompanied by copies of the provider's invoice which was previously paid by *Landscape Architect*.
- 5.5 Payments for Direct and Reimbursable Expenses will be made in compliance with the

approved 2009-2010 Budget Order, as amended. The Budget Order can be viewed on the Williamson County web site at www.wilco.org.

EXHIBIT II

WORK AUTHORIZATION NO. 1

This Work Authorization is made pursuant to the terms and conditions of the Agreement entered into by and between Williamson County, Texas, a political subdivision of the State of Texas, (*the "County"*) and The Broussard Group, Inc., dba TBG Partners (*the "Landscape Architect"*).

Part 1. The *Landscape Architect* will provide the following services: Professional Services for Construction Inspection and Observation on Ronald Reagan North, Phase III roadside areas of the project and Ronald Reagan North, Phase I & II roadside corrective measures project, County Roadside Inspection Protocol, and Routine County Roadside Maintenance Protocol (*the "Project"*)

Part 2. The maximum amount payable for services under this Work Authorization without modification is \$299,475.

Part 3. Payment to the *Landscape Architect* for the services established under this Work Authorization shall be made in accordance with the Agreement.

Part 4. This Work Authorization shall become effective on the date of final acceptance of the parties hereto and shall terminate on October 1, 2012, unless extended by a Supplemental Work Authorization.

Part 5. This Work Authorization does not waive the parties' responsibilities and obligations provided under the Agreement.

Part 6. This Work Authorization is hereby accepted and acknowledged below.

OK
my 3/22/2011

EXECUTED this ____ day of _____, 201__.

LANDSCAPE ARCHITECT:
The Broussard Group, Inc.,
dba TBG Partners

COUNTY:
Williamson County, Texas

By: 
Signature

By: _____
Signature

Sean Compton
Printed Name

Printed Name

Principal
Title

Title

EXHIBIT III

Hourly Rates

Position

Project Inspector	\$130.00	/hr.
Inspector I	\$85.00	/hr.
Inspector II	\$70.00	/hr.
Inspector III	\$60.00	/hr.

OK
3-22
2011
mg

EXHIBIT IV

COMPENSATION FOR ADDITIONAL PROFESSIONAL SERVICES

1. The fees described in Exhibits I and II to this Agreement shall provide compensation to *Landscape Architect* for the Professional Services described in the Basic Scope of Services of the Agreement.
2. For the performance of work not described in the Basic Scope of Services of the Agreement, *County* shall pay and *Landscape Architect* shall receive, under a negotiated contract modification, compensation based upon the method and rates set forth in Exhibits I and II to the Agreement.
3. The performance of any additional services must be authorized in writing in advance by the *County Judge*.
4. In the event of any dispute over the classification of *Landscape Architect's* services as either basic or additional services, the decision of the *County Judge* shall be final and binding.

EXHIBIT V

SERVICES TO BE PROVIDED BY COUNTY The County will assist the Landscape Architect by providing assistance, service, or data items as required to advance the completion of assigned work authorizations.

- Provide existing data files, to include but not limited to:
 - Survey data;
 - Roadway construction plans, design documents for the construction of *the Project*;
 - Right-of-Way mapping;
- Approved environmental documents.
- Applicable special specifications, special provisions, and unit price bid tabulation.

Provide timely review, comment or direction, as required, to aid the Landscape Architect in completing an assigned task or maintaining the established project schedule. The County will provide the *Landscape Architect* with:

- Temporary shared offsite location with internet access.
- Offsite work space to complete and store records.
- Access to combination color printer/copier/scanner.

EXHIBIT VI

PROCEDURES FOR TERMINATION OR SUSPENSION

Procedures for *Landscape Architect* to follow upon receipt of Notice of Termination:

1. Upon receipt of a Notice of Termination and prior to the effective date of the termination, *Landscape Architect* shall, unless the Notice otherwise directs, immediately begin to phase out and discontinue all services in connection with the performance of this Agreement and shall proceed to promptly cancel all existing orders and contracts insofar as such orders and contracts are chargeable to this Agreement. Within thirty (30) days after receipt of the Notice of Termination, *Landscape Architect* shall submit a statement, showing in detail the services performed under this Agreement prior to the effective date of termination.
2. Copies of all Instruments of Service prepared under this Agreement prior to the effective date of termination shall be delivered to *County* as a pre-condition to final payment. The foregoing language notwithstanding, *County* and *Landscape Architect* agree that *Landscape Architect*, in its sole discretion, will be allowed to sign and seal such Instruments of Service, or place any other appropriate comment on the Instruments of Service, as appropriate for the phase of preparation of the Instruments of Service.
3. Upon the above conditions being met, *County* shall pay *Landscape Architect* for approved services actually performed under this Agreement, less previous payments.
4. Failure by *Landscape Architect* to submit the required statement and to comply with the above stated conditions without good and reasonable cause shall constitute a waiver by *Landscape Architect* of any and all rights or claims to collect the fee that *Landscape Architect* may rightfully be entitled to for services performed under this Agreement.

Procedures for *Landscape Architect* to follow upon receipt of Notice of Suspension:

1. Upon receipt of a Notice of Suspension and prior to the effective date of the suspension, *Landscape Architect* shall, unless the Notice otherwise directs, immediately begin to phase-out and discontinue all services in connection with the performance of this Agreement and shall prepare a statement detailing the services performed under this Agreement prior to the effective date of suspension. Copies of all completed or partially completed Instruments of Service prepared under this Agreement prior to the effective date of suspension shall be prepared for possible delivery to *County*, but shall be retained by *Landscape Architect* unless requested by *County*.
2. During the period of suspension, *Landscape Architect* may submit the above-referenced statement to *County* for payment of the approved services actually performed under this Agreement, less previous payments.

Procedures for *Landscape Architect* to follow upon exercise of right to terminate for substantial failure of *County* to perform:

1. In the event that *Landscape Architect* exercises such right to terminate, within thirty (30) days after receipt by *County* of *Landscape Architect's* Notice of Termination, *Landscape Architect* shall submit a statement detailing the services performed under this Agreement prior to the effective date of termination.
2. Copies of all completed or partially completed Instruments of Service shall be delivered to *County* as a pre-condition to final payment. Upon the above conditions being met, *County* shall pay *Landscape Architect* for approved services actually performed under this Agreement, less previous payments. The foregoing language notwithstanding, *County* and *Landscape Architect* agree that *Landscape Architect*, in its sole discretion, will be allowed to sign and seal such Instruments of Service, or place any other appropriate comment on the Instruments of Service, as appropriate for the phase of preparation of the Instruments of Service.
3. Failure by *Landscape Architect* to submit the required statement and to comply with the above stated conditions without good and reasonable cause shall constitute a waiver by *Landscape Architect* of any and all rights or claims to collect the fee that *Landscape Architect* may rightfully be entitled to for services performed under this Agreement.

EXHIBIT VII

EQUAL OPPORTUNITY IN EMPLOYMENT

- A. *Landscape Architect* will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. *Landscape Architect* will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; termination; rates of pay or other forms of compensation, and selection for training, including apprenticeship. *Landscape Architect* agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this non-discrimination clause.
- B. *Landscape Architect* will, in all solicitations or advertisements for employees placed by or on behalf of *Landscape Architect*, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
- C. *Landscape Architect* will send to the labor union representative or workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the Contract Compliance Officer advising the said labor union or worker's representatives of *Landscape Architect's* obligations under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- D. *Landscape Architect* will comply with the Regulations of the Department of Transportation (49 CFR 21 and 23 CFR 710.405) and all provisions of Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 (41 CFR 60) and of the rules, regulations and relevant order of the Secretary of Labor. In the event that federal financial assistance is provided for the *Project*, *Landscape Architect* shall comply with 49 CFR 26, TxDOT's Disadvantaged Business Enterprises Program and any Memorandum of Understanding between the *County* and TxDOT pertaining to such Disadvantaged Business Enterprise Program.
- E. *Landscape Architect* will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations and orders of the Secretary of Labor, or pursuant thereto; and will permit access to his books, records, and accounts by the Department and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- F. In the event of *Landscape Architect's* non-compliance with the non-discrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and *Landscape Architect* may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 (41 CFR 60) or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

- G. ***Landscape Architect*** will include the provisions of paragraph (A.) through (F.) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 or Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 (41 CFR 60), so that such provisions will be binding upon each subcontractor or vendor. ***Landscape Architect*** will take such action with respect to any subcontractor purchase order as the Department may direct as a means of enforcing such provisions, including sanctions for non-compliance: provided, however, that in the event ***Landscape Architect*** becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by ***County*** or Federal Agency, ***Landscape Architect*** may request ***County*** and United States to enter into such litigation to protect the interest of the United States.

EXHIBIT VIII

INSURANCE REQUIREMENTS

During the life of this Agreement, *Landscape Architect* agrees to provide and maintain the following insurance:

- A. Worker's Compensation in accordance with statutory requirements.
- B. Commercial General Liability Insurance with a combined minimum Bodily Injury and Property Damage limits of \$1 million per occurrence and \$2 million in the aggregate, including coverage on same for independent subcontractor(s). WILLIAMSON COUNTY SHALL BE NAMED AS AN ADDITIONAL INSURED UNDER THIS COVERAGE.
- C. Automobile Liability Insurance for all owned, non-owned, and hired vehicles with combined minimum limits for Bodily Injury and Property Damage limits of \$1 million per occurrence and \$2 million in the aggregate. *Landscape Architect* shall require any subcontractor(s) to provide Automobile Liability Insurance in the same minimum amounts.
- D. Professional Liability Errors and Omissions Insurance in the amount of \$1 million.
- E. In the event *Landscape Architect* is self-insured in connection with any or all of the above-required insurance policies, *Landscape Architect* shall submit proof of such self-insurance and all financial statements as reasonably required by the *County* in order to determine the acceptability of such self-insurance.

Landscape Architect shall not commence any field work under this Agreement until he has obtained all required insurance and such insurance or self-insurance has been approved by *County*. *Landscape Architect* shall not allow any subcontractor(s) to commence work to be performed in connection with this Agreement until all required insurance has been obtained and approved. Approval of the insurance by *County* shall not relieve or decrease the liability of *Landscape Architect* hereunder.

The required insurance must be written by a company approved to do business in the State or Texas with a financial standing of at least an A- rating, as reflected in Best's insurance ratings or by a similar rating system recognized within the insurance industry at the time the policy is issued. *Landscape Architect* shall furnish *County* with a certification of coverage issued by the insurer. *Landscape Architect* shall not cause any insurance to be canceled nor permit any insurance to lapse. ALL INSURANCE CERTIFICATES REQUIRED PURSUANT TO PARAGRAPH B, ABOVE, SHALL INCLUDE A CLAUSE TO THE EFFECT THAT THE POLICY SHALL NOT BE CANCELED OR REDUCED, RESTRICTED OR LIMITED UNTIL TEN (10) DAYS AFTER COUNTY HAS RECEIVED WRITTEN NOTICE AS EVIDENCED BY RETURN RECEIPT OF REGISTERED OR CERTIFIED LETTER.

It is the intention of the *County* and the *County Judge*, and agreed to and hereby acknowledged by the *Landscape Architect*, that no provision of this Professional Services Agreement shall be construed to require the *County* or the *County Judge* to submit to mandatory arbitration or mediation in the settlement of any claim, cause of action or dispute, except as specifically required in direct connection with an insurance claim or threat of claim under an insurance policy required under this Exhibit which

absolutely requires arbitration or mediation of such claim, or as otherwise required by law or a court of law with jurisdiction over the provisions of this Agreement.

EXHIBIT IX

SCOPE OF SERVICES – WORK AUTHORIZATION 1

FOR PROFESSIONAL SERVICES

THE FOLLOWING SCOPE OF SERVICES IS INTENDED TO BE CONSISTENT WITH THE WILLIAMSON COUNTY PROFESSIONAL SERVICES AGREEMENT. TO THE EXTENT THE SCOPE IS INCONSISTENT WITH THE PROFESSIONAL SERVICES AGREEMENT, THE PROFESSIONAL SERVICES AGREEMENT WILL SUPERSEDE THE SCOPE AND WILL BE CONTROLLING.

THE LANDSCAPE ARCHITECT SHALL PROVIDE EXPERT TESTIMONY IN ANY ADMINISTRATIVE OR COURT PROCEEDINGS THROUGH AN APPROPRIATE PROFESSIONAL TO BE DETERMINED MUTUALLY BY COUNTY AND LANDSCAPE ARCHITECT AS ADDITIONAL SERVICES AT THE RATE OF COMPENSATION SET FORTH IN EXHIBIT IV AND IN A MANNER CONSISTENT WITH THE TEXAS BOARD OF ARCHITECTURAL EXAMINERS' RULES CONCERNING THE PRACTICE OF LANDSCAPE ARCHITECTURE, EFFECTIVE AS OF THE RELEVANT DATE.

Task 1. Construction Observation and Inspection on 5.3 mi Ronald Reagan North, Phase III road sides areas of the project and 12 mi. Ronald Reagan North, Phase I & II roadside corrective measures project

Construction Management on Ronald Reagan North, Phase III roadside project area and Ronald Reagan North, Phase I & II roadside corrective measures project area

- Verify receipt of the Contractor's schedule of operations
- Respond to Request for Information (RFI) process for items related to scope of work.
- Make recommendations and assist in review of Change Orders.
- Evaluate and provide advice to the County on the approval of contractor's CPM schedules.
- Maintain a current approved set of Ronald Reagan North, Phase I & II corrective measures construction contract documents.
- Review and provide recommendation of acceptance to the GEC on the Contractor's monthly pay estimate, as requested. Review and verify quantities of work performed and materials used, as requested.
- Review Contractor submittals from the GEC.
- Identify and advise the County and GEC in the resolution of construction issues that arise.
- Provide advice to the County and GEC in dispute negotiations and claim resolutions.

- Provide vehicles, communication devices (i.e cell phones, radios), computers, office supplies and internet service, as needed.
- Review and provide recommendation to the County and GEC on the acceptance of As-built drawings provided by the Contractor.
- Observe to see if specified procedures, specified in the plans and specifications are being followed.
- Advise the GEC and request corrective action be taken, if an inspection reveals that work has not been properly performed.
- Re-inspect non-conforming work.
- Evaluate and document the Contractor's operations and production with respect to quality and progress.
- Verify and perform spot checks on quantities being identified, measured, recorded and verified by comparisons against plan, contract quantities and dimensions.
- Evaluate damages to existing vegetation the formula in Section XXV. **Tree and Plant Protection** of the Special Conditions.

Provide Reports of Construction Activities on Ronald Reagan North, Phase III roadside areas and Ronald Reagan North, Phase I & II roadside corrective measures project

- Perform a review of the construction of the *Project* to monitor compliance with the *Designer's* plans and specifications and document construction activities using reports, journal, logs, or other, as necessary or required.
- Provide digital and video photo logging of project activities.
- Develop project progress meeting minutes and distribute to attendees.
- Provide regular project report of the construction project progress to the County and the GEC.
- Review reports distributed by GEC of the results of tests performed on materials used in construction.
- Provide non-conformance reports as needed.
- Provide report of accidents in accordance with Section XI L. of the Agreement.

Meetings and Record Keeping on Ronald Reagan North, Phase III roadside areas and Ronald Reagan North, Phase I & II roadside corrective measures project

- Attend the Pre-Construction Conferences.
- Attend project progress meetings related to scope of work.

- Maintain all records as required.
- Maintain a status report of change orders, RFIs, schedule updates, shop drawing review and time extensions related to scope of work.
- Maintain "redline" drawings to document the changes made to the Ronald Reagan North, Phase I & II corrective measures constructed project. These redline drawings will be used to verify the Contractor's As-Built plan submittal.
- Review and verify submission, to the GEC, of the "As-Built" drawings related to scope of work dated and signed by the Contractor and his project superintendent prior to final acceptance.

Materials Testing on Ronald Reagan North, Phase III roadside areas and Ronald Reagan North, Phase I & II roadside corrective measures project

- Order or Verify contractor's order of materials sampling and testing in accordance with the "Quality Assurance Program" related to scope of work.
- Review all "project test" or QC test results from the GEC related to scope of work.
- Request and review QC/QA test results by verification tests from independent samples, through the GEC.
- Review reports to the GEC on the contractors' compliance with the identification of test results with the test number, date of testing, at the station and elevation of the test on the appropriate plan sheet.
- When test requirements are not met, request the performance of independent material testing through the GEC in accordance with the "Quality Assurance Program".
- Receive from the GEC, and verify compliance with specifications, Manufacturer Certificates of Compliance of each and every specified material or manufactured equipment item.

Task 2. County Roadside Inspection Protocol

- Prepare pocket sized field booklet for identification of invasive and native plant species.
- Establish monitoring practices checklist for invasive control of plant species.
- Prepare inspection protocol manual for County roadsides.

Task 3. Routine County Roadside Maintenance Protocol

- Review routine County maintenance and construction inspection practices via field reconnaissance with staff.
- Evaluate current County roadway maintenance and operation procedures.

- Evaluate current County maintenance equipment and facilities.
- Prepare County maintenance protocol of roadside best management practices

Exhibit C - Work Schedule -
WA 1

Actual Gantt Start Date:

PROJECT NAME: Work Authorization 1

[illegible]



Exhibit D - Fee Schedule

Work Authorization 1

Prepared 3-22-2011 Task	Description	Project Inspector \$130/hr	Inspector I \$85/hr	Inspector II \$70/hr	Inspector III \$60/hr
Task 1	Construction Observation and Inspection on Ronald Reagan North, Phase I, II & III roadside areas of projects	152	124	1176	54
A.	Construction Management Services				
B.	Reports of Construction Activities				
C.	Meetings and Record Keeping				
D.	Materials Testing				
Task 1 - Subtotal		\$19,760.00	\$10,540.00	\$82,320.00	\$3,240.00

Task 1 - Grand Total \$115,860.00

Task 2	County Roadside Inspection Protocol				
A.	Prepare roadside inspection protocol manual	90	175	306	340
B.	Prepare pocket sized field booklet for identification of invasive and native plant species				
C.	Establish monitoring practices checklist for invasive control of plant species				
Task 2 - Subtotal		\$11,700.00	\$14,875.00	\$21,420.00	\$20,400.00

Task 2 - Grand Total \$68,395.00

Task 3	Routine County Roadside Maintenance Protocol				
	Review routine County maintenance and construction inspection practices via field reconnaissance with staff.	90	210	293	265
A.	Evaluate current County roadway maintenance and operation procedures.				
B.	Evaluate current equipment and facilities.				
C.	Evaluate current equipment and facilities.				
D.	Prepare maintenance protocol of roadside best management practices				
Task 3 - Subtotal		\$11,700.00	\$17,850.00	\$20,510.00	\$15,900.00

Task 3 - Grand Total \$65,960.00

Direct Cost - Ecological Subcontract with University of Texas Lady Bird Johnson Wildflower Center

Task 1	\$18,520.00
Task 2	\$8,200.00
Task 3	\$7,130.00
	\$33,850.00

Total Project Expense - TBG Partners \$250,215.00

Total Project Expense - Sub consultants \$33,850.00

Total Direct Expenses \$15,410.00

Total Work Authorization WA 1 Cost \$299,475.00

EXHIBIT X

LANDSCAPE ARCHITECT'S QUALIFICATIONS STATEMENT



COMPANY

Founded by Earl Broussard and Tom Afflerbach in 1987 on a commitment to design excellence, TBG Partners is the premier landscape architecture and planning firm in Texas. The firm is dedicated to creating spaces that celebrate life, developing innovative solutions for each and every project—and ultimately making hard work fun. Our passion for playfulness is perhaps only surpassed by our commitment to our clients and each of their projects. This commitment and the firm's extensive capabilities have resulted in some of the most distinguished landscape projects in Texas and the nation. An employee-owned corporation, TBG has enjoyed remarkable success thanks to the firm's extraordinary talent. The firm's 17 principals lead a dedicated staff of 80-plus professionals based throughout Texas; these skilled individuals cherish the process of working collaboratively with clients and colleagues. The success of our clients and their projects is of paramount importance, and our commitment to them is resolute—our first client is still one of the very best. We believe the best solutions result from shared visions that uniquely responds to client objectives, site context and user needs—while articulating a distinct and inviting sense of place. TBG's award-winning and internationally recognized projects demonstrate the value and success of our approach.

PRACTICE AREAS

TBG has extensive experience in developing successful planning solutions and landscape designs in multiple practice areas. Known for its exceptional service, TBG creates uniquely responsive designs tailored to client objectives. TBG provides exemplary landscape architecture, planning, sustainable design and environmental graphic design services for an array of project types that includes:

Communities	Healthcare facilities	Healing gardens
Mixed-use/retail developments	Educational campuses	Natural play environments
Resort destinations	Civic facilities	
Amenity centers	Parks and trails	
Corporate campuses	Historic sites and restorations	

LEADERSHIP

Earl Broussard, FASLA, AICP, LEED AP.....AUSTIN	Jim Manskey, ASLA.....DALLAS
Thomas Afflerbach, ASLA, LEED AP.....AUSTIN	Mark Meyer, ASLA.....DALLAS
Brian Ott, ASLA, LEED AP.....AUSTIN	Kent Mendenhall, ASLA, Associate AIA.....DALLAS
Sean Compton, LEED AP.....AUSTIN	Bill Odle, ASLA.....HOUSTON
Brent Spraggins, Architect.....AUSTIN	John Wallace, ASLA.....HOUSTON
Trent Rush, ASLA, LEED AP.....AUSTIN	Drew Mengwasser, ASLA, LEED AP.....HOUSTON
Sarah Cash.....AUSTIN	Meade Mitchell, ASLA.....HOUSTON
Brenda Warner.....AUSTIN	Scott Weaver, ASLA, LEED AP.....SAN ANTONIO
Dennis Jerke, ASLA.....FORT WORTH	



Sustainable design successfully integrates economic, social and environmental components with the natural environment. With 26 LEED® Accredited Professionals, 20 projects seeking LEED certification, 14 LEED certified projects and many more incorporating green design, TBG is committed to the advancement of sustainable design and planning practices, ensuring that the firm remains at the forefront of this progressive realm.

DELL CHILDREN'S MEDICAL CENTER OF CENTRAL TEXAS

LEED-NC Platinum Certified

Austin, Texas

RONALD MCDONALD HOUSE

LEED-NC Platinum Certified

Austin, Texas

EAGLE VETERINARY HOSPITAL

LEED-NC Platinum Certified

San Antonio, Texas

AMD LONE STAR CAMPUS

LEED-NC Gold Certified

Austin, Texas

FOUR POINTS CENTRE, LOT 2, BLOCK B

LEED-CS Gold Certified

Austin, Texas

WYAK MIDWAY OAK PARK OFFICE BUILDING

LEED-NC Gold Certified

Houston, Texas

CATELLUS SETON ADMINISTRATION OFFICES

LEED-NC Gold Certified

Austin, Texas

RACKSPACE HEADQUARTERS

LEED-NC Gold Certified

San Antonio, Texas

HUNT OIL TOWER

LEED-CI Silver Certified

Dallas, Texas

SEDL CORPORATE HEADQUARTERS

LEED-NC Silver Certified

Austin, Texas

THE UNIVERSITY OF TEXAS BIOMEDICAL ENGINEERING BUILDING

LEED-NC Silver Certified

Austin, Texas

FLUOR CORPORATE HEADQUARTERS

LEED-NC Certified

Las Colinas, Texas

THE LAKE HOUSE AT CINCO RANCH

LEED-NC Certified

Katy, Texas

JW MARRIOTT SAN ANTONIO HILL COUNTRY

RESORT AND SPA

LEED-NC Certified

San Antonio, Texas

6 HOUSTON CENTER

Seeking LEED-CS Gold Certification

Houston, Texas

CHAMPION OFFICE DEVELOPMENT

Seeking LEED-CS Gold Certification

Austin, Texas

SAN JACINTO BATTLEGROUND VISITORS CENTER

Seeking LEED-NC Silver Certification

La Porte, Texas

COLONY PARK RECREATION CENTER

Seeking LEED-NC Silver Certification

Austin, Texas

TEXAS STATE UNIVERSITY NORTH HOUSING

DORMITORY

Seeking LEED-NC Silver Certification

San Marcos, Texas

TEXAS STATE UNIVERSITY UNDERGRADUATE

ACADEMIC CENTER

Seeking LEED-NC Silver Certification

San Marcos, Texas

FOUR POINTS CENTRE, LOT 5, BLOCK A

Seeking LEED-CS Silver Certification

Austin, Texas



Sustainable Design

HALL OFFICE PARK - T.1 TOWER

Seeking LEED-CS Silver Certification
Frisco, Texas

LAKEVIEW BUSINESS PARK - PHASE I

Seeking LEED-CS Silver Certification
Missouri City, Texas

JULIA IDESON LIBRARY

Seeking LEED-NC Silver Certification
Houston, Texas

THE DOMAIN II

Seeking LEED-NC Certification
Austin, Texas

FRONTERA VISTA

Seeking LEED-NC Certification
Round Rock, Texas

GRANITE PARK IV

Seeking LEED-NC Certification
Plano, Texas

GRANITE PARK V

Seeking LEED-NC Certification
Plano, Texas

INTELLICENTER DALLAS

Seeking LEED-NC Certification
Dallas, Texas

INTELLICENTER HOUSTON

Seeking LEED-NC Certification
Houston, Texas

SEAHOLM POWER PLANT REDEVELOPMENT

Seeking LEED-NC Certification
Austin, Texas

TELFAIR CENTRAL HALL

Seeking LEED-NC Certification
Sugar Land, Texas

TELFAIR MEETING HOUSE

Seeking LEED-NC Certification
Sugar Land, Texas

FIGURE

Austin Green Building Program/five-star rated
Austin, Texas

LCRA TENSOCO PHASES I&II

Austin Green Building Program/four-star rated
Austin, Texas

THE AUSTONIAN

Austin Green Building Program/four-star rated
Austin, Texas

CATELLUS SETON ADMINISTRATION OFFICES

Austin Green Building Program/four-star rated
Austin, Texas

MUELLER REGIONAL RETAIL

Austin Green Building Program/two-star rated
Austin, Texas

STRICTLY PEDIATRICS MOB

Austin Green Building Program/two-star rated
Austin, Texas

WESTMINSTER MANOR

Austin Green Building Program/two-star rated
Austin, Texas

WILDHORSE PUD

Austin Green Building Program/one-star rated
Austin, Texas

WHEATSVILLE FOOD CO-OP

Austin Green Building Program/one-star rated
Austin, Texas

NEW BRAUNFELS UTILITIES

Austin Green Building Program
New Braunfels, Texas

JOHNSON BEACH COMMUNITY

Green Building Practices
Galveston, Texas

WATER OAK AT SAN GABRIEL

Conservation Development
Georgetown, Texas



An urban designer and landscape architect, Sean Compton is a leading practitioner of sustainable urbanism ranging from city centers and rural village nodes to scenic corridors and urban thoroughfares. He leads the Austin studio of architects, urban designers and landscape architects, employing a collaborative process. As a lifelong world traveler, Sean has acquired a deep understanding of ecological sustainability and mixed-use projects through his practice in Asia, Europe and Southern Africa. Inspired by the common language of placemaking, his body of work remains rooted in creating places for people. His commitment to progressive planning extends to his leadership as President of the Central Texas chapter of the Congress for the New Urbanism.

EDUCATION

Bachelor of Landscape Architecture with Honors, Texas A&M University, 1980

REGISTRATION

USGBC LEED Accredited Professional

Landscape Architect - State of Texas, 1981

Landscape Architect - South Africa, 1984

TxDOT Precertification, 1.4.1 Land Planning/Engineering

SELECTED AFFILIATIONS

Congress for the New Urbanism (CNU)

US Green Building Council (USGBC)

Urban Land Institute (ULI)

American Society of Landscape Architects (ASLA)

APPOINTMENTS

Congress for the New Urbanism (CNU) Central Texas, President

Alliance for Public Transportation, Board of Directors

Envision Central Texas

PROJECTS

Ronald Reagan Boulevard, Sustainable Design - Williamson County, Texas

Protocol for Sustainable Roadways - Williamson County, Texas

The University of Texas Brackenridge Master Plan - Austin, Texas

Midtown Commons TOD - Austin, Texas

Lakeshore District Master Plan - Austin, Texas

Water Oak Conservation Development - Georgetown, Texas

Plum Creek - Kyle, Texas

Rathgeber Village at Mueller - Austin, Texas

The Woods Conservation Community Center - College Station, Texas

*Asia & Pacific Trade Center - Osaka, Japan**

*Kings Forest Resort - Brisbane, Australia**

*Pricia Takehara Resort - Hiroshima Prefecture, Japan**

*Zimbali Resort - Durban, South Africa**

** Denotes projects prior to joining TBG*

SELECTED AWARDS

Plum Creek

Envision Central Texas Community

Stewardship New Development Award 2006, and Public Planning and Policy Award, 2010

Austin Business Journal Awards

Master Planned Community of the Year 2005

Houston Low Impact Development -

Green Roadway Design Finalist

Cedar Park Town Center

American Planning Association, Austin Chapter

Conservation Plan for the Uplands and Sweetwater Ranch

American Society of Landscape Architects, Merit Award

Jefferson Center

Austin Business Journal Awards, Best Multi-Family

Met Center

Austin Business Journal Awards, Best Commercial



Charlotte Tonsor, LEED AP

SENIOR ASSOCIATE



A senior associate and project manager in TBG's Austin office, Charlotte Tonsor has been with TBG for more than 10 years, working on a variety of unique and challenging projects. Charlotte works collaboratively as part of a team approach and shares her expertise in sustainability with clients and colleagues to develop the most responsible project solutions. Her sustainable design experience involves working with innovative water solutions, including rainwater harvesting, bioswales and rain gardens, and construction techniques that reduce waste, limit development impact and reuse site materials.

EDUCATION

*Bachelor of Landscape Architecture,
Texas A&M University, 1999*

REGISTRATION

*Landscape Architect - State of
Texas, 2008*

LEED Accredited Professional

AFFILIATIONS

US Green Building Council (USGBC)

PROJECTS

*Ronald Reagan Boulevard - Williamson
County, Texas*

*UT Lady Bird Johnson Wildflower
Center Children's Garden - Austin,
Texas*

*Texas Parks and Wildlife Game Warden
Training Facility - Star, Texas*

Butler Park - Austin, Texas

*Hyatt Regency Lost Pines Resort and Spa -
Bastrop, Texas*

Republic Square Park - Austin, Texas

*Advanced Micro Devices Lone Star
Campus - Austin, Texas*

*Laguna Gloria Historic Grounds
Restoration - Austin, Texas*

*Prairie View A&M University Juvenile
Justice and Psychology Building -
Prairie View, Texas*

Rocky Creek Branch - Bee Cave, Texas

Gabardine - Austin, Texas

*JW Marriott San Antonio Hill Country
Resort & Spa - San Antonio, Texas*

St. Joseph Hospital - Bryan, Texas

AWARDS

*Town Lake Park ASLA Texas Chapter
Honor Award 2008*

*Keep Austin Beautiful Beautification
Award 2007*

*Hyatt Regency Lost Pines Resort and
Spa*

ASLA Texas Chapter Honor Award 2008

*Advanced Micro Devices Lone Star
Campus*

*ASLA Texas Chapter Merit Award 2010,
Land Stewardship Designation*



A Senior Associate in TBG's Austin office, Ronnie Stafford undertakes all aspects of residential development and recreational projects. His involvement in each project begins with the design process and continues into construction observation to ensure that all of the client's needs are fulfilled. Ronnie has extensive field experience in the design of interactive aquatic and recreation center projects. Over the past few years Ronnie has been a project manager on multiple water-based recreation projects, including: Grand Mission Recreation Center, Hyatt Regency Lost Pines Resort & Spa, Bridgeland Recreation Center, Telfair Recreation Center and others.

EDUCATION

*Bachelor of Landscape Architecture,
Texas Tech University, 1995*

REGISTRATION

*Landscape Architect - State of
Texas, 2008*

AFFILIATIONS

*American Society of
Landscape Architects (ASLA)
Real Estate Council of Austin (RECA)
US Green Building Council (USGBC)
The Association of Pool & Spa
Professionals (APSP)*

PROJECTS

*Protocol for Sustainable Roadsides -
Williamson County, Texas*

*Rec Center at Cibolo Canyons - San
Antonio, Texas*

*The Lakehouse at Cinco Ranch - Katy,
Texas*

*Seven Meadows Central Park - Katy,
Texas*

*Sharyland Plantation Recreation Center
- Mission, Texas*

*Bridgeland Recreation Center - Cypress,
Texas*

*Eagle Springs Recreation Center -
Houston, Texas*

*Fall Creek Recreation Center - Houston,
Texas*

*Telfair Central Hall and Recreation
Center - Sugar Land, Texas*

*Grand Mission Recreation Center -
Houston, Texas*

*Lakeway Swim Center Park - Lakeway,
Texas*

PROJECTS - continued

*Camp Young Judaea - Wimberley,
Texas*

Camp For All - Burton, Texas

*Hyatt Regency Lost Pines Resort and
Spa - Bastrop County, Texas*

*JW Marriott San Antonio Hill Country
Resort and Spa - San Antonio, Texas*

Palmas del Mar, Puerto Rico

Water Oak - Georgetown, Texas

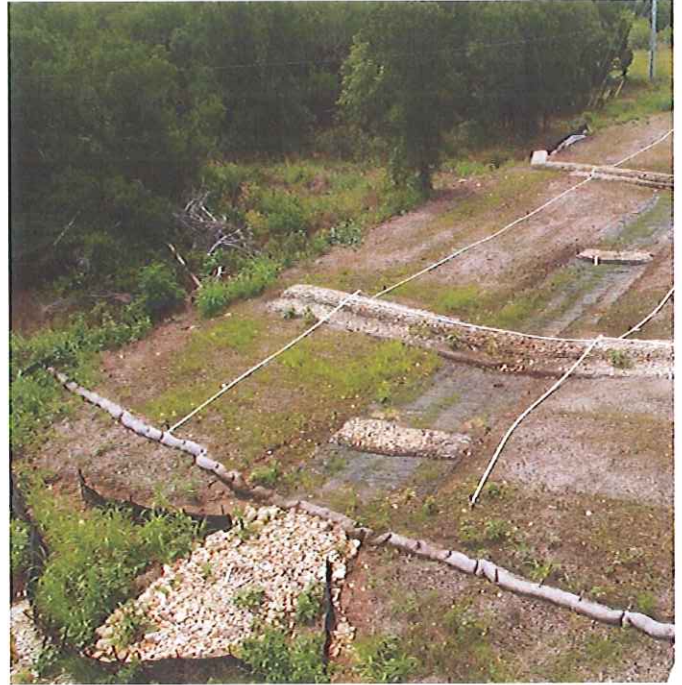
*City of Bee Cave Central Park - Bee
Cave, Texas*

*Independence Hills Regional Park -
Laredo, Texas*

*U.T. Lady Bird Johnson Wildflower
Center Children's Garden - Austin,
Texas*

*Seven Meadows Central Park - Katy,
Texas*

*City of Bee Cave Central Park - Bee
Cave, Texas*



LOCATION

Williamson County, Texas

AREA

12 miles of roadway

YEAR COMPLETED

2010

SERVICES PROVIDED

Sustainable design

Context sensitive design

Landscape architecture

Low-Impact stormwater design

PROJECT ELEMENTS

Analysis for failed roadside conditions

Corrective measures design

Plans, specifications and estimates

Construction phase services

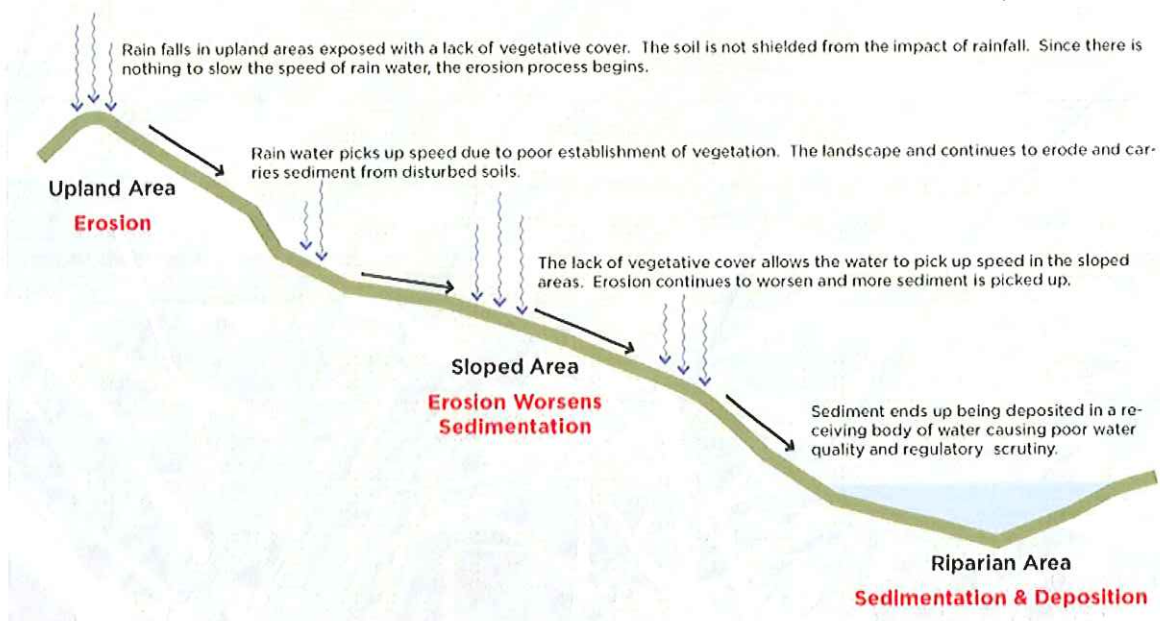
Maintenance specifications

Project monitoring



Commissioned by Williamson County, TBG analyzed the roadside conditions for a constructed 12-mile section of Ronald Reagan Boulevard damaged by widespread roadside erosion, slope stability and waterway siltation issues. A cross-disciplinary team led by TBG conducted an in-depth field assessment of the conditions, an analysis of the roadside construction documentation and current construction and maintenance practices. TBG prepared recommendations as well as a monitoring program to evaluate the construction and maintenance Best Management Practices. TBG will work with County staff to familiarize them on the corrective measures' installation and maintenance. As such, this project is being viewed as a demonstration project for the County.

Addressing the Problem of Erosion and Sedimentation



LOCATION

Williamson County, Texas

AREA

21 miles of roadway

YEAR COMPLETED

2010

SERVICES PROVIDED

Sustainable design

Context sensitive design

Landscape architecture

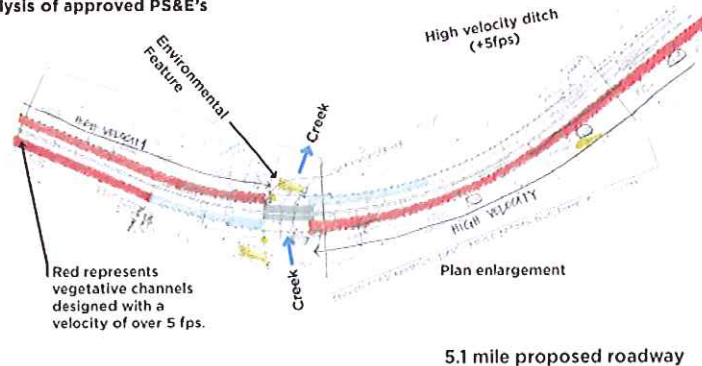
Low-Impact stormwater design

PROJECT ELEMENTS

Ecological assessment

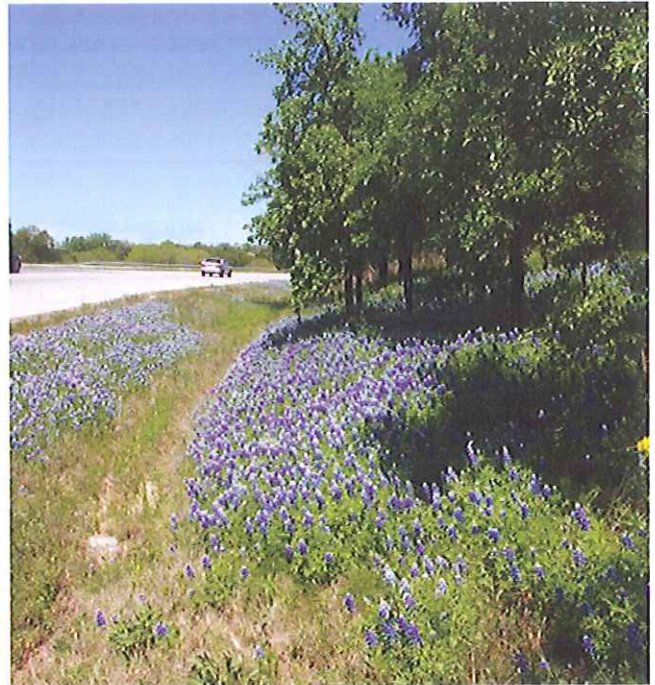
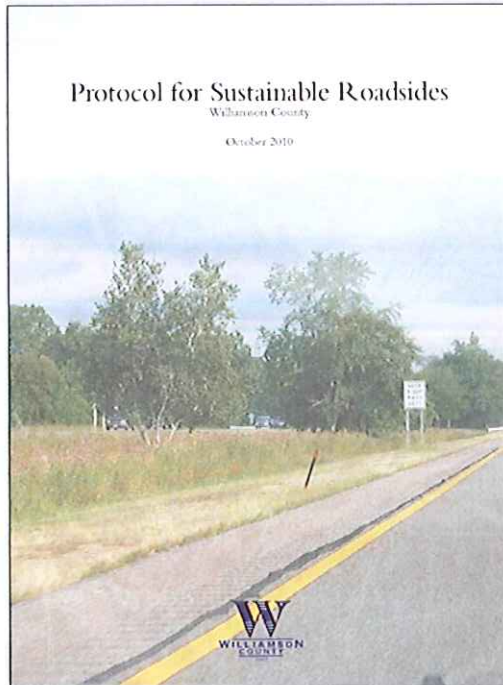
Best management practices

Analysis of approved PS&E's



Sustainable Roadside Practices
Identification of Potential Erosion and Sedimentation

Recognizing the financial and environmental costs associated with roadways, the Williamson County Commissioners Court engaged TBG to review a number of recently designed projects to provide guidance for incorporating ecologically sustainable objectives. These objectives include reducing erosion and sedimentation, ensuring regulatory compliance and guiding engineers toward the design of sustainable roadways. TBG conducted an ecological assessment and reviewed the design, including channel hydrology and hydraulic study, grading, environmental assessment, and temporary and permanent erosion and sedimentation controls. TBG identified potential issues and developed Best Management Practices (BMPs) to address concerns for implementation.



LOCATION

Williamson County, Texas

AREA

County-wide

YEAR COMPLETED

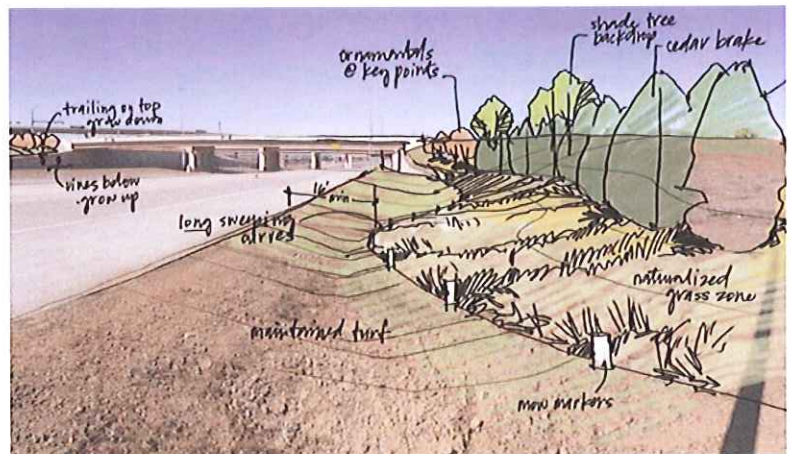
2010

SERVICES PROVIDED

Sustainable design
Context sensitive design
Landscape architecture
Low-Impact stormwater design

PROJECT ELEMENTS

Roadway corridor planning
Best management practices
PS&E technical specifications
Roadside inspection criteria
Maintenance criteria



TBG led a multidisciplinary team to analyze current practices in the design, construction, maintenance and policies of Williamson County roadsides. Recognizing the financial and environmental costs, the County Commissioners Court adopted the Protocol for use as a common base of information for roadway engineers, contractors and maintenance staff. This approach seeks to widen the "success rate" of roadsides to reduce or avoid financial and environmental impacts. The Protocol draws upon leading research in highway design and construction, employs Low Impact Development (LID) principles to improve stormwater quality, and emphasizes use of native vegetation and ecological restoration.

Lady Bird Johnson Wildflower Center: Ecosystem Design Group

The Lady Bird Johnson Wildflower Center is an Organized Research Unit of the University of Texas at Austin. Our mission, *to increase the sustainable use and conservation of native wildflowers, plants, and landscapes*, drives our consulting activities and is the foundation upon which all of our projects are based. Our program uses fee-based consulting and field research in essentially a feedback loop: we apply techniques learned from research through our consulting activities and our consulting activities inform and raise new questions for further research. The consulting program applies the Center's science-based knowledge of native plants and ecological processes to our projects and serves as an education component of our mission.

The Wildflower Center typically works with other project partners in a team based decision-making system where input from all consultants is encouraged to make the best possible decision. We work closely with the design team on the environmental implications of design decisions to ensure performative landscapes. Since our services are unique and require innovative techniques, we are most effective and efficient when involved from the beginning stages of design, design development, to construction oversight and project completion. We are dedicated to the integrity of the design and work diligently with team members to develop long term sustainable sites that protect existing ecosystems and regenerate ecological capacity where it has been lost.

Our projects integrate the most sustainable site design practices identified by the Sustainable Sites Initiative, a national voluntary "green building" tool for the landscape developed by the Wildflower Center in collaboration with the American Society for Landscape Architects (ASLA) and the United States Botanic Garden and experts in soils, hydrology, plants and materials from around the nation. The Sustainable Sites Initiative defines sustainability as "design, construction, operations, and maintenance practices that meet the needs of the present without compromising the ability of future generations to meet their own needs." The standards and guidelines for the Sustainable Sites Initiative available at www.sustainable-sites.org

Our process follows the guidelines of Sustainable Sites Initiative starting with site selection through design guidelines and specifications to operations and maintenance and often includes long term monitoring. The majority of our projects begin with the Wildflower Center performing an in depth site assessment that function as the foundation for the preliminary design supported by site specific data such as infiltration rates, soil types, and existing vegetative cover. We additionally produce materials such as illustrations, specifications, and project reports to demonstrate the Wildflower Center's design intent that are then integrated into the teams drawing sets. Because of the special nature of the construction methods needed to implement many of the designs, Wildflower Center consultants regularly visit the project sites and provide construction oversight when necessary and additionally act as a liaison between the client and local governments in order to assure that environmental standards and requirements are met and in most cases surpassed. The Center also offers design/build capabilities where Wildflower Center consultants carry out the desired task. In some situations, Wildflower Center staff has served as field supervisors for installing contractors in order to both educate their crews as well as assure full compliance with design intent while adapting the design to site constraints.



Emily Manderson, Consulting Program Manager, LEED AP
Landscape Restoration Program • Lady Bird Johnson Wildflower Center
Ecosystem Design Group
4801 La Crosse Avenue • Austin, Texas • 78739-1702
Tel: (512) 232 0101 • emanderson@wildflower.org

Education

M.A. 2007 Landscape Architecture, University of Texas
M.A. 2002 Physical Geography, Texas State University
B.A. 1997 Sociology, Skidmore College

Selected Projects

Low Impact Development Workshops, Texas.

Participated in the development and hosting of eight LID workshops throughout the Texas region to identify policy and local code obstacles to LID implementation. The workshops are in conjunction with The Center for Research in Water Resources at University of Texas and are financed through grants by, the Texas Commission on Environmental Quality and the U.S. Environmental Protection Agency.

George Bush Presidential Center, Dallas Texas. Project Manager

Provided ecological consulting on native prairie establishment, installation, and maintenance. Consulted on stormwater BMPs, green roof design, soil development and appropriate plant selection.

Guadalupe Saldana Net Zero Subdivision, Austin Texas. Project Manager

Worked with Architects, Landscape Architects, Developers, Community representatives and Engineers in the development of sustainable landscape features for the affordable housing Guadalupe Saldana Subdivision in Austin Texas. These features focused on innovative stormwater quality systems, analysis of rainwater collection for irrigation, guidance on stream channel enhancements for a critical environmental feature, and site native plant selection.

Greenway Design, Robert Mueller Redevelopment, Austin Texas.

Worked with project landscape architects and civil engineers on the design of the Robert Mueller Development public and commercial green infrastructure. These designs include prairie restoration, Low Impact Design stormwater practices, formal native garden design, wetland habitat restoration, and interpretive theme development.

Presentations and Affiliations

- 2010 International Low Impact Development Conference. San Francisco, California. Biofiltration sustainable media design.
- Managing Wet Weather with Green Infrastructure Workshop. San Antonio, Texas. 2009. Research on plant selections and soil conditions when using green infrastructure for managing stormwater in Central Texas.
- American Ecological Engineering Society. Corvallis, Oregon. 2009. Biofiltration research analysis and applied projects in Austin, TX.
- American Society of Landscape Architects Conference 2008. Press Conference Parking lot to Prairie: Mueller Airport Redevelopment Project.

Mark Simmons, Ecologist

Landscape Restoration Program • Lady Bird Johnson Wildflower Center
Ecosystem Design Group

4801 La Crosse Avenue • Austin, Texas • 78739-1702

Tel: (512) 232 0101 • msimmons@wildflower.org

Education

Ph.D. 2003 Rangeland Ecology and Management, Texas A&M University
M.S. 1997 Botany, University of Cape Town, South Africa
B.S. 1993 Botany, Honors, University of Cape Town, South Africa
B.S. 1981 Environmental Science, University of Lancaster, United Kingdom

Selected Projects

Sustainable Sites Initiative

Worked on the Vegetation Technical Committee with scientists, consultants, and professionals to establish a national credit system for sustainable landscape design.

Robert Mueller Airport Development, Austin Texas. Principle

Worked with landscape architects, developers and engineers in the development of sustainable landscape features for green space residential and commercial urban development. These features focused on different native landscapes-- prairies wildflower meadows and gardens, wetland/stormwater quality systems, rain gardens. Also spear-headed interpretation and community involvement programs.

San Antonio River Mission Reach Project, San Antonio, Texas. Principle

Worked with landscape architects and engineers to develop the ecological restoration of eight miles of the river through urban landscape. The restored native plant composition, density and layout had to conform to the re-engineered hydrology of the flood-prone stretch of river. Design components included native prairies, riparian margins, and different woody plant communities.

National Park Service, Texas, Oklahoma, Colorado. Principle

Worked with parks staff to create ecological and interpretive master plans for several national parks and historic sites within south central US. Plans examined ways to re-establish former plant communities to historical condition and allow stake holders including adjacent communities and Native American communities to be involved in the restoration process.

Publications

Simmons, M T, B. Gardiner, S. Windhager, and M.J. Tinsley (2008). Green roofs are not created equal: the hydrologic and thermal performance of six different extensive green roofs and reflective and non-reflective roofs in a sub tropical climate. *Urban Ecosystems* 11(4): 339-348.

Simmons, M T, S R Archer, R J Ansley, and W R Teague (2008). Tree (*Prosopis glandulosa*) effects on grass growth: an experimental assessment of above- and belowground interactions in a temperate savanna. *Journal of Arid Environments*, 72: 314-325.

Simmons, M T, S Windhager, P Power, J Lott, R Lyons, and C Schwope (2007). Selective and non-selective control of invasive plants: The effects of growing-season prescribed fire, herbicide, and mowing in two invaded Texas prairies. *Restoration Ecology* 15 662-669.

John Hart Asher, Environmental Designer, MLA

Landscape Restoration Program • Lady Bird Johnson Wildflower Center
Ecosystem Design Group

4801 La Crosse Avenue • Austin, Texas • 78739-1702

Tel: (512) 232 0109 • jasher@wildflower.org

Education

M.A. 2007 Landscape Architecture, University of Texas

B.A. 1999 History, University of Mississippi

Selected Projects

Sustainable Roadsides for Central Texas, Project Manager

Works with an integrated design team to develop sustainable roadside design, engineering, and construction BMP's. Project locations include areas of Williamson and Hays counties with the hope of spreading Sustainable Roadside strategy to all areas of central Texas.

Ronald Reagan Parkway, Williamson County, Texas, Project Manager

Worked with project landscape architects and civil engineers on ecologic restoration and implementation of ecosystem services for sections of the newly constructed Ronald Reagan Parkway; strategies included site context sensitive grading and roadway design, limiting construction disturbance, developing appropriate soil compaction levels, native plant seeding, and sustainable water quality and detention practices.

San Antonio River Restoration, San Antonio, Texas

Worked with Landscape Architects, Army Corps of Engineers, and San Antonio River Authority providing guidance on stream channel enhancements essential for riparian ecosystem function; strategies included soil health amelioration tactics and site native plant selection.

Project Beethoven: Corporate Headquarters, San Antonio, Texas

Worked with project landscape architects, civil engineers, and architects on developing sustainable construction strategies; the headquarters will serve as a pilot project for the Sustainable Sites Initiative and site planning includes ecologic site assessment, development of a restoration plan, soil restoration/conservation practices, invasive species treatment and removal plans, native plant species selection, water quality and detention.

Presentations and Affiliations

- Greater Austin Contractors and Engineers Association, Central Texas Infrastructure Design and Construction Symposium Austin, Texas. 2010. Sustainable roadside practices for Central Texas
- American Society of Landscape Architects, Member, 2010
- Texas Society for Ecologic Restoration Annual Conference, Texas 2010. Compost for restoration purposes.

HDR construction observation PSA Commissioners Court - Regular Session

Date: 03/29/2011
Submitted By: Marie Walters, Road Bond
Department: Road Bond
Contract Oversight:
Agenda Category: Regular Agenda Items

Information

Agenda Item

Discuss and consider approving HDR Engineering, Inc. Professional Service Agreement (PSA) for construction inspection and/or observation services on transportation projects.

Background

Fiscal Impact

From/To	Acct No.	Description	Amount
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Attachments

Link: [HDR construction observation PSA](#)

Link: [HDR WA1 for O'Connor ext.](#)

Form Routing/Status

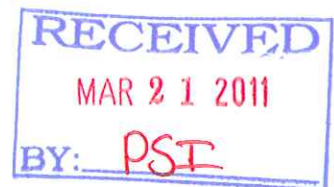
Route Seq	Inbox	Approved By	Date	Status
1	Hal Hawes	Hal Hawes	03/23/2011 01:55 PM	APRV
2	Jim Gilger	Jim Gilger	03/23/2011 01:57 PM	APRV
3	County Judge Exec Asst. Wendy Coco		03/23/2011 03:43 PM	APRV

Form Started By: Marie Walters

Started On: 03/23/2011 01:01 PM

Final Approval Date: 03/23/2011

Contract No. HDR - Construction Observer



Checklist

Prior to Initiation of Work

- ☒ Signed and Executed Agreement
- ☒ Scope of Services – Appendix A
 - ☒ Exhibit V – Services to be provided by County
 - ☒ Exhibit IX – Services to be provided by Engineer
 - ☒ Exhibit C – Work Schedule
 - ☒ Exhibit D – Fee Schedule
- ☒ Production Schedule – Exhibit IV
- ☒ Hourly Rates of Engineer – Exhibit II
- ☒ Work Authorization - Exhibit II
 - ☐ Supplemental Work Authorization for Additional Work (if applicable)
- ☒ Data to be provided to Engineer by County
 - ☐ Plans
 - ☐ Maps
 - ☐ Studies
 - ☐ Reports
 - ☐ Field Notes
 - ☐ Statistics
 - ☐ Computations
 - ☐ Other: _____
- ☒ Contractors Qualification Statement – Appendix B
- ☒ Insurance *RFQ / Pre-qualified list*
 - ☐ Worker's Compensation
 - ☐ Commercial General Liability Insurance
 - ☐ Automobile Liability Insurance
 - ☐ Professional Liability Errors and Omissions Insurance
 - ☐ Self Insurance Documentation
 - ☐ Insurance Certificates for Subcontractors and/or Sub-consultants
 - ☐ Approval of Insurance by County

Course of Work

- ☐ Original Engineering Work Product submittal
- ☐ "Completed" Engineering Work Product
- ☐ "Accepted" Engineering Work Product
- ☐ Modifications and/or Changes for Approval of Engineering Work Product
- ☐ "Approved" Engineering Work Product
- ☐ Revisions to Work Product
- ☐ Seal of Endorsement on all Engineering Work Product
- ☐ Data necessary for applications or documentation for permits and/or grants to be provided by Engineer to County

Notices (as applicable)

Contract No. _____

- ☐ Notice of Suspension
- ☐ Notice of Reinstatement
- ☐ Notice of Termination
- ☐ Notice of Staffing Changes
- ☐ Written Report of Accident

Documentation for Payment

- ☐ Internal Revenue Form W-9
- ☐ Invoice for Services Rendered
 - Supporting Documentation
 - Report of Completion Percentage
- ☐ Invoice for Reimbursables
 - Proof of prior payment by Engineer of Reimbursables

Contract No. _____

PROFESSIONAL SERVICES AGREEMENT

TABLE OF CONTENTS

<u>SECTION:</u>	<u>TITLE:</u>	<u>PAGE</u>
I.	<i>Employment of the Engineer</i>	1
II.	<i>Professional Services of the Engineer</i>	2
III.	<i>Fee Schedule</i>	2
IV.	<i>Period of Service</i>	3
V.	<i>Coordination with the County</i>	4
VI.	<i>Review of Instruments of Service</i>	4
VII.	<i>Revision to Instruments of Service</i>	5
VIII.	<i>Engineer's Responsibility and Liability</i>	6
IX.	<i>Ownership of Documents</i>	8
X.	<i>Maintenance of and Right of Access to Records</i>	8
XI.	<i>Miscellaneous:</i>	
A.	Severability	9
B.	Venue and Governing Law	9
C.	Equal Opportunity in Employment	9
D.	Certificate of Engineer	10
E.	Notice	10
F.	Insurance Requirements	11
G.	Property Taxes	11
H.	Successors and Assigns	11
I.	Bidding Exemption	11
J.	Taxpayer Identification	11
K.	Compliance with Laws	11
L.	Reports of Accidents	11
M.	Definition of Engineer	12
N.	Gender, Number and Headings	12
O.	Incorporation of Exhibits & Attachments	12
P.	Entity Status	12
Q.	Construction	12
R.	Independent Contractor Relationship	12
S.	No Waiver of Immunities	12
T.	Interest and Late Payments	12
U.	Texas Public Information Act	13
V.	Acknowledgement	13
W.	Governing Terms and conditions	13
X.	Entire Agreement	13
	Signature Page	14

Contract No. _____

TABLE OF CONTENTS (cont'd)

EXHIBIT I	<i>Compensation for Professional Engineering Services</i>	15
EXHIBIT II	<i>Work Authorization</i>	17
EXHIBIT III	<i>Hourly Rates</i>	18
EXHIBIT IV	<i>Compensation for Additional Professional Services</i>	19
EXHIBIT V	<i>Services To Be Provided By County</i>	20
EXHIBIT VI	<i>Procedures for Termination or Suspension</i>	21
EXHIBIT VII	<i>Equal Opportunity in Employment</i>	23
EXHIBIT VIII	<i>Insurance Requirements</i>	25
EXHIBIT IX	<i>Scope of Services</i>	26
EXHIBIT X	<i>Engineer's Qualification Statement</i>	29

PROFESSIONAL SERVICES AGREEMENT

STATE OF TEXAS §
 §
COUNTY OF WILLIAMSON §

This Professional Services Agreement (**the "Agreement"**) is made and entered into this day by and between Williamson County, Texas, a political subdivision of the State of Texas, (**the "County"**) and HDR Engineering, Inc. (**the "Engineer"**).

WHEREAS, **County** proposes to construct various transportation projects;

WHEREAS, **County** desires to obtain Professional Engineering Services for Construction Inspection and/or Observation (**the "Project"**);

WHEREAS, **Engineer** has the professional ability and expertise to fulfill the requirements of the **Project**, and to provide advice to the **County** in the selection and analysis of cost-effective alternatives;

WHEREAS, **Engineer** agrees to provide the Professional Engineering Services as more fully set forth in Exhibit IX ("Scope of Services");

WHEREAS, all of the Professional Engineering Services to be provided by **Engineer** pursuant to this Agreement are professional services, the essence of which entails the provision of advice, judgment, or opinion;

WHEREAS, the **County** has separately contracted with a separate engineering firm or individual (**the "Designer"**) for the preparation of the Plans, Specifications, and Estimates (**the "PS&E"**) for the **Project**.

NOW, THEREFORE, **County** and **Engineer** agree to the performance of the Professional Engineering Services by **Engineer** and the payment for these services by **County** as set forth herein.

Section I
Employment of the Engineer

County agrees to employ **Engineer** and **Engineer** agrees to perform the Professional Engineering Services for the **Project** as stated in the Sections to follow. As a condition to employment, it is specifically agreed that any disputes arising hereunder shall be submitted to the County Judge or his designee and/or agent, as designated in writing by the County Judge (**individually or collectively the "County Judge"**). The **County Judge** shall have complete authority for the purpose of resolving disputes arising under this Agreement. The **County Judge's** decision shall be final and binding, subject to any civil remedies otherwise deemed appropriate by the parties hereto.

However, nothing in this Section I or in any other provision of this Agreement regarding submission of disputes to the **County Judge** and the **County Judge's** ability to resolve disputed matters shall be construed to establish anything other than a *de novo* standard of review by a court of competent jurisdiction in the event that the parties hereto avail themselves of their right to seek civil remedies for any dispute. In the event of a dispute between the terms and conditions of this provision and any other provision of this Agreement, the terms and condition of this provision shall govern.

It is the intention of the **County** and the **County Judge**, and agreed to and hereby acknowledged by the **Engineer**, that no provision of this Agreement shall be construed to require the **County** or the **County Judge** to submit to mandatory arbitration or mediation in the settlement of any claim, cause of action or dispute.

Section II

Professional Services of the Engineer

- A. In consideration of the compensation herein provided, **Engineer** shall perform Professional Engineering Services for the **Project**, which are acceptable to the **County Judge**, based on standard engineering practices and the scope of work described on the Exhibits attached to this Agreement. **Engineer** shall also serve as **County's** professional engineer in those phases of the **Project** to which this Agreement applies and will consult with and give advice to **County** during the performance of **Engineer's** services.
- B. **Engineer** shall not commence work until **Engineer** has been thoroughly briefed on the scope of the **Project** and has been notified in writing by the **County Judge** to proceed, as evidenced by a work authorization substantially in the form of Exhibit II ("Work Authorization"), attached to this Agreement.
- C. **County** shall provide **Engineer** with all Plans, Specifications, and Estimates (PS&E) to this particular **Project** at no cost to **Engineer**; however, any and all such information shall remain the property of **County** and shall be returned, if the **County Judge** so instructs **Engineer**.
- D. **Engineer** shall perform the following Professional Engineering Services:
 - 1. The basic Scope of Services shall generally consist of all elements of Professional Engineering Services required for the **Project** (as more fully set out in Exhibit IX to this Agreement, "Scope of 'Service'"), satisfactory to the **County Judge** and the County's Commissioners Court, in accordance with the requirements, policies, and general practices of Williamson County.

Section III

Fee schedule

- A. For and in consideration of the performance by **Engineer** of the Professional Engineering Services described in the Scope of Services, **County** shall pay and **Engineer** shall receive the fee set forth in Exhibit I. The fee is based upon the hourly rates set forth in Exhibit III. Exhibits I and III are attached hereto and made a part hereof. Invoices shall be

submitted by **Engineer** on a monthly basis and are due upon presentation of all items required hereunder, and shall be considered past due if not paid within thirty (30) calendar days of the due date.

- B. For the performance of services not specifically described in the Scope of Services **Engineer** shall receive the additional services compensation described in Exhibit IV, which is attached hereto and made a part hereof. In the event of any dispute over the classification of **Engineer's** services as basic or additional services under this agreement, the decision of the **County Judge** shall be final and binding on **Engineer**.

Section IV Period of Service

- A. **Engineer** shall perform the Professional Engineering Services described in Exhibit IX, the Scope of Services.
- B. This Agreement shall become effective upon the date approved by **County** and will remain in full force and effect for the period required for the construction contract award and construction of the **Project**, including warranty periods provided by the contractor pursuant to the construction contract and any extensions of time, unless terminated earlier as provided for herein. **Engineer** shall complete all work as described in the Scope of Services upon receipt by **Engineer** of **County's** written Work Authorization.
- C. Neither **Engineer** nor **County** shall be responsible for delays caused by "Acts of God", non-county governmental processes, national emergency, or any other causes beyond **Engineer's** or **County's** reasonable control. Upon the discovery of such an event, **Engineer** shall notify **County**, and attend a special meeting with the **County Judge** to propose a program for a solution to the problem, and, if necessary, to establish an estimated period of time of suspension or extension of the work. A written request for an extension of time, when properly documented and justified by the circumstances, will be granted by the **County Judge**.
- D. **County** may suspend the work at any time for any reason without terminating this Agreement by giving written Notice of Suspension and the work may be reinstated and this Agreement resumed in full force and effect within sixty (60) days of receipt by **Engineer** of written Notice of Reinstatement from **County**. **Engineer**, upon receipt of a Notice of Suspension shall follow the procedures described in the attached Exhibit VI, which is attached hereto and made a part hereof. In the event such suspension of the **Project** or the **Engineer's** services hereunder extends for a period of ninety (90) days or more, consecutive or in the aggregate, **Engineer** may terminate this Agreement in writing and such termination shall be treated as a Notice of Termination as provided herein.
- E. Either party may terminate this Agreement for the material failure of the other party to perform in accordance with the terms of this Agreement (the materiality of such failure to be based on standard engineering practices and the scope of work described on the Exhibits attached to this Agreement), through no material fault of the terminating party. **County** may unilaterally terminate this Agreement for reasons other than material failure

by **Engineer** to perform by delivering a written Notice of Termination which shall take effect on the tenth day following **Engineer's** receipt of same. If mutually agreed upon, the obligation to provide services under this Agreement may be terminated without cause upon thirty (30) days written notice. **Engineer** shall follow the procedures specified in Exhibit VI upon issuance or receipt of such notice. In the event of termination of this Agreement because of the material failure of **Engineer** to perform, **County** may prosecute the work to completion by contract or otherwise and, in such a case, **Engineer** shall be liable for any additional costs incurred by **County**.

- F. All references to time in this Agreement shall be measured in calendar days unless otherwise specified.

Section V Coordination with the County

- A. The **County Judge** will act on behalf of **County** with respect to the work to be performed under this Agreement. The **County Judge** shall have complete authority to interpret and define **County's** policies and decisions with respect to **Engineer's** services. The **County Judge** may, in writing, designate representatives to transmit instructions and receive information.
- B. **Engineer** shall not commence work on any phase of the **Project** until a thorough briefing on the scope of the **Project** is received and a written Work Authorization is issued by the **County Judge** in substantially the form of that in Exhibit II.
- C. **Engineer** shall have the responsibility at all times under the terms of this Agreement to advise **County** whether in **Engineer's** judgment it is feasible to proceed with the recommendations given any known constraints affecting the **Project**.
- D. **Engineer** shall cooperate and coordinate with **County's** staff, and other engineers and contractors as reasonable and necessary and as required by the **County Judge**.

Section VI Review of Engineer's Instruments of Service

- A. **Engineer's** engineering Instruments of Service will be reviewed by **County** under its applicable technical requirements and procedures.
- B. Reports and supporting documents, (*the "Instruments of Service"*), shall be submitted by **Engineer** on or before the date specified in Exhibit IX. Upon receipt of the Instruments of Service, the submission shall be checked for acceptance. "Acceptance" shall mean that in the **County Judge's** opinion substantial conformance with the requirements of the Scope of Service of this Agreement has been achieved. The acceptability of any Instruments of Service submitted to **County** shall be determined by **County** within fourteen (14) days of such submittal and **County** shall notify **Engineer** in writing within such 14-day period if such work product has been found to be acceptable.

- C. If the submission is acceptable, *County* shall notify *Engineer*, in writing within fourteen (14) days of the submission, that the submission is acceptable.
- D. If the submission is deemed not acceptable, *County* shall notify *Engineer*, who shall perform such Professional Engineering Services as are required to make the Instruments of Service in conformance with the Scope of Services and resubmit it to *County*. This process shall be repeated until a submission is deemed acceptable.
- E. *County* shall review the Instruments of Service for conformance with the Scope of Services. If necessary, the Instruments of Service shall be returned to *Engineer*, who shall perform any required Professional Engineering Services and resubmit it to *County*. This process shall be repeated until the Instruments of Service is accepted.
- F. After acceptance, *Engineer* shall perform any required modifications, changes, alterations, corrections, and additional work necessary to receive final approval by the *County Judge*. "Approval" in this sense shall mean formal recognition that the Scope of Services have been fully performed and submitted in conformance with Exhibit IX.
- G. After approval of final Instruments of Service, *Engineer* shall without additional compensation perform any Professional Engineering Service required as a result of *Engineer's* development of the Instruments of Service which is found to be in error or omission due to *Engineer's* negligence. However, any Professional Engineering Services required or occasioned for the convenience of *County* after approval of a final Instruments of Service shall be paid for as Additional Services.
- H. In the event of any dispute over the classification of *Engineer's* Instruments of Service as conforming, accepted, or approved under this Agreement, the decision of the *County Judge* shall be final and binding on *Engineer*, subject to any civil remedy or determination otherwise available to the parties and deemed appropriate by the parties.

Section VII Revision to Instruments of Service

Engineer shall make, without expense to *County*, such revisions to the Instruments of Service as may be required to correct negligent acts, errors or omissions that result from *Engineer's* Scope of Service herein so the Instruments of Service meets the Quality Assurance Plan, but after the approval of the Instruments of Service any revisions, additions, or other modifications made at *County's* request which involve extra services and expenses to *Engineer* shall entitle *Engineer* to additional compensation for such extra services and expenses, provided however, that *Engineer* agrees to perform any necessary corrections to the Instruments of Service, which are found to be negligent acts, error or omission as a result of the *Engineer's* development of the Instruments of Service, at any time, without additional compensation. Nothing in this Section or any other provision of this Agreement shall require *Engineer* to make any revisions or changes to the PS&E developed and provided by *Designer* except as necessary to comply with the desired *Scope of Services* as detailed in Exhibit IX related to performance of duties necessary to comply with Part III Section E of the Texas Pollution Discharge

Elimination System (TPDES) permit TXR150000. The *Engineer* shall be considered "engaged", as described in Section 137.33 of the Texas Engineering Practice Act and Rules Concerning The Practice of Engineering and Professional Engineering Licensure, upon execution of this Agreement by all parties. In the event of any dispute over the classification of *Engineer's* services as Basic or Additional Services under this Agreement, the decision of the *County Judge* shall be final and binding on *Engineer*, subject to any civil remedy or determination otherwise available to the parties and deemed appropriate by the parties.

Section VIII Engineer's Responsibility and Liability

- A. *Engineer* covenants to undertake no task in which a professional license or certificate is required unless it or someone under its direction is appropriately licensed. In the event such licensed individual's license expires, is revoked, or is canceled, *Engineer* shall inform *County* of such event within five working days.
- B. *Engineer* shall be responsible for conformance with applicable federal and state laws, county permitting requirements, and city ordinances currently in effect, except as otherwise directed by the *County Judge* regarding county permitting or similar requirements, applicable to the Scope of Services described Exhibit IX to this Agreement, properly waivable by the *County Judge*.
- C. **ENGINEER SHALL INDEMNIFY, AND HOLD HARMLESS COUNTY, ITS OFFICIALS AND EMPLOYEES FROM AND AGAINST ALL SUITS, ACTIONS, LIABILITY, LOSS, DAMAGE, REASONABLE ATTORNEY'S FEES, COSTS, AND EXPENSES (INCLUDING, BUT NOT LIMITED TO EXPENSES RELATED TO EXPERT WITNESSES) OF ANY KIND WHATSOEVER, TO THE EXTENT ARISING FROM ANY NEGLIGENT ACT, ERROR OR OMISSION OF ENGINEER OR ANY OF ITS SUBCONSULTANTS IN CONNECTION WITH THE PERFORMANCE OF SERVICES UNDER THIS AGREEMENT; PROVIDED, HOWEVER, ENGINEER SHALL NOT BE RESPONSIBLE FOR THE NEGLIGENT ACTS, ERRORS, OR OMISSIONS OF ANY OTHER PARTY, OTHER THAN ITSELF OR THAT OF ITS SUBCONSULTANTS AND FOR A SUBCONSULTANT ONLY AS A DIRECT RESULT OF NEGLIGENT ACTS, ERRORS, OR OMISSIONS WHILE PERFORMING PROFESSIONAL SERVICES PURSUANT TO THE SCOPE OF THIS AGREEMENT.**
- D. *Engineer's* opinions of probable *Project* cost or construction cost represent *Engineer's* professional judgment as a professional familiar with the construction industry, but *Engineer* does not guarantee that proposals, bids, or the construction cost, itself, will not vary from *Engineer's* opinions of probable cost and shall not be responsible for proposals, bids, or the construction costs, should they vary from *Engineer's* opinions of probable costs.
- E. *Engineer* shall perform all services and responsibilities required of *Engineer* under this Agreement using at least that standard of care which a reasonably prudent engineer in

Texas, who is licensed by the State Board of Engineers or the State Board of Registered Professional Surveyors, as applicable, would use in similar circumstances.

- F. **Engineer** represents that it presently has, or is able to obtain, adequate qualified personnel in its employment for performance of the services required under this Agreement and that **Engineer** shall furnish and maintain, at its own expense, adequate and sufficient personnel and equipment, in the reasonable opinion of **County**, to perform the services when and as required and without delays. It is understood that **County** will approve assignment and release of all key **Engineer** and professional personnel.
- G. All employees of **Engineer** shall have such knowledge and experience as will enable them to perform the duties assigned to them. Any employee of **Engineer**, who in the opinion of **County** is incompetent or whose conduct becomes detrimental to the work or coordination with **County**, shall upon **County's** and/or **County Judge's** request be immediately removed from association with the **Project**.
- H. **Engineer** shall furnish all equipment, transportation, supplies, and materials required for its performance of the Professional Engineering Services as set forth in the Scope of Services attached as Exhibit IX to this Agreement.
- I. **Engineer** shall place its Texas Professional Engineer's seal of endorsement on all documents of Instruments of Service furnished to **County**, as required by law.
- J. **Engineer** is an independent contractor under this Agreement. Neither it nor any officer, agent or employee of **Engineer** shall be classified as an employee of **County**.
- K. **Safety.** The **Engineer** shall not have control or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures or for the safety precautions and programs in connection with the Project construction, for the acts or omissions of the contractor, subcontractors, any of their agents or the subcontractors' employees, or any other person performing any of the work or for the failure of such persons to carry out the work in accordance with the contract documents; provided however, the **Engineer** shall not be relieved from its obligation to notify the County or any other applicable authority of any unsafe condition resulting from an act, omission or failure on the part of the construction if **Engineer** becomes aware of such an unsafe condition in the normal course of providing its Scope of Services or as otherwise required by the **Engineer's** professional duties as prescribed by the Rules of Professional Practice promulgated by the Texas Board of Professional Engineers.

Engineer's obligation to report any observed unsafe job conditions to the County shall not make **Engineer** responsible for construction job site safety, the responsibility of which shall remain solely with the construction contractor. **Engineer's** obligation to report unsafe job conditions to the County runs solely to the County. There are no third party beneficiaries intended by this obligation, in particular, construction contractor's employees do not have the right to rely on **Engineer's** obligation to report unsafe job conditions to the County so as to provide for a safe work environment for construction contractor's employees.

No provision of this Agreement requires **Engineer** to make exhaustive inspections of the contractor's work under the construction contract for the **Project**. **Engineer's** inspections, observations, and documentation of construction activities and work is to confirm the construction's conformance with the PS&E and acceptable engineering standards and practices.

The County shall enter into a third party contract for the construction of the project. The contract between the County and the contractor shall require the contractor to indemnify the **Engineer** and name the **Engineer** as additional insured under contractor's commercial general liability, builder's risk, and umbrella liability coverage for the insured liabilities assumed by the contractor. The contractor's insurance coverage shall be primary insurance for the insured liabilities under the Agreement with respect to the contractor, its officers, directors, agents and consultants including the **Engineer**.

The construction contractor retained by the County has sole responsibility for providing materials, means, and methods of construction, for controlling the individual work area and safety of said areas for all parties.

The **Engineer** shall be responsible for taking all appropriate steps to ensure the safety of its employees in connection with its performance of the services provided under this agreement.

Section IX

Ownership of Documents

- A. Any and all Instruments of Service, including the original drawings, estimates, computer tapes, graphic files, tracings, calculations, analyses, reports, specifications, field notes, and data prepared by **Engineer** are the property of **County** and upon completion of the work or termination of this Agreement or as otherwise instructed by **County** and/or **County Judge**, shall be delivered to **County** in an organized fashion with **Engineer** retaining a copy. OK
- B. Any reuse by **Engineer** of any such documents described in subsection A above, without the specific written consent of **County** shall be at **Engineer's** sole risk and without liability or legal exposure to **County**. Should **Engineer** be terminated, **Engineer** shall not be liable for **County's** use of partially completed Instruments of Service on this **Project** or any other project, except to the extent such Instruments of Service were deemed complete or otherwise "Accepted" or "Approved" as provided herein by **Engineer**, or Surveyor, as applicable, as specified by professional standards.
- C. **Engineer** will not be responsible for any use or any modifications to the Instruments of Service described in subsection A performed by any entity without the specific written consent of **Engineer**. Any modification by an entity or individual other than the **Engineer** as described in this paragraph shall be made in accordance with all applicable professional standards and shall necessitate the removal of the **Engineer's** Texas Professional Engineer's seal of endorsement from all such modified documents.

Section X
Maintenance of and Right of Access to Records

- A. **Engineer** agrees to maintain appropriate accounting records of costs, expenses, and payrolls of employees working on the **Project** for a period of three (3) years after final payment for completed services and all other pending matters concerning this Agreement have been closed.
- B. **Engineer** further agrees that **County** or its duly authorized representatives shall, until the expiration of three (3) years after final payment under this Agreement, have access to and the right to examine and photocopy any and all books, documents, papers and records of **Engineer**, which are directly pertinent to the services to be performed under this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions. **Engineer** agrees that **County** shall have access during normal working hours to all necessary **Engineer** facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. **County** shall give **Engineer** reasonable advance notice of intended audits.
- C. **Engineer** further agrees to include in all its sub-consultant agreements hereunder a provision to the effect that the sub-consultant agrees that **County** shall, until the expiration of three (3) years after final payment under the subcontract, have access to and the right to examine and photocopy any directly pertinent books, documents, papers and records of such sub-consultant, involving transactions to the subcontract, and further, that **County** shall have access during normal working hours to all sub-consultant facilities, and shall be provided adequate and appropriate work space, in order to conduct audits in compliance with the provisions of this section together with subsection (D) hereof. **County** shall give sub-consultant reasonable advance notice of intended audits.
- D. **Engineer** and sub-consultant agree to photocopy such documents as may be requested by **County**. **County** agrees to reimburse **Engineer** for the cost of copies at the rate published in the Texas Administrative Code in effect as of the time copying is performed. **County** also agrees to compensate **Engineer** for services performed pursuant to this Section as requested by **County**, or by a third-party pursuant to a validly determined Texas Public Information Act request. For any such services, **Engineer** shall receive the additional services compensation described in Exhibit IV, which is attached hereto and made a part hereof.

Section XI
Miscellaneous

- A. **Severability.** If any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof, but rather this entire Agreement will be construed as if not containing the particular invalid or unenforceable provision or provisions, and the rights and obligation of the parties shall be construed and enforced in accordance therewith. The parties acknowledge that if any provision of this Agreement is

determined to be invalid or unenforceable, it is the desire and intention of each that such provision be reformed and construed in such a manner that it will, to the maximum extent practicable, give effect to the intent of this Agreement and be deemed to be validated and enforceable.

- B. ***Venue and Governing Law.*** It is contemplated that this Agreement shall be performed in Williamson County, Texas, and the venue and jurisdiction of any suit, right, or cause of action arising out of or in connection with this Agreement shall lie exclusively in Williamson County, Texas. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas.
- C. ***Equal Opportunity in Employment.*** *Engineer* agrees, during the performance of the services under this Agreement, to comply with the equal opportunity in employment provisions cited in Exhibit VII, which is attached hereto and made a part hereof.
- D. ***Certificate of Engineer.*** *Engineer* certifies that neither *Engineer* nor any members of *Engineer's* firm has:
- (1) Employed or retained for a commission, percentage, brokerage, contingency fee, or other consideration, any firm or person (other than a bona fide employee working solely for *Engineer*) to solicit or secure the work provided by the Agreement.
 - (2) Agreed, as an expressed or implied condition for obtaining this contract, to employ or retain the services of any firm or person other than in connection with carrying out the work to be performed under this Agreement.
 - (3) Paid or agreed to pay to any firm, organization, or person (other than bona fide employees working solely for *Engineer*) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the work provided under this Agreement.

Engineer further agrees that this certification may be furnished to any local, state or federal governmental agencies in connection with this Agreement and for those portions of the ***Project*** involving participation of agency grant funds and is subject to all applicable state and federal, criminal and civil laws.

- E. ***Notice.*** Any notice to be given hereunder shall be in writing and may be affected by personal delivery in writing or by registered or certified mail, return receipt requested, addressed to the proper party, at the following address:

ENGINEER: HDR Engineering, Inc.
810 Hesters Crossing, Suite 120
Round Rock, Texas 78681
Attn: Jeff Curren, P.E.

COUNTY: Williamson County Judge
Dan Gattis (or successor)
710 Main Street, Suite 101
Georgetown, Texas 78626

with copy to: Hal C. Hawes
Legal Advisor
Office of Williamson County Judge
710 Main Street, Suite 200
Georgetown, Texas 78626

and to: Prime Strategies, Inc.
1508 South Lamar Blvd.
Austin, Texas 78704
Attn: Michael Weaver

and to: HNTB
14 Galloping Road
Round Rock, Texas 78681
Attn: James Klotz, P.E.

A red checkmark is drawn above a red signature, which appears to be 'M'.

- F. **Insurance Requirements.** *Engineer* agrees during the performance of the services under this Agreement to comply with the INSURANCE REQUIREMENTS provisions described in Exhibit VIII, which is attached hereto and made a part hereof.
- G. **Property Taxes.** Notwithstanding anything to the contrary herein, to the extent *County* becomes aware that *Engineer* is delinquent in the payment of property taxes related to property located in Williamson County at the time of invoicing, *Engineer* hereby assigns any payments to be made for services rendered hereunder to the Williamson County Tax Assessor-Collector for the payment of said delinquent taxes. Notwithstanding the above, *County* shall not have an affirmative duty to determine if *Engineer* is delinquent in the payment of property taxes.
- H. **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of *County* and *Engineer* and their respective successors, executors, administrators, and assigns. Neither *County* nor *Engineer* may assign, sublet, or transfer his interest in or obligations under this Agreement without the written consent of the other party hereto.
- I. **Bidding Exemption.** This Agreement is exempted from the bidding requirements of the County Purchasing Act pursuant to Section 262.024(a)(4) of the Local Government Code as this is a contract for professional services.
- J. **Taxpayer Identification.** *Engineer* shall provide to *County Judge* upon submittal of *Engineer's* initial invoice requesting payment Internal Revenue Form W-9 Request for Taxpayer Identification Number and Certification that is completed in compliance with the Internal Revenue Code, its rules and regulations.

- K. **Compliance with Laws.** *Engineer* shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any matter affecting the performance of this Agreement, including, without limitation, Worker's Compensation laws, minimum and maximum salary and wage statutes and regulations, licensing laws and regulations. When required, the *Engineer* shall furnish the *County* with certification of compliance with said laws, statutes, ordinances, rules, regulations, orders, and decrees above specified.
- L. **Reports of Accidents.** Within 24 hours after *Engineer* becomes aware of the occurrence of any accident or other event on or relating to the Project which results in, or might result in, injury to the person or property of any third person (other than an employee of the *Engineer*), whether or not it results from or involves any action or failure to act by the *Engineer* or any employee or agent of the *Engineer* and which arises in any manner from the performance of this Agreement, the *Engineer* shall send a written report of such accident or other event to the County, setting forth a full and concise statement of the facts pertaining thereto. The *Engineer* shall also immediately send the County a copy of any summons, subpoena, notice, or other documents served upon the *Engineer*, its agents, employees, or representatives, or received by it or them, in connection with any matter before any court arising in any manner from the *Engineer's* performance of work under this Agreement.
- M. **Definition of Engineer.** The term "*Engineer*" as used herein is defined as including Registered Professional Surveyors, as applicable to the work to be performed under this Agreement, and any reference to professional standards in regards to a Registered Professional Surveyor shall relate to those standards promulgated by the State Board of Registered Professional Surveyors.
- N. **Gender, Number and Headings.** Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires. The headings and section numbers are for convenience only and shall not be considered in interpreting or construing this Agreement.
- O. **Incorporation of Exhibits.** All of the Exhibits referred to in the Agreement are incorporated by reference as if set forth verbatim herein.
- P. **Entity Status.** By my signature below, I certify that *Engineer* is a Corporation, duly authorized to transact and do business in the State of Texas. ✓
- Q. **Construction.** Each party hereto acknowledges that it and its counsel have reviewed this Agreement and that the normal rules of construction are not applicable and there will be no presumption that any ambiguities will be resolved against the drafting party in the interpretation of this Agreement.
- R. **Independent Contractor Relationship.** Both parties hereto, in the performance of this

Agreement, shall act in an individual capacity and not as agents, employees, partners, joint ventures or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever.

- S. ***No Waiver of Immunities.*** Nothing in this Agreement shall be deemed to waive, modify or amend any legal defense available at law or in equity to **County**, its past or present officers, employees, or agents or employees, nor to create any legal rights or claim on behalf of any third party. **County** does not waive, modify, or alter to any extent whatsoever the availability of the defense of governmental immunity under the laws of the State of Texas and of the United States.
- T. ***Interest and Late Payments.*** **County's** payment for the Professional Engineering Services shall be governed by Chapter 2251 of the Texas Government Code. Invoices shall be paid by **County** within thirty (30) days from the date of the Williamson County Auditor's receipt of an invoice. Interest charges for any late payments shall be paid by **County** in accordance with Texas Government Code Section 2251.025. More specifically, the rate of interest that shall accrue on a late payment is the rate in effect on September 1 of **County's** fiscal year in which the payment becomes due. The said rate in effect on September 1 shall be equal to the sum of one percent (1%); and (2) the prime rate published in the Wall Street Journal on the first day of July of the preceding fiscal year that does not fall on a Saturday or Sunday. In the event that a discrepancy arises in relation to an invoice, such as an incorrect amount on an invoice or a lack of documentation that is required to be attached to an invoice to evidence the amount claimed to be due, **County** shall notify the party requesting payment of such an invoice of the discrepancy. Following **County's** notification of any discrepancy as to an invoice, the party requesting payment must resolve the discrepancy and resubmit a corrected or revised invoice, which includes all required support documentation, to the Williamson County Auditor. **County** shall pay the invoice within thirty (30) days from the date of the Williamson County Auditor's receipt of the corrected or revised invoice. **County's** payment of an invoice that contains a discrepancy shall not be considered late, nor shall any interest begin to accrue until the thirty-first (31st) day following the Williamson County Auditor's receipt of the corrected or revised invoice.
- U. ***Texas Public Information Act.*** To the extent, if any, that any provision in this Agreement is in conflict with Tex. Gov't Code 552.001 *et seq.*, as amended (the "Public Information Act"), the same shall be of no force or effect. Furthermore, it is expressly understood and agreed that **County**, its officers and employees may request advice, decisions and opinions of the Attorney General of the State of Texas in regard to the application of the Public Information Act to any items or data furnished to **County** as to whether or not the same are available to the public. It is further understood that **County's** officers and employees shall have the right to rely on the advice, decisions and opinions of the Attorney General, and that **County**, its officers and employees shall have no liability or obligation to any party hereto for the disclosure to the public, or to any person or persons, of any items or data furnished to **County** by a party hereto, in reliance of any advice, decision or opinion of the Attorney General of the State of Texas.

- V. **Acknowledgement.** As a duly authorized representative of **Engineer**, I acknowledge by my signature below that I have read and understand the above paragraphs and that **Engineer** has the obligation to ensure compliance with its provisions by itself and its employees, agents, and representatives.
- W. **Governing Terms and Conditions.** If there is an irreconcilable conflict between the terms and conditions set forth in Sections I. through XI. of this Agreement and the terms and conditions set forth in any Exhibit to this Agreement, the terms and conditions set forth in Sections I. through XI. of this Agreement shall control over the terms and conditions set forth in any Exhibit to this Agreement.
- X. **Entire Agreement.** This Agreement represents the entire and integrated Agreement between **County** and **Engineer** and supersedes all prior negotiations, representations, or agreements, either oral or written. This Agreement may be amended only by written instrument signed by both **County** and **Engineer**. NO OFFICIAL, EMPLOYEE, AGENT, OR REPRESENTATIVE OF THE COUNTY HAS ANY AUTHORITY, EITHER EXPRESS OR IMPLIED, TO AMEND THIS CONTRACT, EXCEPT PURSUANT TO SUCH EXPRESS AUTHORITY AS MAY BE GRANTED BY THE COUNTY COMMISSIONERS COURT.
- Y. **No Third-Party Beneficiaries.** No provision of this Agreement shall be construed to establish a cause of action in favor of any party other than the parties hereto. It is the express intention of the **County** and the **Engineer** that there be no third-party beneficiaries to this Agreement.
- Z. **Waiver of Consequential Damages.** **County** and **Engineer** agree to waive recovery of any consequential damages which arise as a proximate result of a breach of this Agreement.

EXECUTED this _____ day of _____, 201____.

THE ENGINEER:

HDR ENGINEERING, INC.

BY: 

Printed Name: Jeff Curren, P.E.

Title: Sr. Vice President

THE COUNTY:

WILLIAMSON COUNTY:

BY: _____

Printed Name: Dan A. Gattis, County Judge

Reviewed as to Form By: _____

Legal Advisor to the Williamson
County Commissioners Court

County Auditor

OK
my
3/22/2011

EXHIBIT I

COMPENSATION FOR PROFESSIONAL ENGINEERING SERVICES

ACTUAL COST OF SERVICES METHOD

[Note: A separate Compensation Agreement will be attached for Compensation on a Work-Order Basis]

SECTION 1 - BASIS FOR COMPENSATION

- 1.1 The not-to-be-exceeded fee for the performance of the Scope of Services described in the Agreement shall be the sum of \$400,000.00.
- 1.2 The basis of compensation for the services of principals and employees engaged in the performance of the work shall be the hourly rates set forth in attached Exhibit III.
- 1.3 *Engineer* shall be reimbursed for actual non-labor and subcontract expenses incurred in the performance of the services under this Agreement at the *Engineer's* invoice cost.

SECTION 2 - NOT-TO-BE-EXCEEDED FEE

- 2.1 *Engineer* and *County* acknowledge the fact that the not-to-be-exceeded fee is the total estimated costs of services to be rendered under this Agreement. This not-to-be-exceeded fee is based upon the labor and non-labor costs set forth in Exhibit III to this Agreement and described above, estimated to be required in the performance of the various phases of work provided for under this Agreement. Should the actual costs of the services rendered under this Agreement be less than such estimated cost, then *Engineer* shall receive compensation for only those services actually rendered.

SECTION 3 – WORK AUTHORIZATIONS

- 3.1 *County* will prepare and issue Work Authorizations, in the form identified and attached hereto as Exhibit II to authorize the *Engineer* to perform one or more tasks. Each Work Authorization will include a description of the work to be performed, a description of the tasks and milestones, a work schedule for the tasks, and a fee amount agreed upon by the *County* and *Engineer*. The amount payable for a Work Authorization shall be supported by the estimated cost of each work task as described in the Work Authorization. The Work Authorization will not waive the *Engineer's* responsibilities and obligations established in this Agreement. The executed Work Authorizations shall become part of this Agreement.
- 3.2 Work included in a Work Authorization shall not begin until *County* and *Engineer* have signed the Work Authorization. All work must be completed on or before the completion date specified in the Work Authorization. The *Engineer* shall promptly notify the *County* of any event which will affect completion of the Work Authorization, although such notification shall not relieve the *Engineer* from costs or liabilities resulting from

delays in completion of the Work Authorization. Any changes in the Work Authorization shall be enacted by a written Supplemental Work Authorization before additional work may be performed or additional costs incurred. Any Supplemental Work Authorization must be executed by both parties within the period specified in the Work Authorization. The *Engineer* shall not perform any proposed work or incur any additional costs prior to the execution, by both parties, of a Supplemental Work Authorization.

SECTION 4 - ADDITIONAL SERVICES

- 4.1 For additional services, compensation shall be negotiated in accordance with Exhibit IV.
- 4.2 *Engineer* shall be compensated for extra services not included in the Scope of Services described in the Agreement on the basis specified in Exhibit IV; however, *Engineer* shall not be compensated for work made necessary by *Engineer's* negligent acts, errors or omissions.
- 4.3 The maximum amount payable under this Agreement without modification (the "*Compensation Cap*") is \$400,000.00, provided that any amounts paid or payable shall be solely pursuant to a validly issued Work Authorization or any Supplemental Work Authorization related thereto. In no event may the aggregate amount of compensation authorized under Work Authorizations and Supplemental Work Authorizations exceed the *Compensation Cap*.

SECTION 5 – REQUIRED SUPPORTING DOCUMENTATION

- 5.1 Upon submittal of the initial invoice for service, *Engineer* shall provide *County Judge* with an Internal Revenue Form W-9, Request for Taxpayer Identification Number and Certification that is complete in compliance with the Internal Revenue Code, its rules and regulations.
- 5.2 All invoices submitted to *County Judge* will be accompanied by an original, complete packet of supporting documentation. Invoices should detail hours worked by staff person, with a description of the work performed by individuals. .
- 5.3 For additional services performed pursuant to Section III B of this Agreement, a separate invoice or itemization of this work will be presented with the same requirements for supporting documentation as in Section 5.2 of this Exhibit.
- 5.4 Invoices requesting reimbursement for expenditures related to the project (reimbursables) must be accompanied by copies of the provider's invoice which was previously paid by *Engineer*.
- 5.5 Payments for Direct and Reimbursable Expenses will be made in compliance with the approved 2009-2010 Budget Order, as amended. The Budget Order can be viewed on the Williamson County web site at www.wilco.org.

EXHIBIT II

WORK AUTHORIZATION NO. Sample

This Work Authorization is made pursuant to the terms and conditions of the Agreement entered into by and between Williamson County, Texas, a political subdivision of the State of Texas, (the "*County*") and _____ (the "*Engineer*").

Part 1. The *Engineer* will provide the following engineering services:

Professional Engineering Services for Construction Inspection and/or Observation on XXX (the "*Project*")

Part 2. The maximum amount payable for services under this Work Authorization without modification is \$_____.

Part 3. Payment to the *Engineer* for the services established under this Work Authorization shall be made in accordance with the Agreement.

Part 4. This Work Authorization shall become effective on the date of final acceptance of the parties hereto and shall terminate on _____, unless extended by a Supplemental Work Authorization.

Part 5. This Work Authorization does not waive the parties' responsibilities and obligations provided under the Agreement.

Part 6. This Work Authorization is hereby accepted and acknowledged below.

EXECUTED this ____ day of _____, 201__.

ENGINEER:

By: _____
Signature

Printed Name

Title

COUNTY:

Williamson County, Texas

By: Sample
Signature

Printed Name

Title

EXHIBIT III

HDR Engineering, Inc.

Labor Classification

2011/2012 Hourly Rates

On-Site Personnel

Sr. Inspector

\$ 119.00/hr

Direct Expenses

2011 Rate

Mileage

IRS Rate

Printing and Copying

At Cost *

* a more detailed description will be provided with each Work Authorization

OK
my 3/22/2011

EXHIBIT IV

COMPENSATION FOR ADDITIONAL PROFESSIONAL SERVICES

1. The fees described in Exhibits I and II to this Agreement shall provide compensation to *Engineer* for the Professional Engineering Services described in the Basic Scope of Services of the Agreement.
2. For the performance of work not described in the Basic Scope of Services of the Agreement, *County* shall pay and *Engineer* shall receive, under a negotiated contract modification, compensation based upon the method and rates set forth in Exhibits I and II to the Agreement.
3. The performance of any additional services must be authorized in writing in advance by the *County Judge*.
4. In the event of any dispute over the classification of *Engineer's* services as either basic or additional services, the decision of the *County Judge* shall be final and binding.

EXHIBIT V

SERVICES TO BE PROVIDED BY COUNTY The County will assist the Engineer by providing assistance, service, or data items as required to advance the completion of assigned work authorizations.

- Provide existing data files, to include but not limited to:
 - Survey data;
 - Roadway construction plans, design documents for the construction of *the Project*;
 - Right-of-Way mapping;
- Approved environmental documents.
- Applicable special specifications, special provisions, and unit price bid tabulation.

Provide timely review, comment or direction, as required, to aid the Engineer in completing an assigned task or maintaining the established project schedule. The County will provide the *Engineer* with:

- Temporary shared offsite location with internet access.
- Offsite work space to complete and store records.
- Access to combination color printer/copier/scanner.

EXHIBIT VI

PROCEDURES FOR TERMINATION OR SUSPENSION

Procedures for *Engineer* to follow upon receipt of Notice of Termination:

1. Upon receipt of a Notice of Termination and prior to the effective date of the termination, *Engineer* shall, unless the Notice otherwise directs, immediately begin to phase out and discontinue all services in connection with the performance of this Agreement and shall proceed to promptly cancel all existing orders and contracts insofar as such orders and contracts are chargeable to this Agreement. Within thirty (30) days after receipt of the Notice of Termination, *Engineer* shall submit a statement, showing in detail the services performed under this Agreement prior to the effective date of termination.
2. Copies of all Instruments of Service prepared under this Agreement prior to the effective date of termination shall be delivered to *County* as a pre-condition to final payment. The foregoing language notwithstanding, *County* and *Engineer* agree that *Engineer*, in its sole discretion, will be allowed to sign and seal such Instruments of Service, or place any other appropriate comment on the Instruments of Service, as appropriate for the phase of preparation of the Instruments of Service as more fully set out in Section 137.33 of the Texas Board of Professional Engineer's Rules Concerning the Practice of Engineering, effective as of the date of delivery of the Instruments of Service.
3. Upon the above conditions being met, *County* shall pay *Engineer* for approved services actually performed under this Agreement, less previous payments.
4. Failure by *Engineer* to submit the required statement and to comply with the above stated conditions without good and reasonable cause shall constitute a waiver by *Engineer* of any and all rights or claims to collect the fee that *Engineer* may rightfully be entitled to for services performed under this Agreement.

Procedures for *Engineer* to follow upon receipt of Notice of Suspension:

1. Upon receipt of a Notice of Suspension and prior to the effective date of the suspension, *Engineer* shall, unless the Notice otherwise directs, immediately begin to phase-out and discontinue all services in connection with the performance of this Agreement and shall prepare a statement detailing the services performed under this Agreement prior to the effective date of suspension. Copies of all completed or partially completed Instruments of Service prepared under this Agreement prior to the effective date of suspension shall be prepared for possible delivery to *County*, but shall be retained by *Engineer* unless requested by *County*.
2. During the period of suspension, *Engineer* may submit the above-referenced statement to *County* for payment of the approved services actually performed under this Agreement, less previous payments.

Procedures for *Engineer* to follow upon exercise of right to terminate for substantial failure of *County* to perform:

1. In the event that *Engineer* exercises such right to terminate, within thirty (30) days after receipt by *County* of *Engineer's* Notice of Termination, *Engineer* shall submit a statement detailing the services performed under this Agreement prior to the effective date of termination.
2. Copies of all completed or partially completed Instruments of Service shall be delivered to *County* as a pre-condition to final payment. Upon the above conditions being met, *County* shall pay *Engineer* for approved services actually performed under this Agreement, less previous payments. . The foregoing language notwithstanding, *County* and *Engineer* agree that *Engineer*, in its sole discretion, will be allowed to sign and seal such Instruments of Service, or place any other appropriate comment on the Instruments of Service, as appropriate for the phase of preparation of the Instruments of Service as more fully set out in Section 137.33 of the Texas Board of Professional Engineer's Rules Concerning the Practice of Engineering, effective as of the date of delivery of the Instruments of Service.
3. Failure by *Engineer* to submit the required statement and to comply with the above stated conditions without good and reasonable cause shall constitute a waiver by *Engineer* of any and all rights or claims to collect the fee that *Engineer* may rightfully be entitled to for services performed under this Agreement.

EXHIBIT VII

EQUAL OPPORTUNITY IN EMPLOYMENT

- A. **Engineer** will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. **Engineer** will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; termination; rates of pay or other forms of compensation, and selection for training, including apprenticeship. **Engineer** agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this non-discrimination clause.
- B. **Engineer** will, in all solicitations or advertisements for employees placed by or on behalf of **Engineer**, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
- C. **Engineer** will send to the labor union representative or workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the Contract Compliance Officer advising the said labor union or worker's representatives of **Engineer's** obligations under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- D. **Engineer** will comply with the Regulations of the Department of Transportation (49 CFR 21 and 23 CFR 710.405) and all provisions of Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 (41 CFR 60) and of the rules, regulations and relevant order of the Secretary of Labor. In the event that federal financial assistance is provided for the **Project**, **Engineer** shall comply with 49 CFR 26, TxDOT's Disadvantaged Business Enterprises Program and any Memorandum of Understanding between the **County** and TxDOT pertaining to such Disadvantaged Business Enterprise Program.
- E. **Engineer** will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations and orders of the Secretary of Labor, or pursuant thereto; and will permit access to his books, records, and accounts by the Department and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- F. In the event of **Engineer's** non-compliance with the non-discrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and **Engineer** may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 (41 CFR 60) or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

- G. *Engineer* will include the provisions of paragraph (A.) through (F.) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 or Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 (41 CFR 60), so that such provisions will be binding upon each subcontractor or vendor. *Engineer* will take such action with respect to any subcontractor purchase order as the Department may direct as a means of enforcing such provisions, including sanctions for non-compliance: provided, however, that in the event *Engineer* becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by *County* or Federal Agency, *Engineer* may request *County* and United States to enter into such litigation to protect the interest of the United States.

EXHIBIT VIII

INSURANCE REQUIREMENTS

During the life of this Agreement, *Engineer* agrees to provide and maintain the following insurance:

- A. Worker's Compensation in accordance with statutory requirements.
- B. Commercial General Liability Insurance with a combined minimum Bodily Injury and Property Damage limits of \$1 million per occurrence and \$2 million in the aggregate, including coverage on same for independent subcontractor(s). WILLIAMSON COUNTY SHALL BE NAMED AS AN ADDITIONAL INSURED UNDER THIS COVERAGE.
- C. Automobile Liability Insurance for all owned, non-owned, and hired vehicles with combined minimum limits for Bodily Injury and Property Damage limits of \$1 million per occurrence and \$2 million in the aggregate. *Engineer* shall require any subcontractor(s) to provide Automobile Liability Insurance in the same minimum amounts.
- D. Professional Liability Errors and Omissions Insurance in the amount of \$1 million.
- E. In the event *Engineer* is self-insured in connection with any or all of the above-required insurance policies, *Engineer* shall submit proof of such self-insurance and all financial statements as reasonably required by the *County* in order to determine the acceptability of such self-insurance.

Engineer shall not commence any field work under this Agreement until he has obtained all required insurance and such insurance or self-insurance has been approved by *County*. *Engineer* shall not allow any subcontractor(s) to commence work to be performed in connection with this Agreement until all required insurance has been obtained and approved. Approval of the insurance by *County* shall not relieve or decrease the liability of *Engineer* hereunder.

The required insurance must be written by a company approved to do business in the State or Texas with a financial standing of at least an A- rating, as reflected in Best's insurance ratings or by a similar rating system recognized within the insurance industry at the time the policy is issued. *Engineer* shall furnish *County* with a certification of coverage issued by the insurer. *Engineer* shall not cause any insurance to be canceled nor permit any insurance to lapse. ALL INSURANCE CERTIFICATES REQUIRED PURSUANT TO PARAGRAPH B, ABOVE, SHALL INCLUDE A CLAUSE TO THE EFFECT THAT THE POLICY SHALL NOT BE CANCELED OR REDUCED, RESTRICTED OR LIMITED UNTIL TEN (10) DAYS AFTER COUNTY HAS RECEIVED WRITTEN NOTICE AS EVIDENCED BY RETURN RECEIPT OF REGISTERED OR CERTIFIED LETTER.

It is the intention of the *County* and the *County Judge*, and agreed to and hereby acknowledged by the *Engineer*, that no provision of this Professional Services Agreement shall be construed to require the *County* or the *County Judge* to submit to mandatory arbitration or mediation in the settlement of any claim, cause of action or dispute, except as

specifically required in direct connection with an insurance claim or threat of claim under an insurance policy required under this Exhibit which absolutely requires arbitration or mediation of such claim, or as otherwise required by law or a court of law with jurisdiction over the provisions of this Agreement.

EXHIBIT IX

SCOPE OF SERVICES

FOR PROFESSIONAL ENGINEERING SERVICES

THE FOLLOWING SCOPE OF SERVICES IS INTENDED TO BE CONSISTENT WITH THE WILLIAMSON COUNTY PROFESSIONAL SERVICES AGREEMENT. TO THE EXTENT THE SCOPE IS INCONSISTENT WITH THE PROFESSIONAL SERVICES AGREEMENT, THE PROFESSIONAL SERVICES AGREEMENT WILL SUPERSEDE THE SCOPE AND WILL BE CONTROLLING.

THE ENGINEER SHALL PROVIDE EXPERT TESTIMONY IN ANY ADMINISTRATIVE OR COURT PROCEEDINGS THROUGH AN APPROPRIATE ENGINEERING PROFESSIONAL TO BE DETERMINED MUTUALLY BY COUNTY AND ENGINEER AS ADDITIONAL SERVICES AT THE RATE OF COMPENSATION SET FORTH IN EXHIBIT IV AND IN A MANNER CONSISTENT WITH THE TEXAS BOARD OF PROFESSIONAL ENGINEER'S RULES CONCERNING THE PRACTICE OF ENGINEERING, EFFECTIVE AS OF THE RELEVANT DATE.

The ***Engineer*** will provide Professional Engineering Services for the ***Project***, as set forth below and as set out in subsequent work authorizations issued under this Agreement.

Services performed may include the appropriate records and documentation in accordance with TxDOT and Federal requirements.

Professional Engineering Construction Management

- Verify receipt of the Contractor's schedule of operations
- Manage the Request for Information (RFI) process.
- Negotiate and make recommendations for Change Orders. Prepare Change Orders for execution.
- Evaluate and provide advice to the County on the approval of contractor's CPM schedules.
- Maintain a current approved set of construction contract documents.
- Review and provide recommendation of acceptance to the County on the Contractor's monthly pay estimate. Review and verify quantities of work performed and materials used.
- Manage Contractor receipt and dispersal of Contractor submittals to the *GEC*, then back to the Contractor.
- Revise or update the storm water pollution prevention plan in accordance with TPDES Permit TXR150000 Part III Section E.

- Sign, Seal and Date changes to *the Designer's* plan sheets representing the requirements of TPDES Permit TXR 150000 Part III Section F 1. (f) as necessary to comply with TPDES TXR 150000 Part III Section E.
- Identify and advise the County in the resolution of construction issues that arise.
- Provide advice to the County in dispute negotiations and claim resolutions.
- Monitor utility relocation/adjustments for compliance with approved plans for the *Project*.
- Monitor Compliance with DBE requirements of construction contract provisions.
- Provide vehicles, communication devices (i.e cell phones, radios), computers, office supplies and internet service, as needed.
- Review and provide recommendation to the County on the acceptance of As-built drawings provided by the Contractor.
- Verify line, grade and dimensions of roadways and structures as deemed necessary.
- Observe to see if specified procedures, specified in the plans and specifications are being followed.
- Advise the Contractor and request corrective action be taken, if an inspection reveals that work has not been properly performed.
- Re-inspect non-conforming work.
- Evaluate and document the Contractor's operations and production with respect to quality and progress.
- Verify and perform spot checks on quantities being identified, measured, recorded and verified by comparisons against plan, contract quantities and dimensions.
- Receive and transmit, to the Manager, the Contractors "trench safety plan" prepared and sealed by a registered professional engineer.
- Evaluate damages to existing vegetation the formula in Section XXV. **Tree and Plant Protection** of the Special Conditions.

Provide Reports of Construction Activities

- Perform a review of the construction of the *Project* to monitor compliance with the *Designer's* plans and specifications and document construction activities using daily reports, journal, logs, or other, as necessary or required.
- Provide digital and video photo logging of project activities.

- Perform inspections in accordance with the environmental provisions of the PS&E, relating to the SW3P and provide reports to the County containing the results of the inspection.
- Perform monthly inspections of the implemented Traffic Control Plan of the PS&E, provide inspection and reports to the County.
- Provide advice to the County on modifications to the Traffic Control Plans to be provided by *the Designer*.
- Develop project progress meeting minutes and distribute to attendees.
- Provide weekly report of the construction project progress to the County and the GEC.
- Provide reports of the results of tests performed on materials used in construction.
- Provide non-conformance reports as needed.
- Provide reports of Contractor compliance with DBE provisions of construction contract.
- Provide reports of Contractor compliance with Wage Rate provisions of construction contract at the end of the project.
- Provide notification of lane closures to GEC and the County, and others as necessary, received from the Contractor.
- Provide report of accidents in accordance with Section XI L. of the Agreement.

Meetings and Record Keeping

- Attend the Pre-Construction Conferences.
- Attend project progress meetings.
- Maintain all records as required.
- Maintain a status report of change orders, RFIs, barricade inspection reports, schedule updates, shop drawing review and time extensions.
- Maintain "redline" drawings to document the changes made to the constructed project. These redline drawings will be used to verify the Contractor's As-Built plan submittal.
- Verify transmittal, by the Contractor to the County, of an affidavit stating that all bills related to any work, labor, equipment or supplies have been paid and that there are no outstanding claims or bills remaining. Review and verify submission, to the Engineer, of the "As-Built" drawings dated and signed by the Contractor

and his project superintendent prior to final acceptance.

Materials Testing

- Order or Verify contractor's order of materials sampling and testing in accordance with the "Quality Assurance Program".
- Receive, review, verify, and log all "project test" or QC test results from the Contractor.
- Request, Validate, and record QC/QA test results by verification tests from independent samples.
- Report to the Manager on the contractors' compliance with the identification of test results with the test number, date of testing, at the station and elevation of the test on the appropriate plan sheet.
- When test requirements are not met, order the performance of independent material testing in accordance with the "Quality Assurance Program".
- Receive from the Contractor, and verify compliance with specifications, Manufacturer Certificates of Compliance of each and every specified material or manufactured equipment item.

Other

Exclusions

The *Engineer* shall not:

- Expedite the work for the Contractor;
- Supervise, direct, or have control over the Contractor's work or personnel;
- Authorize any deviation from the plans, specifications, or other Contract Documents or approve any substitute materials without the consent of the County;
- Be responsible for any aspects of the means, methods, techniques, sequences, quality, procedures, or programs of the Contractor; or
- Be responsible for any safety precautions or programs in connection with the work as the Contractor is solely responsible for the safety of the workforce and traveling public.

EXHIBIT X

ENGINEER'S QUALIFICATIONS STATEMENT

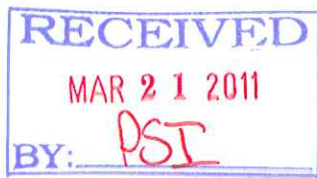


EXHIBIT II

WORK AUTHORIZATION NO. 1

This Work Authorization is made pursuant to the terms and conditions of the Agreement entered into by and between Williamson County, Texas, a political subdivision of the State of Texas, (*the "County"*) and HDR Engineering, Inc. (*the "Engineer"*).

Part 1. The *Engineer* will provide the following engineering services:

Professional Engineering Services for Construction Inspection and/or Observation on the O'Connor Extension project from north of SH 45 to RM 620 in conjunction with GEC and *County* personnel (*the "Project"*). The scope of work is included as Attachment A to this Work Authorization.

Part 2. The maximum amount payable for services under this Work Authorization without modification is \$219,800.00 as shown in Attachment B to this Work Authorization.

Part 3. Payment to the *Engineer* for the services established under this Work Authorization shall be made in accordance with the Agreement.

Part 4. This Work Authorization shall become effective on the date of final acceptance of the parties hereto and shall terminate on March 31, 2012, unless extended by a Supplemental Work Authorization.

Part 5. This Work Authorization does not waive the parties' responsibilities and obligations provided under the Agreement.

Part 6. This Work Authorization is hereby accepted and acknowledged below.

EXECUTED this ____ day of _____, 2011.

ENGINEER:
HDR Engineering, Inc.

By: Jeff Curren
Signature

Jeff Curren, P.E.
Printed Name

Sr. Vice President
Title

COUNTY:
Williamson County, Texas

By: _____
Signature

Printed Name

Title

OK
M 3/21/2011

ATTACHMENT A

SCOPE OF SERVICES

FOR PROFESSIONAL ENGINEERING SERVICES

Pursuant to the Agreement and the terms of this Work Authorization, the *Engineer* will provide Professional Engineering Services for the *Project*, as set forth below.

Services for this Work Authorization are not intended to be performed under a TxDOT-funded or Federally-funded project.

Professional Engineering Construction Management

- Verify receipt of the Contractor's schedule of operations
- Manage the Request for Information (RFI) process.
- Assist with negotiation and recommendations for Change Orders.
- Evaluate and provide advice to the County on the approval of contractor's CPM schedules as requested by GEC.
- Maintain a current approved set of construction contract documents.
- Review and provide recommendation of acceptance to the County on the Contractor's monthly pay estimate. Review and verify quantities of work performed and materials used.
- Manage Contractor receipt and dispersal of Contractor submittals to the *GEC*, then back to the Contractor.
- Identify and advise the County in the resolution of construction issues that arise.
- Provide advice to the County in dispute negotiations and claim resolutions.
- Monitor utility relocation/adjustments for compliance with approved plans for the *Project*.
- Monitor Compliance with DBE requirements of construction contract provisions.
- Provide vehicles, communication devices (i.e cell phones, radios), computers, office supplies and internet service, as needed.
- Review and provide recommendation to the County on the acceptance of As-built drawings provided by the Contractor.
- Verify line, grade and dimensions of roadways and structures as deemed necessary. Coordinate with County and GEC for any survey services to be provided by others to support these efforts.

- Observe to see if specified procedures, specified in the plans and specifications are being followed.
- Advise the Contractor and request corrective action be taken, if an inspection reveals that work has not been properly performed.
- Re-inspect non-conforming work.
- Evaluate and document the Contractor's operations and production with respect to quality and progress.
- Verify and perform spot checks on quantities being identified, measured, recorded and verified by comparisons against plan, contract quantities and dimensions.
- Receive and transmit, to the GEC, the Contractors "trench safety plan" prepared and sealed by a registered professional engineer.
- Evaluate damages to existing vegetation the formula in Section XXV. **Tree and Plant Protection** of the Special Conditions.

Provide Reports of Construction Activities

- Perform a review of the construction of the *Project* to monitor compliance with the *Designer's* plans and specifications and document construction activities using daily reports, journal, logs, or other, as necessary or required.
- Provide digital and video photo logging of project activities.
- Perform inspections in accordance with the environmental provisions of the PS&E, relating to the SW3P and provide reports to the GEC containing the results of the inspection.
- Perform monthly inspections of the implemented Traffic Control Plan of the PS&E, provide inspection and reports to the GEC.
- Develop project progress meeting minutes and distribute to attendees.
- Provide weekly report of the construction project progress to the County and the GEC.
- Provide reports of the results of tests performed by others on materials used in construction as requested by GEC or County.
- Provide non-conformance reports as needed.
- Provide reports of Contractor compliance with DBE provisions of construction contract.
- Provide notification of lane closures to GEC and the County, and others as necessary, received from the Contractor.
- Provide report of accidents in accordance with Section XI L. of the Agreement.

Meetings and Record Keeping

- Attend project progress meetings.
- Maintain records as required.
- Maintain a status report of change orders, RFIs, barricade inspection reports, schedule updates, shop drawing review and time extensions.
- Maintain "redline" drawings to document the changes made to the constructed project. These redline drawings will be used to verify the Contractor's As-Built plan submittal.

Materials Testing

- Order or Verify contractor's order of materials sampling and testing in accordance with the "Quality Assurance Program".
- Receive, review, verify, and log all "project test" or QC test results from the Contractor.
- Request, Validate, and record QC/QA test results by verification tests from independent samples.
- Report to the GEC on the contractors' compliance with the identification of test results with the test number, date of testing, at the station and elevation of the test on the appropriate plan sheet.
- When test requirements are not met, order the performance of independent material testing in accordance with the "Quality Assurance Program".
- Receive from the Contractor, and coordinate with GEC to verify compliance with specifications, Manufacturer Certificates of Compliance of each and every specified material or manufactured equipment item.

Other

Exclusions

The *Engineer* shall not:

- Expedite the work for the Contractor;
- Supervise, direct, or have control over the Contractor's work or personnel;
- Authorize any deviation from the plans, specifications, or other Contract Documents or approve any substitute materials without the consent of the County;

- Be responsible for any aspects of the means, methods, techniques, sequences, quality, procedures, or programs of the Contractor; or
- Be responsible for any safety precautions or programs in connection with the work as the Contractor is solely responsible for the safety of the workforce and traveling public.

ATTACHMENT B

FEE PROPOSAL

Task or Month	Sr. Inspector	Total
Apr 2011	180	180
May	180	180
Jun	180	180
Jul	180	180
Aug	180	180
Sep	180	180
Oct	180	180
Nov	180	180
Dec 2011	180	180
Jan 2012	180	180
Feb	0	0
Mar	0	0
Totals - HDR	1,800	1,800

ATTACHMENT B

FEE PROPOSAL

HDR Engineering, Inc.	On-Site			Total
	Hours	Billing Rate	Sub-Total	
Sr. Inspector	1,800	\$119	\$214,200	\$214,200
Subtotals	1,800		\$214,200	\$214,200

Direct Expenses	Quantity	Rate	
Mileage	10,000 miles @	\$0.51 per mile	\$5,100
Printing & Copying	5,000 copies @	\$0.10 per copy	\$500
Subtotal			\$5,600

Work Authorization Maximum Amount

\$219,800

Huitt-Zollars construction observation PSA Commissioners Court - Regular Session

Date: 03/29/2011
Submitted By: Marie Walters, Road Bond
Department: Road Bond
Contract Oversight:
Agenda Category: Regular Agenda Items

Information

Agenda Item

Discuss and consider approving Huitt-Zollars, Inc. Professional Service Agreement (PSA) for construction inspection and/or observation services on transportation projects.

Background

Fiscal Impact

From/To	Acct No.	Description	Amount
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Attachments

Link: [Huitt-Zollars construction observation PSA](#)

Form Routing/Status

Route Seq	Inbox	Approved By	Date	Status
1	Hal Hawes	Hal Hawes	03/23/2011 01:55 PM	APRV
2	Jim Gilger	Jim Gilger	03/23/2011 01:57 PM	APRV
3	County Judge Exec Asst. Wendy Coco	Wendy Coco	03/23/2011 03:43 PM	APRV

Form Started By: Marie Walters
 Started On: 03/23/2011 01:06 PM
 Final Approval Date: 03/23/2011

Contract No. Hutt-Zollars - Construction Observer



Checklist

Prior to Initiation of Work

- ☒ Signed and Executed Agreement
- ☒ Scope of Services – Appendix A
 - Exhibit V – Services to be provided by County
 - Exhibit IX – Services to be provided by Engineer
 - Exhibit C – Work Schedule
 - Exhibit D – Fee Schedule
- ☒ Production Schedule – Exhibit IV
- ☒ Hourly Rates of Engineer – Exhibit II
- ☒ Work Authorization - Exhibit II
 - Supplemental Work Authorization for Additional Work (if applicable)
- ☒ Data to be provided to Engineer by County
 - Plans
 - Maps
 - Studies
 - Reports
 - Field Notes
 - Statistics
 - Computations
 - Other: _____
- ☒ Contractors Qualification Statement – Appendix B *RFQ - pre-qualified list*
- ☒ Insurance
 - Worker's Compensation
 - Commercial General Liability Insurance
 - Automobile Liability Insurance
 - Professional Liability Errors and Omissions Insurance
 - Self Insurance Documentation
 - Insurance Certificates for Subcontractors and/or Sub-consultants
 - Approval of Insurance by County

Course of Work

- ☐ Original Engineering Work Product submittal
- ☐ "Completed" Engineering Work Product
- ☐ "Accepted" Engineering Work Product
- ☐ Modifications and/or Changes for Approval of Engineering Work Product
- ☐ "Approved" Engineering Work Product
- ☐ Revisions to Work Product
- ☐ Seal of Endorsement on all Engineering Work Product
- ☐ Data necessary for applications or documentation for permits and/or grants to be provided by Engineer to County

Notices (as applicable)

Contract No. _____

- ☐ Notice of Suspension
- ☐ Notice of Reinstatement
- ☐ Notice of Termination
- ☐ Notice of Staffing Changes
- ☐ Written Report of Accident

Documentation for Payment

- ☐ Internal Revenue Form W-9
- ☐ Invoice for Services Rendered
 - ☐ Supporting Documentation
 - ☐ Report of Completion Percentage
- ☐ Invoice for Reimbursables
 - ☐ Proof of prior payment by Engineer of Reimbursables

Contract No. _____

PROFESSIONAL SERVICES AGREEMENT

TABLE OF CONTENTS

<u>SECTION:</u>	<u>TITLE:</u>	<u>PAGE</u>
I.	<i>Employment of the Engineer</i>	1
II.	<i>Professional Services of the Engineer</i>	2
III.	<i>Fee Schedule</i>	2
IV.	<i>Period of Service</i>	3
V.	<i>Coordination with the County</i>	4
VI.	<i>Review of Instruments of Service</i>	4
VII.	<i>Revision to Instruments of Service</i>	5
VIII.	<i>Engineer's Responsibility and Liability</i>	6
IX.	<i>Ownership of Documents</i>	8
X.	<i>Maintenance of and Right of Access to Records</i>	8
XI.	<i>Miscellaneous:</i>	
A.	Severability	9
B.	Venue and Governing Law	9
C.	Equal Opportunity in Employment	9
D.	Certificate of Engineer	10
E.	Notice	10
F.	Insurance Requirements	11
G.	Property Taxes	11
H.	Successors and Assigns	11
I.	Bidding Exemption	11
J.	Taxpayer Identification	11
K.	Compliance with Laws	11
L.	Reports of Accidents	11
M.	Definition of Engineer	12
N.	Gender, Number and Headings	12
O.	Incorporation of Exhibits & Attachments	12
P.	Entity Status	12
Q.	Construction	12
R.	Independent Contractor Relationship	12
S.	No Waiver of Immunities	12
T.	Interest and Late Payments	12
U.	Texas Public Information Act	13
V.	Acknowledgement	13
W.	Governing Terms and conditions	13
X.	Entire Agreement	13
	Signature Page	14

Contract No. _____

TABLE OF CONTENTS (cont'd)

EXHIBIT I	<i>Compensation for Professional Engineering Services</i>	15
EXHIBIT II	<i>Work Authorization</i>	17
EXHIBIT III	<i>Hourly Rates</i>	18
EXHIBIT IV	<i>Compensation for Additional Professional Services</i>	19
EXHIBIT V	<i>Services To Be Provided By County</i>	20
EXHIBIT VI	<i>Procedures for Termination or Suspension</i>	21
EXHIBIT VII	<i>Equal Opportunity in Employment</i>	23
EXHIBIT VIII	<i>Insurance Requirements</i>	25
EXHIBIT IX	<i>Scope of Services</i>	26
EXHIBIT X	<i>Engineer's Qualification Statement</i>	29

PROFESSIONAL SERVICES AGREEMENT

STATE OF TEXAS §
 §
COUNTY OF WILLIAMSON §

This Professional Services Agreement (the "Agreement") is made and entered into this day by and between Williamson County, Texas, a political subdivision of the State of Texas, (the "County") and Huitt-Zollars, Inc. (the "Engineer").

WHEREAS, *County* proposes to construct various transportation projects;

WHEREAS, *County* desires to obtain Professional Engineering Services for Construction Inspection and/or Observation (the "Project");

WHEREAS, *Engineer* has the professional ability and expertise to fulfill the requirements of the *Project*, and to provide advice to the *County* in the selection and analysis of cost-effective alternatives;

WHEREAS, *Engineer* agrees to provide the Professional Engineering Services as more fully set forth in Exhibit IX ("Scope of Services");

WHEREAS, all of the Professional Engineering Services to be provided by *Engineer* pursuant to this Agreement are professional services, the essence of which entails the provision of advice, judgment, or opinion;

WHEREAS, the *County* has separately contracted with a separate engineering firm or individual (the "Designer") for the preparation of the Plans, Specifications, and Estimates (the "PS&E") for the *Project*.

NOW, THEREFORE, *County* and *Engineer* agree to the performance of the Professional Engineering Services by *Engineer* and the payment for these services by *County* as set forth herein.

Section I
Employment of the Engineer

County agrees to employ *Engineer* and *Engineer* agrees to perform the Professional Engineering Services for the *Project* as stated in the Sections to follow. As a condition to employment, it is specifically agreed that any disputes arising hereunder shall be submitted to the County Judge or his designee and/or agent, as designated in writing by the County Judge (*individually or collectively the "County Judge"*). The *County Judge* shall have complete authority for the purpose of resolving disputes arising under this Agreement. The *County Judge's* decision shall be final and binding, subject to any civil remedies otherwise deemed appropriate by the parties hereto.

However, nothing in this Section I or in any other provision of this Agreement regarding submission of disputes to the *County Judge* and the *County Judge's* ability to resolve disputed matters shall be

construed to establish anything other than a *de novo* standard of review by a court of competent jurisdiction in the event that the parties hereto avail themselves of their right to seek civil remedies for any dispute. In the event of a dispute between the terms and conditions of this provision and any other provision of this Agreement, the terms and condition of this provision shall govern.

It is the intention of the *County* and the *County Judge*, and agreed to and hereby acknowledged by the *Engineer*, that no provision of this Agreement shall be construed to require the *County* or the *County Judge* to submit to mandatory arbitration or mediation in the settlement of any claim, cause of action or dispute.

Section II Professional Services of the Engineer

- A. In consideration of the compensation herein provided, *Engineer* shall perform Professional Engineering Services for the *Project*, which are acceptable to the *County Judge*, based on standard engineering practices and the scope of work described on the Exhibits attached to this Agreement. *Engineer* shall also serve as *County's* professional engineer in those phases of the *Project* to which this Agreement applies and will consult with and give advice to *County* during the performance of *Engineer's* services.
- B. *Engineer* shall not commence work until *Engineer* has been thoroughly briefed on the scope of the *Project* and has been notified in writing by the *County Judge* to proceed, as evidenced by a work authorization substantially in the form of Exhibit II ("Work Authorization"), attached to this Agreement.
- C. *County* shall provide *Engineer* with all Plans, Specifications, and Estimates (PS&E) to this particular *Project* at no cost to *Engineer*; however, any and all such information shall remain the property of *County* and shall be returned, if the *County Judge* so instructs *Engineer*.
- D. *Engineer* shall perform the following Professional Engineering Services:
 - 1. The basic Scope of Services shall generally consist of all elements of Professional Engineering Services required for the *Project* (as more fully set out in Exhibit IX to this Agreement, "Scope of Service"), satisfactory to the *County Judge* and the County's Commissioners Court, in accordance with the requirements, policies, and general practices of Williamson County.

Section III Fee schedule

- A. For and in consideration of the performance by *Engineer* of the Professional Engineering Services described in the Scope of Services, *County* shall pay and *Engineer* shall receive the fee set forth in Exhibit I. The fee is based upon the hourly rates set forth in Exhibit III. Exhibits I and III are attached hereto and made a part hereof. Invoices shall be submitted by *Engineer* on a monthly basis and are due upon presentation of all items required hereunder, and shall be considered past due if not paid within thirty (30) calendar days of the due date.

- B. For the performance of services not specifically described in the Scope of Services *Engineer* shall receive the additional services compensation described in Exhibit IV, which is attached hereto and made a part hereof. In the event of any dispute over the classification of *Engineer's* services as basic or additional services under this agreement, the decision of the *County Judge* shall be final and binding on *Engineer*.

Section IV Period of Service

- A. *Engineer* shall perform the Professional Engineering Services described in Exhibit IX, the Scope of Services.
- B. This Agreement shall become effective upon the date approved by *County* and will remain in full force and effect for the period required for the construction contract award and construction of the *Project*, including warranty periods provided by the contractor pursuant to the construction contract and any extensions of time, unless terminated earlier as provided for herein. *Engineer* shall complete all work as described in the Scope of Services upon receipt by *Engineer* of *County's* written Work Authorization.
- C. Neither *Engineer* nor *County* shall be responsible for delays caused by "Acts of God", non-county governmental processes, national emergency, or any other causes beyond *Engineer's* or *County's* reasonable control. Upon the discovery of such an event, *Engineer* shall notify *County*, and attend a special meeting with the *County Judge* to propose a program for a solution to the problem, and, if necessary, to establish an estimated period of time of suspension or extension of the work. A written request for an extension of time, when properly documented and justified by the circumstances, will be granted by the *County Judge*.
- D. *County* may suspend the work at any time for any reason without terminating this Agreement by giving written Notice of Suspension and the work may be reinstated and this Agreement resumed in full force and effect within sixty (60) days of receipt by *Engineer* of written Notice of Reinstatement from *County*. *Engineer*, upon receipt of a Notice of Suspension shall follow the procedures described in the attached Exhibit VI, which is attached hereto and made a part hereof. In the event such suspension of the *Project* or the *Engineer's* services hereunder extends for a period of ninety (90) days or more, consecutive or in the aggregate, *Engineer* may terminate this Agreement in writing and such termination shall be treated as a Notice of Termination as provided herein.
- E. Either party may terminate this Agreement for the material failure of the other party to perform in accordance with the terms of this Agreement (the materiality of such failure to be based on standard engineering practices and the scope of work described on the Exhibits attached to this Agreement), through no material fault of the terminating party. *County* may unilaterally terminate this Agreement for reasons other than material failure by *Engineer* to perform by delivering a written Notice of Termination which shall take effect on the tenth day following *Engineer's* receipt of same. If mutually agreed upon, the obligation to provide services under this Agreement may be terminated without cause upon thirty (30) days written

notice. *Engineer* shall follow the procedures specified in Exhibit VI upon issuance or receipt of such notice. In the event of termination of this Agreement because of the material failure of *Engineer* to perform, *County* may prosecute the work to completion by contract or otherwise and, in such a case, *Engineer* shall be liable for any additional costs incurred by *County*.

- F. All references to time in this Agreement shall be measured in calendar days unless otherwise specified.

Section V

Coordination with the County

- A. The *County Judge* will act on behalf of *County* with respect to the work to be performed under this Agreement. The *County Judge* shall have complete authority to interpret and define *County's* policies and decisions with respect to *Engineer's* services. The *County Judge* may, in writing, designate representatives to transmit instructions and receive information.
- B. *Engineer* shall not commence work on any phase of the *Project* until a thorough briefing on the scope of the *Project* is received and a written Work Authorization is issued by the *County Judge* in substantially the form of that in Exhibit II.
- C. *Engineer* shall have the responsibility at all times under the terms of this Agreement to advise *County* whether in *Engineer's* judgment it is feasible to proceed with the recommendations given any known constraints affecting the *Project*.
- D. *Engineer* shall cooperate and coordinate with *County's* staff, and other engineers and contractors as reasonable and necessary and as required by the *County Judge*.

Section VI

Review of Engineer's Instruments of Service

- A. *Engineer's* engineering Instruments of Service will be reviewed by *County* under its applicable technical requirements and procedures.
- B. Reports and supporting documents, (the "*Instruments of Service*"), shall be submitted by *Engineer* on or before the date specified in Exhibit IX. Upon receipt of the Instruments of Service, the submission shall be checked for acceptance. "Acceptance" shall mean that in the *County Judge's* opinion substantial conformance with the requirements of the Scope of Service of this Agreement has been achieved. The acceptability of any Instruments of Service submitted to *County* shall be determined by *County* within fourteen (14) days of such submittal and *County* shall notify *Engineer* in writing within such 14-day period if such work product has been found to be acceptable.
- C. If the submission is acceptable, *County* shall notify *Engineer*, in writing within fourteen (14) days of the submission, that the submission is acceptable.

- D. If the submission is deemed not acceptable, *County* shall notify *Engineer*, who shall perform such Professional Engineering Services as are required to make the Instruments of Service in conformance with the Scope of Services and resubmit it to *County*. This process shall be repeated until a submission is deemed acceptable.
- E. *County* shall review the Instruments of Service for conformance with the Scope of Services. If necessary, the Instruments of Service shall be returned to *Engineer*, who shall perform any required Professional Engineering Services and resubmit it to *County*. This process shall be repeated until the Instruments of Service is accepted.
- F. After acceptance, *Engineer* shall perform any required modifications, changes, alterations, corrections, and additional work necessary to receive final approval by the *County Judge*. "Approval" in this sense shall mean formal recognition that the Scope of Services have been fully performed and submitted in conformance with Exhibit IX.
- G. After approval of final Instruments of Service, *Engineer* shall without additional compensation perform any Professional Engineering Service required as a result of *Engineer's* development of the Instruments of Service which is found to be in error or omission due to *Engineer's* negligence. However, any Professional Engineering Services required or occasioned for the convenience of *County* after approval of a final Instruments of Service shall be paid for as Additional Services.
- H. In the event of any dispute over the classification of *Engineer's* Instruments of Service as conforming, accepted, or approved under this Agreement, the decision of the *County Judge* shall be final and binding on *Engineer*, subject to any civil remedy or determination otherwise available to the parties and deemed appropriate by the parties.

Section VII

Revision to Instruments of Service

Engineer shall make, without expense to *County*, such revisions to the Instruments of Service as may be required to correct negligent acts, errors or omissions that result from *Engineer's* Scope of Service herein so the Instruments of Service meets the Quality Assurance Plan, but after the approval of the Instruments of Service any revisions, additions, or other modifications made at *County's* request which involve extra services and expenses to *Engineer* shall entitle *Engineer* to additional compensation for such extra services and expenses, provided however, that *Engineer* agrees to perform any necessary corrections to the Instruments of Service, which are found to be negligent acts, error or omission as a result of the *Engineer's* development of the Instruments of Service, at any time, without additional compensation. Nothing in this Section or any other provision of this Agreement shall require *Engineer* to make any revisions or changes to the PS&E developed and provided by *Designer* except as necessary to comply with the desired *Scope of Services* as detailed in Exhibit IX related to performance of duties necessary to comply with Part III Section E of the Texas Pollution Discharge Elimination System (TPDES) permit TXR150000. The *Engineer* shall be considered "engaged", as described in Section 137.33 of the Texas Engineering

Practice Act and Rules Concerning The Practice of Engineering and Professional Engineering Licensure, upon execution of this Agreement by all parties. In the event of any dispute over the classification of *Engineer's* services as Basic or Additional Services under this Agreement, the decision of the *County Judge* shall be final and binding on *Engineer*, subject to any civil remedy or determination otherwise available to the parties and deemed appropriate by the parties.

Section VIII Engineer's Responsibility and Liability

- A. *Engineer* covenants to undertake no task in which a professional license or certificate is required unless it or someone under its direction is appropriately licensed. In the event such licensed individual's license expires, is revoked, or is canceled, *Engineer* shall inform *County* of such event within five working days.
- B. *Engineer* shall be responsible for conformance with applicable federal and state laws, county permitting requirements, and city ordinances currently in effect, except as otherwise directed by the *County Judge* regarding county permitting or similar requirements, applicable to the Scope of Services described Exhibit IX to this Agreement, properly waivable by the *County Judge*.
- C. **ENGINEER SHALL INDEMNIFY, AND HOLD HARMLESS COUNTY, ITS OFFICIALS AND EMPLOYEES FROM AND AGAINST ALL SUITS, ACTIONS, LIABILITY, LOSS, DAMAGE, REASONABLE ATTORNEY'S FEES, COSTS, AND EXPENSES (INCLUDING, BUT NOT LIMITED TO EXPENSES RELATED TO EXPERT WITNESSES) OF ANY KIND WHATSOEVER, TO THE EXTENT ARISING FROM ANY NEGLIGENT ACT, ERROR OR OMISSION OF ENGINEER OR ANY OF ITS SUBCONSULTANTS IN CONNECTION WITH THE PERFORMANCE OF SERVICES UNDER THIS AGREEMENT; PROVIDED, HOWEVER, ENGINEER SHALL NOT BE RESPONSIBLE FOR THE NEGLIGENT ACTS, ERRORS, OR OMISSIONS OF ANY OTHER PARTY, OTHER THAN ITSELF OR THAT OF ITS SUBCONSULTANTS AND FOR A SUBCONSULTANT ONLY AS A DIRECT RESULT OF NEGLIGENCE ACTS, ERRORS, OR OMISSIONS WHILE PERFORMING PROFESSIONAL SERVICES PURSUANT TO THE SCOPE OF THIS AGREEMENT.**
- D. *Engineer's* opinions of probable *Project* cost or construction cost represent *Engineer's* professional judgment as a professional familiar with the construction industry, but *Engineer* does not guarantee that proposals, bids, or the construction cost, itself, will not vary from *Engineer's* opinions of probable cost and shall not be responsible for proposals, bids, or the construction costs, should they vary from *Engineer's* opinions of probable costs.
- E. *Engineer* shall perform all services and responsibilities required of *Engineer* under this Agreement using at least that standard of care which a reasonably prudent engineer in Texas, who is licensed by the State Board of Engineers or the State Board of Registered Professional Surveyors, as applicable, would use in similar circumstances.

- F. *Engineer* represents that it presently has, or is able to obtain, adequate qualified personnel in its employment for performance of the services required under this Agreement and that *Engineer* shall furnish and maintain, at its own expense, adequate and sufficient personnel and equipment, in the reasonable opinion of *County*, to perform the services when and as required and without delays. It is understood that *County* will approve assignment and release of all key *Engineer* and professional personnel.
- G. All employees of *Engineer* shall have such knowledge and experience as will enable them to perform the duties assigned to them. Any employee of *Engineer*, who in the opinion of *County* is incompetent or whose conduct becomes detrimental to the work or coordination with *County*, shall upon *County's* and/or *County Judge's* request be immediately removed from association with the *Project*.
- H. *Engineer* shall furnish all equipment, transportation, supplies, and materials required for its performance of the Professional Engineering Services as set forth in the Scope of Services attached as Exhibit IX to this Agreement.
- I. *Engineer* shall place its Texas Professional Engineer's seal of endorsement on all documents of Instruments of Service furnished to *County*, as required by law.
- J. *Engineer* is an independent contractor under this Agreement. Neither it nor any officer, agent or employee of *Engineer* shall be classified as an employee of *County*.
- K. **Safety.** The *Engineer* shall not have control or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures or for the safety precautions and programs in connection with the Project construction, for the acts or omissions of the contractor, subcontractors, any of their agents or the subcontractors' employees, or any other person performing any of the work or for the failure of such persons to carry out the work in accordance with the contract documents; provided however, the *Engineer* shall not be relieved from its obligation to notify the County or any other applicable authority of any unsafe condition resulting from an act, omission or failure on the part of the construction if *Engineer* becomes aware of such an unsafe condition in the normal course of providing its Scope of Services or as otherwise required by the *Engineer's* professional duties as prescribed by the Rules of Professional Practice promulgated by the Texas Board of Professional Engineers.

Engineer's obligation to report any observed unsafe job conditions to the County ^{shall} ~~shall~~ not make *Engineer* responsible for construction ^{job} ~~for~~ site safety, the responsibility of which shall remain solely with the construction contractor. *Engineer's* obligation to report unsafe job conditions to the County runs solely to the County. There are no third party beneficiaries intended by this obligation, in particular, construction contractor's employees do not have the right to rely on *Engineer's* obligation to report unsafe job conditions to the County so as to provide for a safe work environment for construction contractor's employees.

No provision of this Agreement requires *Engineer* to make exhaustive inspections of the

contractor's work under the construction contract for the *Project*. *Engineer's* inspections, observations, and documentation of construction activities and work is to confirm the construction's conformance with the PS&E and acceptable engineering standards and practices.

The County shall enter into a third party contract for the construction of the project. The contract between the County and the contractor shall require the contractor to indemnify the *Engineer* and name the *Engineer* as additional insured under contractor's commercial general liability, builder's risk, and umbrella liability coverage for the insured liabilities assumed by the contractor. The contractor's insurance coverage shall be primary insurance for the insured liabilities under the Agreement with respect to the contractor, its officers, directors, agents and consultants including the *Engineer*.

The construction contractor retained by the County has sole responsibility for providing materials, means, and methods of construction, for controlling the individual work area and safety of said areas for all parties.

The *Engineer* shall be responsible for taking all appropriate steps to ensure the safety of its employees in connection with its performance of the services provided under this agreement.

Section IX Ownership of Documents

- A. Any and all Instruments of Service, including the original drawings, estimates, computer tapes, graphic files, tracings, calculations, analyses, reports, specifications, field notes, and data prepared by *Engineer* are the property of *County* and upon completion of the work or termination of this Agreement or as otherwise instructed by *County* and/or *County Judge*, shall be delivered to *County* in an organized fashion with *Engineer* retaining a copy.
- B. Any reuse by *Engineer* of any such documents described in subsection A above, without the specific written consent of *County* shall be at *Engineer's* sole risk and without liability or legal exposure to *County*. Should *Engineer* be terminated, *Engineer* shall not be liable for *County's* use of partially completed Instruments of Service on this *Project* or any other project, except to the extent such Instruments of Service were deemed complete or otherwise "Accepted" or "Approved" as provided herein by *Engineer*, or Surveyor, as applicable, as specified by professional standards.
- C. *Engineer* will not be responsible for any use or any modifications to the Instruments of Service described in subsection A performed by any entity without the specific written consent of *Engineer*. Any modification by an entity or individual other than the *Engineer* as described in this paragraph shall be made in accordance with all applicable professional standards and shall necessitate the removal of the *Engineer's* Texas Professional Engineer's seal of endorsement from all such modified documents.

Section X
Maintenance of and Right of Access to Records

- A. *Engineer* agrees to maintain appropriate accounting records of costs, expenses, and payrolls of employees working on the *Project* for a period of three (3) years after final payment for completed services and all other pending matters concerning this Agreement have been closed.
- B. *Engineer* further agrees that *County* or its duly authorized representatives shall, until the expiration of three (3) years after final payment under this Agreement, have access to and the right to examine and photocopy any and all books, documents, papers and records of *Engineer*, which are directly pertinent to the services to be performed under this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions. *Engineer* agrees that *County* shall have access during normal working hours to all necessary *Engineer* facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. *County* shall give *Engineer* reasonable advance notice of intended audits.
- C. *Engineer* further agrees to include in all its sub-consultant agreements hereunder a provision to the effect that the sub-consultant agrees that *County* shall, until the expiration of three (3) years after final payment under the subcontract, have access to and the right to examine and photocopy any directly pertinent books, documents, papers and records of such sub-consultant, involving transactions to the subcontract, and further, that *County* shall have access during normal working hours to all sub-consultant facilities, and shall be provided adequate and appropriate work space, in order to conduct audits in compliance with the provisions of this section together with subsection (D) hereof. *County* shall give sub-consultant reasonable advance notice of intended audits.
- D. *Engineer* and sub-consultant agree to photocopy such documents as may be requested by *County*. *County* agrees to reimburse *Engineer* for the cost of copies at the rate published in the Texas Administrative Code in effect as of the time copying is performed. *County* also agrees to compensate *Engineer* for services performed pursuant to this Section as requested by *County*, or by a third-party pursuant to a validly determined Texas Public Information Act request. For any such services, *Engineer* shall receive the additional services compensation described in Exhibit IV, which is attached hereto and made a part hereof.

Section XI
Miscellaneous

- A. *Severability*. If any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof, but rather this entire Agreement will be construed as if not containing the particular invalid or unenforceable provision or provisions, and the rights and obligation of the parties shall be construed and enforced in accordance therewith. The parties acknowledge that if any provision of this Agreement is determined to be invalid or unenforceable, it is the desire and intention of each that such provision be reformed and

construed in such a manner that it will, to the maximum extent practicable, give effect to the intent of this Agreement and be deemed to be validated and enforceable.

- B. ***Venue and Governing Law.*** It is contemplated that this Agreement shall be performed in Williamson County, Texas, and the venue and jurisdiction of any suit, right, or cause of action arising out of or in connection with this Agreement shall lie exclusively in Williamson County, Texas. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas.
- C. ***Equal Opportunity in Employment.*** *Engineer* agrees, during the performance of the services under this Agreement, to comply with the equal opportunity in employment provisions cited in Exhibit VII, which is attached hereto and made a part hereof.
- D. ***Certificate of Engineer.*** *Engineer* certifies that neither *Engineer* nor any members of *Engineer's* firm has:
- (1) Employed or retained for a commission, percentage, brokerage, contingency fee, or other consideration, any firm or person (other than a bona fide employee working solely for *Engineer*) to solicit or secure the work provided by the Agreement.
 - (2) Agreed, as an expressed or implied condition for obtaining this contract, to employ or retain the services of any firm or person other than in connection with carrying out the work to be performed under this Agreement.
 - (3) Paid or agreed to pay to any firm, organization, or person (other than bona fide employees working solely for *Engineer*) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the work provided under this Agreement.

Engineer further agrees that this certification may be furnished to any local, state or federal governmental agencies in connection with this Agreement and for those portions of the ***Project*** involving participation of agency grant funds and is subject to all applicable state and federal, criminal and civil laws.

- E. ***Notice.*** Any notice to be given hereunder shall be in writing and may be affected by personal delivery in writing or by registered or certified mail, return receipt requested, addressed to the proper party, at the following address:

ENGINEER: Huitt-Zollars, Inc.
3701 Executive Center Drive, Suite 101
Austin, Texas 78731-1651
Attn: Gregory R. Wine, P.E., LEED AP

COUNTY: Williamson County Judge
Dan Gattis (or successor)
710 Main Street, Suite 101
Georgetown, Texas 78626

ok
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with copy to: Hal C. Hawes
Legal Advisor
Office of Williamson County Judge
710 Main Street, Suite 200
Georgetown, Texas 78626

and to: Prime Strategies, Inc.
1508 South Lamar Blvd.
Austin, Texas 78704
Attn: Michael Weaver

and to: HNTB
14 Galloping Road
Round Rock, Texas 78681
Attn: James Klotz, P.E.

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- F. **Insurance Requirements.** *Engineer* agrees during the performance of the services under this Agreement to comply with the INSURANCE REQUIREMENTS provisions described in Exhibit VIII, which is attached hereto and made a part hereof.
- G. **Property Taxes.** Notwithstanding anything to the contrary herein, to the extent *County* becomes aware that *Engineer* is delinquent in the payment of property taxes related to property located in Williamson County at the time of invoicing, *Engineer* hereby assigns any payments to be made for services rendered hereunder to the Williamson County Tax Assessor-Collector for the payment of said delinquent taxes. Notwithstanding the above, *County* shall not have an affirmative duty to determine if *Engineer* is delinquent in the payment of property taxes.
- H. **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of *County* and *Engineer* and their respective successors, executors, administrators, and assigns. Neither *County* nor *Engineer* may assign, sublet, or transfer his interest in or obligations under this Agreement without the written consent of the other party hereto.
- I. **Bidding Exemption.** This Agreement is exempted from the bidding requirements of the County Purchasing Act pursuant to Section 262.024(a)(4) of the Local Government Code as this is a contract for professional services.
- J. **Taxpayer Identification.** *Engineer* shall provide to *County Judge* upon submittal of *Engineer's* initial invoice requesting payment Internal Revenue Form W-9 Request for Taxpayer Identification Number and Certification that is completed in compliance with the Internal Revenue Code, its rules and regulations.
- K. **Compliance with Laws.** *Engineer* shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or

administrative bodies or tribunals in any matter affecting the performance of this Agreement, including, without limitation, Worker's Compensation laws, minimum and maximum salary and wage statutes and regulations, licensing laws and regulations. When required, the *Engineer* shall furnish the *County* with certification of compliance with said laws, statutes, ordinances, rules, regulations, orders, and decrees above specified.

- L. ***Reports of Accidents.*** Within 24 hours after *Engineer* becomes aware of the occurrence of any accident or other event on or relating to the Project which results in, or might result in, injury to the person or property of any third person (other than an employee of the *Engineer*), whether or not it results from or involves any action or failure to act by the *Engineer* or any employee or agent of the *Engineer* and which arises in any manner from the performance of this Agreement, the *Engineer* shall send a written report of such accident or other event to the County, setting forth a full and concise statement of the facts pertaining thereto. The *Engineer* shall also immediately send the County a copy of any summons, subpoena, notice, or other documents served upon the *Engineer*, its agents, employees, or representatives, or received by it or them, in connection with any matter before any court arising in any manner from the *Engineer's* performance of work under this Agreement.
- M. ***Definition of Engineer.*** The term "*Engineer*" as used herein is defined as including Registered Professional Surveyors, as applicable to the work to be performed under this Agreement, and any reference to professional standards in regards to a Registered Professional Surveyor shall relate to those standards promulgated by the State Board of Registered Professional Surveyors.
- N. ***Gender, Number and Headings.*** Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires. The headings and section numbers are for convenience only and shall not be considered in interpreting or construing this Agreement.
- O. ***Incorporation of Exhibits.*** All of the Exhibits referred to in the Agreement are incorporated by reference as if set forth verbatim herein.
- P. ***Entity Status.*** By my signature below, I certify that *Engineer* is a Corporation, duly authorized to transact and do business in the State of Texas.
- Q. ***Construction.*** Each party hereto acknowledges that it and its counsel have reviewed this Agreement and that the normal rules of construction are not applicable and there will be no presumption that any ambiguities will be resolved against the drafting party in the interpretation of this Agreement.
- R. ***Independent Contractor Relationship.*** Both parties hereto, in the performance of this Agreement, shall act in an individual capacity and not as agents, employees, partners, joint ventures or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever.

- S. **No Waiver of Immunities.** Nothing in this Agreement shall be deemed to waive, modify or amend any legal defense available at law or in equity to *County*, its past or present officers, employees, or agents or employees, nor to create any legal rights or claim on behalf of any third party. *County* does not waive, modify, or alter to any extent whatsoever the availability of the defense of governmental immunity under the laws of the State of Texas and of the United States.
- T. **Interest and Late Payments.** *County's* payment for the Professional Engineering Services shall be governed by Chapter 2251 of the Texas Government Code. Invoices shall be paid by *County* within thirty (30) days from the date of the Williamson County Auditor's receipt of an invoice. Interest charges for any late payments shall be paid by *County* in accordance with Texas Government Code Section 2251.025. More specifically, the rate of interest that shall accrue on a late payment is the rate in effect on September 1 of *County's* fiscal year in which the payment becomes due. The said rate in effect on September 1 shall be equal to the sum of one percent (1%); and (2) the prime rate published in the Wall Street Journal on the first day of July of the preceding fiscal year that does not fall on a Saturday or Sunday. In the event that a discrepancy arises in relation to an invoice, such as an incorrect amount on an invoice or a lack of documentation that is required to be attached to an invoice to evidence the amount claimed to be due, *County* shall notify the party requesting payment of such an invoice of the discrepancy. Following *County's* notification of any discrepancy as to an invoice, the party requesting payment must resolve the discrepancy and resubmit a corrected or revised invoice, which includes all required support documentation, to the Williamson County Auditor. *County* shall pay the invoice within thirty (30) days from the date of the Williamson County Auditor's receipt of the corrected or revised invoice. *County's* payment of an invoice that contains a discrepancy shall not be considered late, nor shall any interest begin to accrue until the thirty-first (31st) day following the Williamson County Auditor's receipt of the corrected or revised invoice.
- U. **Texas Public Information Act.** To the extent, if any, that any provision in this Agreement is in conflict with Tex. Gov't Code 552.001 *et seq.*, as amended (the "Public Information Act"), the same shall be of no force or effect. Furthermore, it is expressly understood and agreed that *County*, its officers and employees may request advice, decisions and opinions of the Attorney General of the State of Texas in regard to the application of the Public Information Act to any items or data furnished to *County* as to whether or not the same are available to the public. It is further understood that *County's* officers and employees shall have the right to rely on the advice, decisions and opinions of the Attorney General, and that *County*, its officers and employees shall have no liability or obligation to any party hereto for the disclosure to the public, or to any person or persons, of any items or data furnished to *County* by a party hereto, in reliance of any advice, decision or opinion of the Attorney General of the State of Texas.
- V. **Acknowledgement.** As a duly authorized representative of *Engineer*, I acknowledge by my signature below that I have read and understand the above paragraphs and that *Engineer* has the obligation to ensure compliance with its provisions by itself and its employees, agents, and representatives.

- W. **Governing Terms and Conditions.** If there is an irreconcilable conflict between the terms and conditions set forth in Sections I. through XI. of this Agreement and the terms and conditions set forth in any Exhibit to this Agreement, the terms and conditions set forth in Sections I. through XI. of this Agreement shall control over the terms and conditions set forth in any Exhibit to this Agreement.
- X. **Entire Agreement.** This Agreement represents the entire and integrated Agreement between *County* and *Engineer* and supersedes all prior negotiations, representations, or agreements, either oral or written. This Agreement may be amended only by written instrument signed by both *County* and *Engineer*. NO OFFICIAL, EMPLOYEE, AGENT, OR REPRESENTATIVE OF THE COUNTY HAS ANY AUTHORITY, EITHER EXPRESS OR IMPLIED, TO AMEND THIS CONTRACT, EXCEPT PURSUANT TO SUCH EXPRESS AUTHORITY AS MAY BE GRANTED BY THE COUNTY COMMISSIONERS COURT.
- Y. **No Third-Party Beneficiaries.** No provision of this Agreement shall be construed to establish a cause of action in favor of any party other than the parties hereto. It is the express intention of the *County* and the *Engineer* that there be no third-party beneficiaries to this Agreement.
- Z. **Waiver of Consequential Damages.** *County* and *Engineer* agree to waive recovery of any consequential damages which arise as a proximate result of a breach of this Agreement.

EXECUTED this _____ day of _____, 2011.

OK
mly 3/23/2011

THE ENGINEER:

Huitt-Zollars, Inc.

BY: _____

Gregory R Wine

Printed Name: Gregory R. Wine, P.E., LEED AP

Title: Senior Vice President

THE COUNTY:

WILLIAMSON COUNTY:

BY: _____

Printed Name: Dan A. Gattis, County Judge

Reviewed as to Form By: _____

Legal Advisor to the Williamson
County Commissioners Court

County Auditor

EXHIBIT I

COMPENSATION FOR PROFESSIONAL ENGINEERING SERVICES

ACTUAL COST OF SERVICES METHOD

SECTION 1 - BASIS FOR COMPENSATION

- 1.1 The not-to-be-exceeded fee for the performance of the Scope of Services described in the Agreement shall be the sum of \$ 264,000.00. ✓
- 1.2 The basis of compensation for the services of principals and employees engaged in the performance of the work shall be the hourly rates set forth in attached Exhibit III.
- 1.3 *Engineer* shall be reimbursed for actual non-labor and subcontract expenses incurred in the performance of the services under this Agreement at the *Engineer's* invoice cost.

SECTION 2 - NOT-TO-BE-EXCEEDED FEE

- 2.1 *Engineer* and *County* acknowledge the fact that the not-to-be-exceeded fee is the total estimated costs of services to be rendered under this Agreement. This not-to-be-exceeded fee is based upon the labor and non-labor costs set forth in Exhibit III to this Agreement and described above, estimated to be required in the performance of the various phases of work provided for under this Agreement. Should the actual costs of the services rendered under this Agreement be less than such estimated cost, then *Engineer* shall receive compensation for only those services actually rendered.

SECTION 3 – WORK AUTHORIZATIONS

- 3.1 *County* will prepare and issue Work Authorizations, in the form identified and attached hereto as Exhibit II to authorize the *Engineer* to perform one or more tasks. Each Work Authorization will include a description of the work to be performed, a description of the tasks and milestones, a work schedule for the tasks, and a fee amount agreed upon by the *County* and *Engineer*. The amount payable for a Work Authorization shall be supported by the estimated cost of each work task as described in the Work Authorization. The Work Authorization will not waive the *Engineer's* responsibilities and obligations established in this Agreement. The executed Work Authorizations shall become part of this Agreement.
- 3.2 Work included in a Work Authorization shall not begin until *County* and *Engineer* have signed the Work Authorization. All work must be completed on or before the completion date specified in the Work Authorization. The *Engineer* shall promptly notify the *County* of any event which will affect completion of the Work Authorization, although such notification shall not relieve the *Engineer* from costs or liabilities resulting from delays in completion of the Work Authorization. Any changes in the Work Authorization shall be enacted by a written Supplemental Work Authorization before additional work may be performed or

additional costs incurred. Any Supplemental Work Authorization must be executed by both parties within the period specified in the Work Authorization. The *Engineer* shall not perform any proposed work or incur any additional costs prior to the execution, by both parties, of a Supplemental Work Authorization.

SECTION 4 - ADDITIONAL SERVICES

- 4.1 For additional services, compensation shall be negotiated in accordance with Exhibit IV.
- 4.2 *Engineer* shall be compensated for extra services not included in the Scope of Services described in the Agreement on the basis specified in Exhibit IV; however, *Engineer* shall not be compensated for work made necessary by *Engineer's* negligent acts, errors or omissions.
- 4.3 The maximum amount payable under this Agreement without modification (the "*Compensation Cap*") is \$ 300,000.00, provided that any amounts paid or payable shall be solely pursuant to a validly issued Work Authorization or any Supplemental Work Authorization related thereto. In no event may the aggregate amount of compensation authorized under Work Authorizations and Supplemental Work Authorizations exceed the *Compensation Cap*.

SECTION 5 – REQUIRED SUPPORTING DOCUMENTATION

- 5.1 Upon submittal of the initial invoice for service, *Engineer* shall provide *County Judge* with an Internal Revenue Form W-9, Request for Taxpayer Identification Number and Certification that is complete in compliance with the Internal Revenue Code, its rules and regulations.
- 5.2 All invoices submitted to *County Judge* will be accompanied by an original, complete packet of supporting documentation. Invoices should detail hours worked by staff person, with a description of the work performed by individuals. .
- 5.3 For additional services performed pursuant to Section III B of this Agreement, a separate invoice or itemization of this work will be presented with the same requirements for supporting documentation as in Section 5.2 of this Exhibit.
- 5.4 Invoices requesting reimbursement for expenditures related to the project (reimbursables) must be accompanied by copies of the provider's invoice which was previously paid by *Engineer*.
- 5.5 Payments for Direct and Reimbursable Expenses will be made in compliance with the approved 2009-2010 Budget Order, as amended. The Budget Order can be viewed on the Williamson County web site at www.wilco.org.

EXHIBIT II

WORK AUTHORIZATION NO. 1

This Work Authorization is made pursuant to the terms and conditions of the Agreement entered into by and between Williamson County, Texas, a political subdivision of the State of Texas, (*the "County"*) and Huitt-Zollars, Inc. (*the "Engineer"*).

Part 1. The *Engineer* will provide the following engineering services:

The *Engineer* will provide the services of a senior inspector for the Construction Inspection and/or Observation on Ronald W. Reagan Boulevard North Phase 3 (*the "Project"*), as set forth below. Services performed will include the appropriate records and documentation in accordance with TxDOT and Federal requirements.

- Verify receipt of the Contractor's schedule of operations
- Manage the Request for Information (RFI) process.
- Negotiate and make recommendations for Change Orders. Prepare Change Orders for execution.
- Evaluate and provide advice to the County on the approval of contractor's CPM schedules.
- Maintain a current approved set of construction contract documents.
- Review and provide recommendation of acceptance to the County on the Contractor's monthly pay estimate. Review and verify quantities of work performed and materials used.
- Manage Contractor receipt and dispersal of Contractor submittals to the *GEC*, then back to the Contractor.
- Revise or update the storm water pollution prevention plan in accordance with TPDES Permit TXR150000 Part III Section E.
- Identify and advise the County in the resolution of construction issues that arise.
- Provide advice to the County in dispute negotiations and claim resolutions.
- Monitor utility relocation/adjustments for compliance with approved plans for the *Project*.
- Provide vehicles, communication devices (i.e cell phones, radios), computers, office supplies and internet service, as needed.

- Review and provide recommendation to the County on the acceptance of As-built drawings provided by the Contractor.
- Verify line, grade and dimensions of roadways and structures as deemed necessary.
- Observe to see if specified procedures, specified in the plans and specifications are being followed.
- Advise the Contractor and request corrective action be taken, if an inspection reveals that work has not been properly performed.
- Re-inspect non-conforming work.
- Evaluate and document the Contractor's operations and production with respect to quality and progress.
- Verify and perform spot checks on quantities being identified, measured, recorded and verified by comparisons against plan, contract quantities and dimensions.
- Receive and transmit, to the Manager, the Contractors "trench safety plan" prepared and sealed by a registered professional engineer.
- Evaluate damages to existing vegetation the formula in Section XXV. **Tree and Plant Protection** of the Special Conditions.

Provide Reports of Construction Activities

- Perform a review of the construction of the *Project* to monitor compliance with the *Designer's* plans and specifications and document construction activities using daily reports, journal, logs, or other, as necessary or required.
- Provide digital and video photo logging of project activities.
- Perform inspections in accordance with the environmental provisions of the PS&E, relating to the SW3P and provide reports to the County containing the results of the inspection.
- Perform monthly inspections of the implemented Traffic Control Plan of the PS&E, provide inspection and reports to the County.
- Provide advice to the County on modifications to the Traffic Control Plans to be provided by *the Designer*.
- Develop project progress meeting minutes and distribute to attendees.
- Provide weekly report of the construction project progress to the County and the GEC.

- Provide reports of the results of tests performed on materials used in construction.
- Provide non-conformance reports as needed.
- Provide notification of lane closures to GEC and the County, and others as necessary, received from the Contractor.
- Provide report of accidents in accordance with Section XI L. of the Agreement.

Meetings and Record Keeping

- Attend the Pre-Construction Conferences.
- Attend project progress meetings.
- Maintain all records as required.
- Maintain a status report of change orders, RFIs, barricade inspection reports, schedule updates, shop drawing review and time extensions.
- Maintain "redline" drawings to document the changes made to the constructed project. These redline drawings will be used to verify the Contractor's As-Built plan submittal.
- Verify transmittal, by the Contractor to the County, of an affidavit stating that all bills related to any work, labor, equipment or supplies have been paid and that there are no outstanding claims or bills remaining. Review and verify submission, to the Engineer, of the "As-Built" drawings dated and signed by the Contractor and his project superintendent prior to final acceptance.

Materials Testing

- Order or Verify contractor's order of materials sampling and testing in accordance with the "Quality Assurance Program".
- Receive, review, verify, and log all "project test" or QC test results from the Contractor.
- Request, Validate, and record QC/QA test results by verification tests from independent samples.
- Report to the Manager on the contractors' compliance with the identification of test results with the test number, date of testing, at the station and elevation of the test on the appropriate plan sheet.
- When test requirements are not met, order the performance of independent material testing in accordance with the "Quality Assurance Program".

- Receive from the Contractor, and verify compliance with specifications, Manufacturer Certificates of Compliance of each and every specified material or manufactured equipment item.

Part 2. The maximum amount payable for services under this Work Authorization without modification is \$ 264,000.00.

Part 3. Payment to the **Engineer** for the services established under this Work Authorization shall be made in accordance with the Agreement.

Part 4. This Work Authorization shall become effective on the date of final acceptance of the parties hereto and shall terminate on April 1, 2012, unless extended by a Supplemental Work Authorization.

Part 5. This Work Authorization does not waive the parties' responsibilities and obligations provided under the Agreement.

Part 6. This Work Authorization is hereby accepted and acknowledged below.

EXECUTED this ____ day of _____, 2011.

ENGINEER:
Huitt-Zollars, Inc.

By: Gregory R. Wine
Signature

Gregory R. Wine, P.E., LEED AP
Printed Name

Senior Vice President
Title

COUNTY:
Williamson County, Texas

By: _____
Signature

Printed Name

Title

OK
my 3/23/2011

EXHIBIT III

Position

Senior Inspector

Hourly Rate

On-Site

\$118.00/hr.

OK
my 3/23/2011

EXHIBIT IV

COMPENSATION FOR ADDITIONAL PROFESSIONAL SERVICES

1. The fees described in Exhibits I and II to this Agreement shall provide compensation to *Engineer* for the Professional Engineering Services described in the Basic Scope of Services of the Agreement.
2. For the performance of work not described in the Basic Scope of Services of the Agreement, *County* shall pay and *Engineer* shall receive, under a negotiated contract modification, compensation based upon the method and rates set forth in Exhibits I and II to the Agreement.
3. The performance of any additional services must be authorized in writing in advance by the *County Judge*.
4. In the event of any dispute over the classification of *Engineer's* services as either basic or additional services, the decision of the *County Judge* shall be final and binding.

EXHIBIT V

SERVICES TO BE PROVIDED BY COUNTY The County will assist the Engineer by providing assistance, service, or data items as required to advance the completion of assigned work authorizations.

- Provide existing data files, to include but not limited to:
 - Survey data;
 - Roadway construction plans, design documents for the construction of *the Project*;
 - Right-of-Way mapping;
- Approved environmental documents.
- Applicable special specifications, special provisions, and unit price bid tabulation.

Provide timely review, comment or direction, as required, to aid the Engineer in completing an assigned task or maintaining the established project schedule. The County will provide the *Engineer* with:

- Temporary shared offsite location with internet access.
- Offsite work space to complete and store records.
- Access to combination color printer/copier/scanner.

EXHIBIT VI

PROCEDURES FOR TERMINATION OR SUSPENSION

Procedures for *Engineer* to follow upon receipt of Notice of Termination:

1. Upon receipt of a Notice of Termination and prior to the effective date of the termination, *Engineer* shall, unless the Notice otherwise directs, immediately begin to phase out and discontinue all services in connection with the performance of this Agreement and shall proceed to promptly cancel all existing orders and contracts insofar as such orders and contracts are chargeable to this Agreement. Within thirty (30) days after receipt of the Notice of Termination, *Engineer* shall submit a statement, showing in detail the services performed under this Agreement prior to the effective date of termination.
2. Copies of all Instruments of Service prepared under this Agreement prior to the effective date of termination shall be delivered to *County* as a pre-condition to final payment. The foregoing language notwithstanding, *County* and *Engineer* agree that *Engineer*, in its sole discretion, will be allowed to sign and seal such Instruments of Service, or place any other appropriate comment on the Instruments of Service, as appropriate for the phase of preparation of the Instruments of Service as more fully set out in Section 137.33 of the Texas Board of Professional Engineer's Rules Concerning the Practice of Engineering, effective as of the date of delivery of the Instruments of Service.
3. Upon the above conditions being met, *County* shall pay *Engineer* for approved services actually performed under this Agreement, less previous payments.
4. Failure by *Engineer* to submit the required statement and to comply with the above stated conditions without good and reasonable cause shall constitute a waiver by *Engineer* of any and all rights or claims to collect the fee that *Engineer* may rightfully be entitled to for services performed under this Agreement.

Procedures for *Engineer* to follow upon receipt of Notice of Suspension:

1. Upon receipt of a Notice of Suspension and prior to the effective date of the suspension, *Engineer* shall, unless the Notice otherwise directs, immediately begin to phase-out and discontinue all services in connection with the performance of this Agreement and shall prepare a statement detailing the services performed under this Agreement prior to the effective date of suspension. Copies of all completed or partially completed Instruments of Service prepared under this Agreement prior to the effective date of suspension shall be prepared for possible delivery to *County*, but shall be retained by *Engineer* unless requested by *County*.
2. During the period of suspension, *Engineer* may submit the above-referenced statement to *County* for payment of the approved services actually performed under this Agreement, less previous payments.

Procedures for *Engineer* to follow upon exercise of right to terminate for substantial failure of *County* to perform:

1. In the event that *Engineer* exercises such right to terminate, within thirty (30) days after receipt by *County* of *Engineer's* Notice of Termination, *Engineer* shall submit a statement detailing the services performed under this Agreement prior to the effective date of termination.
2. Copies of all completed or partially completed Instruments of Service shall be delivered to *County* as a pre-condition to final payment. Upon the above conditions being met, *County* shall pay *Engineer* for approved services actually performed under this Agreement, less previous payments. . The foregoing language notwithstanding, *County* and *Engineer* agree that *Engineer*, in its sole discretion, will be allowed to sign and seal such Instruments of Service, or place any other appropriate comment on the Instruments of Service, as appropriate for the phase of preparation of the Instruments of Service as more fully set out in Section 137.33 of the Texas Board of Professional Engineer's Rules Concerning the Practice of Engineering, effective as of the date of delivery of the Instruments of Service.
3. Failure by *Engineer* to submit the required statement and to comply with the above stated conditions without good and reasonable cause shall constitute a waiver by *Engineer* of any and all rights or claims to collect the fee that *Engineer* may rightfully be entitled to for services performed under this Agreement.

EXHIBIT VII

EQUAL OPPORTUNITY IN EMPLOYMENT

- A. *Engineer* will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. *Engineer* will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; termination; rates of pay or other forms of compensation, and selection for training, including apprenticeship. *Engineer* agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this non-discrimination clause.
- B. *Engineer* will, in all solicitations or advertisements for employees placed by or on behalf of *Engineer*, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
- C. *Engineer* will send to the labor union representative or workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the Contract Compliance Officer advising the said labor union or worker's representatives of *Engineer's* obligations under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- D. *Engineer* will comply with the Regulations of the Department of Transportation (49 CFR 21 and 23 CFR 710.405) and all provisions of Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 (41 CFR 60) and of the rules, regulations and relevant order of the Secretary of Labor. In the event that federal financial assistance is provided for the *Project*, *Engineer* shall comply with 49 CFR 26, TxDOT's Disadvantaged Business Enterprises Program and any Memorandum of Understanding between the *County* and TxDOT pertaining to such Disadvantaged Business Enterprise Program.
- E. *Engineer* will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations and orders of the Secretary of Labor, or pursuant thereto; and will permit access to his books, records, and accounts by the Department and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- F. In the event of *Engineer's* non-compliance with the non-discrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and *Engineer* may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 (41 CFR 60) or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

- G. *Engineer* will include the provisions of paragraph (A.) through (F.) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 or Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 (41 CFR 60), so that such provisions will be binding upon each subcontractor or vendor. *Engineer* will take such action with respect to any subcontractor purchase order as the Department may direct as a means of enforcing such provisions, including sanctions for non-compliance: provided, however, that in the event *Engineer* becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by *County* or Federal Agency, *Engineer* may request *County* and United States to enter into such litigation to protect the interest of the United States.

EXHIBIT VIII

INSURANCE REQUIREMENTS

During the life of this Agreement, *Engineer* agrees to provide and maintain the following insurance:

- A. Worker's Compensation in accordance with statutory requirements.
- B. Commercial General Liability Insurance with a combined minimum Bodily Injury and Property Damage limits of \$1 million per occurrence and \$2 million in the aggregate, including coverage on same for independent subcontractor(s). WILLIAMSON COUNTY SHALL BE NAMED AS AN ADDITIONAL INSURED UNDER THIS COVERAGE.
- C. Automobile Liability Insurance for all owned, non-owned, and hired vehicles with combined minimum limits for Bodily Injury and Property Damage limits of \$1 million per occurrence and \$2 million in the aggregate. *Engineer* shall require any subcontractor(s) to provide Automobile Liability Insurance in the same minimum amounts.
- D. Professional Liability Errors and Omissions Insurance in the amount of \$1 million.
- E. In the event *Engineer* is self-insured in connection with any or all of the above-required insurance policies, *Engineer* shall submit proof of such self-insurance and all financial statements as reasonably required by the *County* in order to determine the acceptability of such self-insurance.

Engineer shall not commence any field work under this Agreement until he has obtained all required insurance and such insurance or self-insurance has been approved by *County*. *Engineer* shall not allow any subcontractor(s) to commence work to be performed in connection with this Agreement until all required insurance has been obtained and approved. Approval of the insurance by *County* shall not relieve or decrease the liability of *Engineer* hereunder.

The required insurance must be written by a company approved to do business in the State or Texas with a financial standing of at least an A- rating, as reflected in Best's insurance ratings or by a similar rating system recognized within the insurance industry at the time the policy is issued. *Engineer* shall furnish *County* with a certification of coverage issued by the insurer. *Engineer* shall not cause any insurance to be canceled nor permit any insurance to lapse. ALL INSURANCE CERTIFICATES REQUIRED PURSUANT TO PARAGRAPH B, ABOVE, SHALL INCLUDE A CLAUSE TO THE EFFECT THAT THE POLICY SHALL NOT BE CANCELED OR REDUCED, RESTRICTED OR LIMITED UNTIL TEN (10) DAYS AFTER COUNTY HAS RECEIVED WRITTEN NOTICE AS EVIDENCED BY RETURN RECEIPT OF REGISTERED OR CERTIFIED LETTER.

It is the intention of the *County* and the *County Judge*, and agreed to and hereby acknowledged by the *Engineer*, that no provision of this Professional Services Agreement shall be construed to require the *County* or the *County Judge* to submit to mandatory arbitration or mediation in the settlement of any claim, cause of action or dispute, except as specifically required in direct connection with an insurance claim or threat of claim under an insurance policy required under

this Exhibit which absolutely requires arbitration or mediation of such claim, or as otherwise required by law or a court of law with jurisdiction over the provisions of this Agreement.

EXHIBIT IX
SCOPE OF SERVICES
FOR PROFESSIONAL ENGINEERING SERVICES

THE FOLLOWING SCOPE OF SERVICES IS INTENDED TO BE CONSISTENT WITH THE WILLIAMSON COUNTY PROFESSIONAL SERVICES AGREEMENT. TO THE EXTENT THE SCOPE IS INCONSISTENT WITH THE PROFESSIONAL SERVICES AGREEMENT, THE PROFESSIONAL SERVICES AGREEMENT WILL SUPERSEDE THE SCOPE AND WILL BE CONTROLLING.

THE ENGINEER SHALL PROVIDE EXPERT TESTIMONY IN ANY ADMINISTRATIVE OR COURT PROCEEDINGS THROUGH AN APPROPRIATE ENGINEERING PROFESSIONAL TO BE DETERMINED MUTUALLY BY COUNTY AND ENGINEER AS ADDITIONAL SERVICES AT THE RATE OF COMPENSATION SET FORTH IN EXHIBIT IV AND IN A MANNER CONSISTENT WITH THE TEXAS BOARD OF PROFESSIONAL ENGINEER'S RULES CONCERNING THE PRACTICE OF ENGINEERING, EFFECTIVE AS OF THE RELEVANT DATE.

The *Engineer* will provide the scope of services for the *Project* as stated in each individual Work Authorization. In general, the scope of services shall include:

Services performed will include the appropriate records and documentation in accordance with TxDOT and Federal requirements.

Professional Engineering Construction Management

- Verify receipt of the Contractor's schedule of operations
- Manage the Request for Information (RFI) process.
- Negotiate and make recommendations for Change Orders. Prepare Change Orders for execution.
- Evaluate and provide advice to the County on the approval of contractor's CPM schedules.
- Maintain a current approved set of construction contract documents.
- Review and provide recommendation of acceptance to the County on the Contractor's monthly pay estimate. Review and verify quantities of work performed and materials used.
- Manage Contractor receipt and dispersal of Contractor submittals to the *GEC*, then back to the Contractor.

- Revise or update the storm water pollution prevention plan in accordance with TPDES Permit TXR150000 Part III Section E.
- Sign, Seal and Date changes to *the Designer's* plan sheets representing the requirements of TPDES Permit TXR 150000 Part III Section F 1. (f) as necessary to comply with TPDES TXR 150000 Part III Section E.
- Identify and advise the County in the resolution of construction issues that arise.
- Provide advice to the County in dispute negotiations and claim resolutions.
- Monitor utility relocation/adjustments for compliance with approved plans for the *Project*.
- Monitor Compliance with DBE requirements of construction contract provisions.
- Provide vehicles, communication devices (i.e cell phones, radios), computers, office supplies and internet service, as needed.
- Review and provide recommendation to the County on the acceptance of As-built drawings provided by the Contractor.
- Verify line, grade and dimensions of roadways and structures as deemed necessary.
- Observe to see if specified procedures, specified in the plans and specifications are being followed.
- Advise the Contractor and request corrective action be taken, if an inspection reveals that work has not been properly performed.
- Re-inspect non-conforming work.
- Evaluate and document the Contractor's operations and production with respect to quality and progress.
- Verify and perform spot checks on quantities being identified, measured, recorded and verified by comparisons against plan, contract quantities and dimensions.
- Receive and transmit, to the Manager, the Contractors "trench safety plan" prepared and sealed by a registered professional engineer.
- Evaluate damages to existing vegetation the formula in Section XXV. **Tree and Plant Protection** of the Special Conditions.

Provide Reports of Construction Activities

- Perform a review of the construction of the *Project* to monitor compliance with the *Designer's* plans and specifications and document construction activities using daily reports, journal, logs, or other, as necessary or required.
- Provide digital and video photo logging of project activities.

- Perform inspections in accordance with the environmental provisions of the PS&E, relating to the SW3P and provide reports to the County containing the results of the inspection.
- Perform monthly inspections of the implemented Traffic Control Plan of the PS&E, provide inspection and reports to the County.
- Provide advice to the County on modifications to the Traffic Control Plans to be provided by *the Designer*.
- Develop project progress meeting minutes and distribute to attendees.
- Provide weekly report of the construction project progress to the County and the GEC.
- Provide reports of the results of tests performed on materials used in construction.
- Provide non-conformance reports as needed.
- Provide reports of Contractor compliance with DBE provisions of construction contract.
- Provide reports of Contractor compliance with Wage Rate provisions of construction contract at the end of the project.
- Provide notification of lane closures to GEC and the County, and others as necessary, received from the Contractor.
- Provide report of accidents in accordance with Section XI L. of the Agreement.

Meetings and Record Keeping

- Attend the Pre-Construction Conferences.
- Attend project progress meetings.
- Maintain all records as required.
- Maintain a status report of change orders, RFIs, barricade inspection reports, schedule updates, shop drawing review and time extensions.
- Maintain "redline" drawings to document the changes made to the constructed project. These redline drawings will be used to verify the Contractor's As-Built plan submittal.
- Verify transmittal, by the Contractor to the County, of an affidavit stating that all bills related to any work, labor, equipment or supplies have been paid and that there are no outstanding claims or bills remaining. Review and verify submission, to the Engineer, of the "As-Built" drawings dated and signed by the Contractor

and his project superintendent prior to final acceptance.

Materials Testing

- Order or Verify contractor's order of materials sampling and testing in accordance with the "Quality Assurance Program".
- Receive, review, verify, and log all "project test" or QC test results from the Contractor.
- Request, Validate, and record QC/QA test results by verification tests from independent samples.
- Report to the Manager on the contractors' compliance with the identification of test results with the test number, date of testing, at the station and elevation of the test on the appropriate plan sheet.
- When test requirements are not met, order the performance of independent material testing in accordance with the "Quality Assurance Program".
- Receive from the Contractor, and verify compliance with specifications, Manufacturer Certificates of Compliance of each and every specified material or manufactured equipment item.

Other

Exclusions

EXHIBIT X

ENGINEER'S QUALIFICATIONS STATEMENT

The Scope of Services shown in Exhibit IX is the general scope of services for providing construction management and inspection on Williamson County projects. Engineer's specific scope of services shall be as stated on each individual Work Authorization.

Proposed Basis of Compensation in Exhibit I, Section 1.1 and the "Compensation Cap" in Exhibit I, Section 4.3 is based on providing the services of one (1) Senior Inspector for twelve (12) months.

Teichelman Real Estate Contract - Hwy 79 Section 5A - P27 Commissioners Court - Regular Session

Date: 03/29/2011
Submitted By: Charlie Crossfield, Road Bond
Submitted For: Charlie Crossfield
Department: Road Bond
Agenda Category: Regular Agenda Items

Information

Agenda Item

Consider authorizing County Judge to execute a Real Estate Contract with Madeline Decker Teichelman and Rebecca Lynn Teichelman Borgne, Trustee of the Edwin Carl Teichelman Testamentary Trust, for right-of-way needed on Hwy 79 - Section 5A. (P27)

Background

Fiscal Impact

From/To	Acct No.	Description	Amount	Sort Seq
---------	----------	-------------	--------	----------

Attachments

Link: [Teichelman RE Contract Hwy 79 Section 5A P27](#)

Form Routing/Status

Form Started By: Charlie Crossfield Started On: 03/24/2011 08:09 AM
Final Approval Date: 03/24/2011

REAL ESTATE CONTRACT
US79 Right of Way

State of Texas
County of Williamson

THIS REAL ESTATE CONTRACT ("Contract") is made by and between MADELINE DECKER TEICHELMAN and REBECCA LYNN TEICHELMAN BORGNE, TRUSTEE OF THE EDWIN CARL TEICHELMAN TESTAMENTARY TRUST, (referred to in this Contract as "Seller", whether one or more) and the COUNTY OF WILLIAMSON (referred to in this Contract as "Purchaser"), upon the terms and conditions set forth in this Contract.

ARTICLE I
PURCHASE AND SALE

By this Contract, Seller sells and agrees to convey, and Purchaser purchases and agrees to pay for, the tract(s) of land described as follows:

All of that certain 3.351 acre tract of land, more or less, out of the William Gatlin Survey, Abstract No. 271, Williamson County, Texas; said tract being more particularly described by metes and bounds in Exhibit "A" attached hereto and incorporated herein (Parcel 27); and

Public Utility Easement in and to all of that certain 1.313 acre tract of land, more or less, out of the J. J. Stubblefield Survey, Abstract No. 567, Williamson County, Texas; said tract being more particularly described by metes and bounds in Exhibit "B" attached hereto and incorporated herein (Parcel 27PUE)

together with all and singular the rights and appurtenances pertaining to the property, including any right, title and interest of Seller in and to adjacent streets, alleys or rights-of-way (all of such real property, rights, and appurtenances being referred to in this Contract as the "Property"), and any improvements and fixtures situated on and attached to the Property described herein, for the consideration and upon and subject to the terms, provisions, and conditions set forth below.

ARTICLE II
PURCHASE PRICE

Purchase Price

2.01. The purchase price for the Property and any improvements thereon, and for any damage to or reconfiguration or curative measures for the remaining property of Seller, shall be the sum of FIVE HUNDRED FOUR THOUSAND SEVEN HUNDRED SEVENTY SEVEN and 00/100 Dollars (\$504,777.00).

Pursuant to the terms of a Possession and Use Agreement recorded in Document No. 2009029195, Purchaser has previously paid to Seller the amount of \$252,517.00 for which Purchaser shall receive a credit herein, leaving a remaining purchase price to be paid at the closing of this transaction of **TWO HUNDRED FIFTY TWO THOUSAND TWO HUNDRED SIXTY and 00/100 Dollars (\$252,260.00)**.

Payment of Purchase Price

2.02. The Purchase Price shall be payable in cash at the closing.

ARTICLE III PURCHASER'S OBLIGATIONS

Conditions to Purchaser's Obligations

3.01. The obligations of Purchaser hereunder to consummate the transactions contemplated hereby are subject to the satisfaction of each of the following conditions (any of which may be waived in whole or in part by Purchaser at or prior to the closing.)

Miscellaneous Conditions

3.02. Seller shall have performed, observed, and complied with all of the covenants, agreements, and conditions required by this Contract to be performed, observed, and complied with by Seller prior to or as of the closing.

ARTICLE IV REPRESENTATIONS AND WARRANTIES OF SELLER

Seller hereby represents and warrants to Purchaser as follows, which representations and warranties shall be deemed made by Seller to Purchaser also as of the closing date, to the best of Seller's knowledge:

(1) There are no parties in possession of any portion of the Property as lessees, tenants at sufferance, or trespassers, other than previously disclosed to Purchaser;

(2) Seller has complied with all applicable laws, ordinances, regulations, statutes, rules and restrictions relating to the Property, or any part thereof;

The Property herein is being conveyed to Purchaser under threat of condemnation.

ARTICLE V CLOSING

Closing Date

5.01. The closing shall be held at the office of Texas American Title Company on or before April 22, 2011, or at such time, date, and place as Seller and Purchaser may agree upon, or within 10 days after the completion of any title curative matters if necessary for items as shown on the Title Commitment or in the contract (which date is herein referred to as the "closing date").

Seller's Obligations at Closing

5.02. At the closing Seller shall:

(1) Deliver to the State of Texas a duly executed and acknowledged Special Warranty Deed conveying good and marketable title in fee simple to all of the Property described in Exhibit "A", and deliver to the City of Hutto a duly executed Public Utility Easement conveying such interest in the Property described in Exhibit "B", both free and clear of any and all liens and restrictions, except for the following:

- (a) General real estate taxes for the year of closing and subsequent years not yet due and payable;
- (b) Any exceptions approved by Purchaser pursuant to Article III hereof; and
- (c) Any exceptions approved by Purchaser in writing.
- (d) Any items listed on Schedule B of the title commitment obtained by Purchaser.

The deed shall be in the form as shown in Exhibit "C" attached hereto and incorporated herein. The Public Utility Easement shall be in the form as shown in Exhibit "D" attached hereto and incorporated herein.

(2) Deliver to Purchaser a Texas Owner's Title Policy at Purchaser's sole expense, issued by Title Company, in Grantee's favor in the full amount of the purchase price, insuring Grantee's fee simple title to the Property subject only to those title exceptions listed herein, such other exceptions as may be approved in writing by Purchaser, and the standard printed exceptions contained in the usual form of Texas Owner's Title Policy, provided, however:

- (a) The boundary and survey exceptions shall be deleted;

- (b) The exception as to restrictive covenants shall be endorsed "None of Record", if applicable; and
- (3) Deliver to Purchaser possession of the Property if not previously done.

Purchaser's Obligations at Closing

5.03. At the Closing, Purchaser shall:

- (a) Pay the cash portion of the Purchase Price.

Prorations

5.04. General real estate taxes for the then current year relating to the Property shall be prorated as of the closing date and shall be adjusted in cash at the closing. If the closing shall occur before the tax rate is fixed for the then current year, the apportionment of taxes shall be upon the basis of the tax rate for the next preceding year applied to the latest assessed valuation. Agricultural roll-back taxes, if any, shall be paid by Purchaser.

Closing Costs

5.05. All costs and expenses of closing in consummating the sale and purchase of the Property shall be borne and paid as follows:

- (1) Owner's Title Policy and survey to be paid by Purchaser.
- (2) Deed, tax certificates, and title curative matters, if any, paid by Purchaser.
- (3) All other closing costs shall be paid by Purchaser.
- (4) Attorney's fees paid by each respectively.

ARTICLE VI BREACH BY SELLER

In the event Seller shall fail to fully and timely perform any of its obligations hereunder or shall fail to consummate the sale of the Property for any reason, except Purchaser's default, Purchaser may: (1) enforce specific performance of this Contract; or (2) request that the Escrow Deposit shall be forthwith returned by the title company to Purchaser.

**ARTICLE VII
BREACH BY PURCHASER**

In the event Purchaser should fail to consummate the purchase of the Property, the conditions to Purchaser's obligations set forth in Article III having been satisfied and Purchaser being in default and Seller not being in default hereunder, Seller shall have the right to receive the Escrow Deposit, if any, from the title company, the sum being agreed on as liquidated damages for the failure of Purchaser to perform the duties, liabilities, and obligations imposed upon it by the terms and provisions of this Contract, and Seller agrees to accept and take this cash payment as its total damages and relief and as Seller's sole remedy hereunder in such event. If no Escrow Deposit has been made then Seller shall receive the amount of \$500 as liquidated damages for any failure by Purchaser.

**ARTICLE VIII
MISCELLANEOUS**

Notice

8.01. Any notice required or permitted to be delivered hereunder shall be deemed received when sent by United States mail, postage prepaid, certified mail, return receipt requested, addressed to Seller or Purchaser, as the case may be, at the address set forth opposite the signature of the party.

Texas Law to Apply

8.02. This Contract shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Williamson County, Texas.

Parties Bound

8.03. This Contract shall be binding upon and inure to the benefit of the parties and their respective heirs, executors, administrators, legal representatives, successors and assigns where permitted by this Contract.

Legal Construction

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

Prior Agreements Superseded

8.05. This Contract constitutes the sole and only agreement of the parties and supersedes any prior understandings or written or oral agreements between the parties respecting the within subject matter.

Time of Essence

8.06. Time is of the essence in this Contract.

Gender

8.07. Words of any gender used in this Contract shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, and vice versa, unless the context requires otherwise.

Memorandum of Contract

8.08. Upon request of either party, the parties shall promptly execute a memorandum of this Contract suitable for filing of record.

Compliance

8.09 In accordance with the requirements of Section 20 of the Texas Real Estate License Act, Purchaser is hereby advised that it should be furnished with or obtain a policy of title insurance or Purchaser should have the abstract covering the Property examined by an attorney of Purchaser's own selection.

Effective Date

8.10 This Contract shall be effective as of the date it is approved by the Williamson County Commissioner's Court, which date is indicated beneath the Judge's signature below.

Counterparts

8.11 This Contract may be executed in any number of counterparts, which may together constitute the Contract. Signatures transmitted by facsimile may be considered effective as originals for purposes of this Contract.

[signature page follows]

SELLER:

Madeline Decker Teichelman

Date: _____

Address: _____

Rebecca Lynn Teichelman Borgne,
Trustee of the Edwin Carl Teichelman
Testamentary Trust

Date: _____

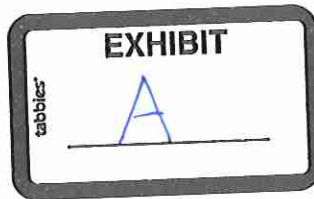
Address: _____

PURCHASER:

COUNTY OF WILLIAMSON

By: _____
Dan A. Gattis, County Judge
Date: _____

Address: 710 Main Street, Suite 101
Georgetown, Texas 78626



County: Williamson
 Parcel No.: 27
 Highway: US 79
 Limits: US 79 from East of Hutto City Limit to CR 402
 CSJ:

PROPERTY DESCRIPTION FOR PARCEL 27

DESCRIPTION OF A 3.351 ACRE (145,952 SQUARE FOOT), TRACT OF LAND SITUATED IN THE WILLIAM GATLIN SURVEY ABSTRACT NO. 271, WILLIAMSON COUNTY, TEXAS, BEING A PORTION OF THAT CALLED 43.365 ACRE TRACT OF LAND CONVEYED TO MADELINE DECKER TEICHELMAN, AND REBECCA LYNN TEICHELMAN BORGNE, TRUSTEE OF THE EDWIN CARL TEICHELMAN TESTAMENTARY TRUST BY CAUSE NO. 03-0043-CP1 IN THE COUNTY COURT AT LAW NO. 1 OF WILLIAMSON COUNTY, TEXAS, SAID 43.365 ACRE TRACT BEING THE REMAINDER OF THAT CALLED 50.79 ACRE TRACT OF LAND (FIRST TRACT), DESCRIBED BY INSTRUMENT RECORDED IN VOLUME 565, PAGE 75, OF THE DEED RECORDS OF WILLIAMSON COUNTY, TEXAS, SAID 3.351 ACRE (145,952 SQUARE FOOT), TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING FOR REFERENCE at an iron pipe found 1494.58 feet left of proposed U.S. 79 baseline station 567+78.96, being in the southerly right-of-way line of C.R. 136 (right-of-way width varies), being the northeast corner of the remainder of that called 136.79 acre tract of land conveyed to Don L. Weiss and Gladys O. Weiss by instrument recorded in Doc. No. 9651974 of the Official Records of Williamson County, Texas, same being the most northwesterly corner of said 43.365 acre tract,

THENCE with the common boundary line of said 43.365 acre tract and the remainder of said 136.79 acre tract, **S 07°55'54" W** passing at a distance of 1474.94 feet, a set Texas Department of Transportation (TXDOT) monument, 114.05 feet left of proposed U.S. 79 baseline station 562+59.74, and continuing for a total distance of **1,480.28** feet to a Type II TXDOT monument in the proposed northerly right-of-way line of U.S. 79 (120 foot right-of-way width), being 109.05 feet left of proposed U.S. 79 baseline station 562+57.86, for the most northwesterly corner of the herein described tract and the **POINT OF BEGINNING** hereof,

1. **THENCE** departing the easterly boundary line of said remainder of 136.79 acre tract, with the proposed northerly right-of-way line of U.S. 79, through the interior of said 43.365 acre tract, **N 77°19'11" E** for a distance of **1,619.25** feet to a Type II TXDOT monument set, being 109.07 feet left of proposed U.S. 79 baseline station 578+77.11, for an angle point hereof;
2. **THENCE** continuing with the proposed northerly right-of-way line of U.S. 79, through the interior of said 43.365 acre tract, **N 47°28'51" E** for a distance of **65.09** feet to a Type II TXDOT monument set, being 141.45 feet left of proposed U.S. 79 baseline station 579+33.57, for a point in the westerly right-of-way line of C.R. 132 (right-of-way width varies), same being the easterly boundary line of said 43.365 acre tract, and the most northeasterly corner of the herein described tract, and from which an iron rod found in southerly right-of-way line of C.R. 136, being the most northeasterly corner of said 43.365 acre tract, from which an found iron rod bears **N 07°33'25" E**, a distance of 868.84 feet;

3. **THENCE**, with the westerly right-of-way line of said C.R. 132, same being the easterly boundary line of said 43.365 acre tract, **S 07°33'25" W** for a distance of **32.05** feet to a TXDOT Type I concrete monument found, being an angle point hereof;
4. **THENCE** continuing with the northerly right-of-way line of said U.S. 79, same being the easterly boundary line of said 43.365 acre tract, **S 42°26'34" W** for a distance of **161.44** feet to a calculated point, being in the southerly boundary line of said 43.365 acre tract, and being the most southeasterly corner of the herein described tract, from which a found TXDOT Type I concrete monument bears **S 12°40'49" W** a distance of 0.70 feet;
5. **THENCE** with the existing northerly right-of-way line of U.S. 79, same being the southerly boundary line of said 43.365 acre tract, **S 77°19'11" W** for a distance of **1566.04** feet to a calculated point, being the most southeasterly corner of said remainder of 136.79 acre tract, same being the most southwesterly corner of the herein described tract, from which an iron rod found bears **S 07°55'54" W** a distance of 0.35 feet;
6. **THENCE** departing the existing northerly right-of-way line of U.S. 79, with the easterly boundary line of the remainder of said 136.79 acre tract, same being the westerly boundary line of said 43.365 acre tract, **N 07°55'54" E** for a distance of **96.16** feet to the **POINT OF BEGINNING** and containing 3.351 acres (145,952 square feet) of land, more or less.

This property description is accompanied by a separate parcel plat.

All bearings recited herein are based on the Texas State Plane Coordinate System, Central Zone No. 4203, NAD 83.

That I, M. Stephen Truesdale, a Registered Professional Land Surveyor, do hereby certify that the above description is true and correct to the best of my knowledge and belief and that the property described herein was determined by a survey made on the ground under my direction and supervision.

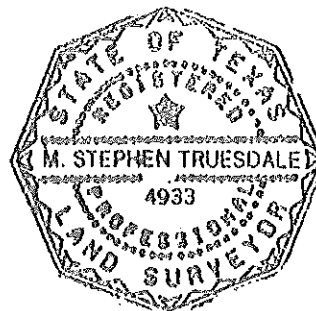
WITNESS MY HAND AND SEAL at Round Rock, Williamson County, Texas.

M. Stephen Truesdale

30 APR '07

M. Stephen Truesdale
Registered Professional Land Surveyor No. 4933
Licensed State Land Surveyor
Inland Geodetics, LP
1504 Chisholm Trail Rd., Ste. 101
Round Rock, TX. 78681

Date



DON L. WEISS &
GLADYS O. WEISS
(127.08 AC. REMAINDER
OF 136.79 ACRES)
DOC. NO. 9651974
O.R.W.C.T.

WILLIAM GADLIN SURVEY
ABSTRACT NO. 271

MADELINE DECKER TEICHELMAN &
REBECCA LYNN TEICHELMAN BORGNE, TRUSTEE
OF THE EDWIN CARL TEICHELMAN TESTAMENTARY TRUST
(43.365 AC. REMAINDER OF 50.79 AC.)
CAUSE NO. 03-0043-CPI, COUNTY COURT AT LAW NO. 1
WILLIAMSON COUNTY, TEXAS
50.79 AC. DESCRIBED IN VOL. 565, PG. 75
"FIRST TRACT", D.R.W.C.T.

25' P.U.E.
DOC. NO. 199962856
O P B W C T.

Diagram illustrating a proposed intersection. The diagram shows a road crossing a 10' UNDERGROUND structure. Key dimensions and labels include:

- 5.34'
- 56.16'
- 109.05' LT
- 10' UNDERGROUND
- P.O.B. Sta 562+57.86
- SEE DETAIL 2
- SEE DETAIL 1

N 77°19'11" E
PROPOSED R.O.W.

3.351 ACRE
145,952 SQ. FT.

Sta 578+77
109.07' LSta 579+33.57
141.45' LT

5.8 VARAS)

SEE
DETAIL

S 77°19'11" W
(S 79°19'11" W)

10' UNDERGROUND TELECOMMUNICATIONS LINES EASEMENT - VOL. 627, PG. 715, D.R.W.C.T.

35' P.U.E. - DOC. NO. 199962856, O.P.R.W.C.T.

EXISTING R.O.W.
PROPOSED U.S. 79 BA

U. S. H I G H W A Y N O. 79
(120' R.O.W.)


EXISTING R.O.W.

UNION PACIFIC RAILROAD
(100' R.O.W.)

PAGE 3 OF 4



PARCEL PLAT SHOWING PROPERTY OF
MADELINE DECKER TEICHELMAN &
REBECCA LYNN TEICHELMAN BORGNE, TRUSTEE



Texas Department of Transportation
© 2003

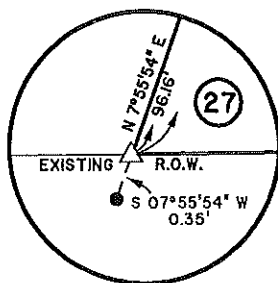
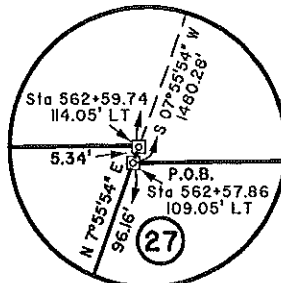
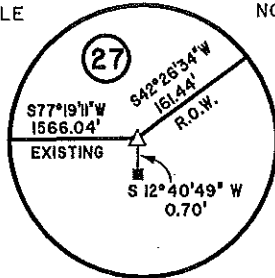
SCALE
1" = 100'

CSJ #

PROJECT
U.S. 79

COUNTY
WILLIAMSON

PARCEL 27

DETAIL 1
NOT TO SCALEDETAIL 2
NOT TO SCALEDETAIL 3
NOT TO SCALE

LEGEND

- TXDOT TYPE I CONCRETE MONUMENT FOUND
- TXDOT TYPE II MONUMENT SET
- TXDOT TYPE II MONUMENT FOUND
- ⊙ 1/2" IRON PIPE FOUND UNLESS NOTED
- 1/2" IRON ROD SET W/TXDOT ALUMINUM CAP UNLESS NOTED
- 1/2" IRON ROD FOUND UNLESS NOTED
- ▲ 60 D NAIL SET UNLESS NOTED
- ▲ 60 D NAIL FOUND UNLESS NOTED
- ⬢ BOLT IN CONCRETE FOUND
- △ CALCULATED POINT
- FENCE POST
- ℓ PROPERTY LINE
- ℓ CENTER LINE
- () RECORD INFORMATION
- P.O.B. POINT OF BEGINNING
- P.O.R. POINT OF REFERENCE
- P.C. POINT OF CURVATURE
- P.T. POINT OF TANGENT
- x— FENCE
- D.R.W.C.T. DEED RECORDS OF WILLIAMSON COUNTY, TEXAS
- O.R.W.C.T. OFFICIAL RECORDS OF WILLIAMSON COUNTY, TEXAS
- O.P.R.W.C.T. OFFICIAL PUBLIC RECORDS OF WILLIAMSON COUNTY, TEXAS
- LINE BREAK

NOTES:

- 1) THE EASEMENTS SHOWN OR NOTED AND ADDRESSED ON THIS SURVEY ARE THOSE LISTED ON SCHEDULE B OF THE TITLE REPORT, G.F. NO. 801-06-1369, PROVIDED BY TITLE RESOURCES GUARANTY COMPANY, DATED JANUARY 18, 2007.
- 2) THE TELEPHONE LINE EASEMENT GRANTED TO TEXAS POWER AND LIGHT COMPANY BY INSTRUMENT RECORDED IN VOLUME 239, PAGE 132 OF THE DEED RECORDS OF WILLIAMSON COUNTY, TEXAS, IS INSUFFICIENTLY DESCRIBED IN SAID DOCUMENT AND CANNOT BE PLACED OR LOCATED HEREON.
- 3) THE ELECTRIC AND COMMUNICATIONS LINES EASEMENT GRANTED TO TEXAS UTILITIES ELECTRIC COMPANY BY INSTRUMENT RECORDED IN DOCUMENT NO. 9621459 OF THE OFFICIAL RECORDS OF WILLIAMSON COUNTY, TEXAS, DOES NOT AFFECT THIS PARCEL.
- 4) ALL BEARINGS SHOWN HEREON ARE BASED ON GRID BEARINGS. ALL DISTANCES ARE SURFACE DISTANCES. COORDINATES ARE SURFACE VALUES BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, CENTRAL ZONE, NAD 83, USING A COMBINED SURFACE ADJUSTMENT FACTOR OF 1.00011.
- 5) IMPROVEMENTS SHOWN HEREON ARE BASED UPON AERIAL SURVEY DIGITAL FILES PROVIDED BY OTHERS AND SUPPLEMENTED BY ON THE GROUND SURVEYING PERFORMED BY INLAND GEODETICS, L.P.

I HEREBY CERTIFY THAT THIS PLAT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AND THAT THE PROPERTY SHOWN HEREON WAS DETERMINED BY A SURVEY MADE ON THE GROUND UNDER MY DIRECTION AND SUPERVISION.

M. Stephen Truesdale 30 APR 07

M. STEPHEN TRUESDALE
REGISTERED PROFESSIONAL LAND SURVEYOR NO. 4933
LICENSED STATE LAND SURVEYOR
INLAND GEODETICS, L.P.
1504 CHISHOLM TRAIL ROAD, SUITE 103
ROUND ROCK, TEXAS 79681



PAGE 4 OF 4



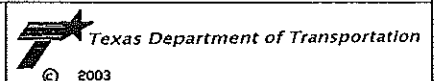
PARCEL PLAT SHOWING PROPERTY OF
MADELINE DECKER TEICHELMAN &
REBECCA LYNN TEICHELMAN BORGNE, TRUSTEE

SCALE
1" = 100'

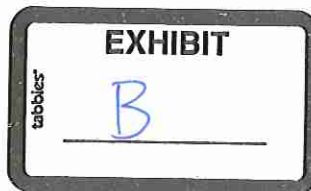
CSJ #

PROJECT
U.S. 79

COUNTY
WILLIAMSON



PARCEL 27



County: Williamson
 Parcel No.: 27-E
 Highway: US 79
 Limits: US 79 from East of Hutto City Limit to CR 402
 CSJ:

PROPERTY DESCRIPTION FOR PARCEL 27-E

DESCRIPTION OF A 1.313 ACRE (57,178 SQUARE FOOT), TRACT OF LAND SITUATED IN THE WILLIAM GATLIN SURVEY ABSTRACT NO. 271, WILLIAMSON COUNTY, TEXAS, BEING A PORTION OF THAT CALLED 43.365 ACRE TRACT OF LAND CONVEYED TO MADELINE DECKER TEICHELMAN BY CAUSE NO. 03-0043-CP1 OF THE PROBATE RECORDS OF WILLIAMSON COUNTY, TEXAS, SAID 43.365 ACRE TRACT BEING THE REMAINDER OF THAT CALLED 50.79 ACRE TRACT DESCRIBED BY INSTRUMENT RECORDED IN VOLUME 565, PAGE 75, OF THE DEED RECORDS OF WILLIAMSON COUNTY, TEXAS, SAID 1.313 ACRE (57,178 SQUARE FOOT), TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING FOR REFERENCE at a ½" iron pipe found in the southerly right-of-way line of C.R. 136 (right-of-way width varies), 1494.58 feet left of proposed U.S. 79 baseline station 567+78.96, being the northeast corner of the remainder of that called 136.79 acre tract of land conveyed to Don L. Weiss and Gladys O. Weiss by instrument recorded in Document No. 9651974 of the Official Records of Williamson County, Texas, same being the most northwesterly corner of said 43.365 acre tract,

THENCE, with the common boundary line of said 43.365 acre tract and the remainder of said 136.79 acre tract, **S 07°55'54" W** for a distance of **1442.89** feet to a calculated point, 144.05 feet left of proposed U.S. 79 baseline station 562+71.02, being the most northwesterly corner of the herein described tract and the **POINT OF BEGINNING** hereof,

1. **THENCE**, departing said common boundary line, through the interior of said 43.365 acre tract, **N 77°19'11" E** for a distance of **1636.86** feet to a calculated point in the westerly boundary line of a variable width Public Utility Easement as described in Document No. 199962856 of the Official Public Records of Williamson County, Texas, 144.07 feet left of proposed U.S. 79 baseline station 579+07.88, being the most northeasterly corner hereof;
2. **THENCE**, continuing through the interior of said 43.365 acre tract, with the westerly boundary line of said Public Utility Easement, **S 07°45'26" W** for a distance of **23.55** feet to a calculated point, in the proposed northerly right-of-way line of said U.S. 79, 122.00 feet left of proposed U.S. 79 baseline station 578+99.66, being an angle point hereof;
3. **THENCE**, continuing through the interior of said 43.365 acre tract, with the proposed northerly right-of-way line of U.S. 79, **S 47°28'51" W** for a distance of **26.00** feet to a set Type II Texas Department of Transportation (TXDOT) monument, 109.07 feet left of proposed U.S. 79 baseline station 578+77.11, being an angle point hereof;

4. **THENCE**, continuing through the interior of said 43.365 acre tract, with said proposed northerly right-of-way line of U.S. 79, **S 77°19'11" W** for a distance of **1619.25** feet to a set Type II TXDOT monument in the common boundary line of said 43.365 acre tract and the remainder of said 136.79 acre tract, being 109.05 feet left of proposed U.S. 79 baseline station 562+57.86, being the most southwesterly corner of the herein described tract;
5. **THENCE** departing said proposed northerly right-of-way line of U.S. 79, with the common boundary line of said 43.365 acre tract and the remainder of said 136.79 acre tract, **N 07°55'54" E**, passing at a distance of 5.34 feet, a set Type II TXDOT monument, 114.05 feet left of proposed U.S. 79 baseline station 562+59.74, and continuing for a total distance of **37.39** feet to the **POINT OF BEGINNING** and containing 1.313 acres (57,178 square feet) of land, more or less.

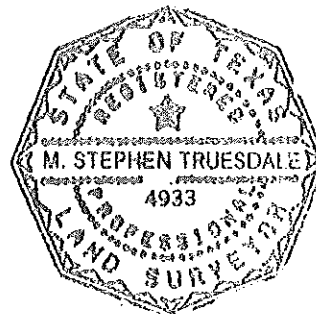
This property description is accompanied by a separate parcel plat.

All bearings recited herein are based on the Texas State Plane Coordinate System, Central Zone, NAD 83.

That I, M. Stephen Truesdale, a Registered Professional Land Surveyor, do hereby certify that the above description is true and correct to the best of my knowledge and belief and that the property described herein was determined by a survey made on the ground under my direction and supervision.

WITNESS MY HAND AND SEAL at Round Rock, Williamson County, Texas.

M. Stephen Truesdale 13 June 07
M. Stephen Truesdale Date
Registered Professional Land Surveyor No. 4933
Licensed State Land Surveyor
Inland Geodetics, LP
1504 Chisholm Trail Rd., Ste. 101
Round Rock, TX. 78681



PLAT TO ACCOMPANY DESCRIPTION



25 0 50 100

Scale 1" = 100'

LINE TABLE

NUMBER	BEARING	DISTANCE
L1	S 07°45'26" W	23.55'
L2	S 47°28'51" W	26.00'
L3	N 07°55'54" E	5.34'
L4	N 07°55'54" E	32.05'
L5	N 47°28'51" E	39.09'

LEGEND

- TXDOT TYPE I CONCRETE MONUMENT FOUND
 □ TXDOT TYPE II MONUMENT SET
 □ TXDOT TYPE III MONUMENT FOUND
 ⊙ 1/2 " IRON PIPE FOUND UNLESS NOTED
 ○ 1/2 " IRON ROD SET W/TXDOT
 ○ ALUMINUM CAP UNLESS NOTED
 ● 1/2 " IRON ROD FOUND UNLESS NOTED
 ▲ 60 D NAIL SET UNLESS NOTED
 ▲ 60 D NAIL FOUND UNLESS NOTED
 △ CALCULATED POINT
 ○ FENCE POST
 ℙ PROPERTY LINE
 ℭ CENTER LINE
 () RECORD INFORMATION
 P.O.B. POINT OF BEGINNING
 P.O.R. POINT OF REFERENCE
 P.C. POINT OF CURVATURE
 P.T. POINT OF TANGENT
 —x— FENCE
 D.R.W.C.T. DEED RECORDS OF
 WILLIAMSON COUNTY, TEXAS
 O.R.W.C.T. OFFICIAL RECORDS OF
 WILLIAMSON COUNTY, TEXAS
 — LINE BREAK

DON L. WEISS &
GLADYS O. WEISS
(127.08 AC. REMAINDER
OF 136.79 ACRES)
DOC. NO. 9651974
O.R.W.C.T.

WILLIAM GATLIN SURVEY
ABSTRACT NO. 271

MADELINE DECKER TEICHELMAN &
REBECCA LYNN TEICHELMAN BORGNE, TRUSTEE
OF THE EDWIN CARL TEICHELMAN TESTAMENTARY TRUST
(43.365 AC. REMAINDER OF 50.79 AC.)
CAUSE NO. 03-0043-CPI, COUNTY COURT AT LAW NO. 1
WILLIAMSON COUNTY, TEXAS
50.79 AC. DESCRIBED IN VOL. 565, PG. 75
"FIRST TRACT", D.R.W.C.T.

Sta 562+72.90
149.05' LT \

Sta 562+59.74
114.05' LT \

Sta 562+57.86
109.05' LT

P.O.B.
Sta 562+71.02
144.05' LT

PROPOSED

27-E 1.313 ACRE
57,178 SQ. FT.

PROPOSED 1619.

EASEMENT

Sta 579+33.57
75 141.45' LTSta 579+07.8
144.07' LT

Sta 578+99.66
122.00' LT

8+77 II

35' P.U.E. - DOC. NO. 199962856, O.P.R.W.C.T.

LINE EASEMENT - VOL 627 PG 715, D.R.W.C.T.

EXISTING R.O.W.

PROPOSED	U.S	79	565+00	/	BASELINE
----------	-----	----	--------	---	----------

U. S. H I G H W A Y N O. 79
(120' R.O.W.)

EXISTING R.O.W.

UNION PACIFIC RAILROAD
(100' R.O.W.)

PAGE 3 OF 4



PARCEL PLAT SHOWING PROPERTY OF
MADELINE DECKER TEICHELMAN &
REBECCA LYNN TEICHELMAN BORGNE, TRUSTEE

SCALE

$$1'' = 100'$$

CSJ #

PROJECT

U.S. 79

COUNTY

WILLIAMSON



Texas Department of Transportation

PARCEL 27-E

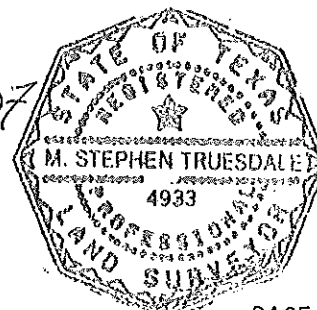
NOTES:

- 1) THE EASEMENTS SHOWN OR NOTED AND ADDRESSED ON THIS SURVEY ARE THOSE LISTED ON SCHEDULE B OF THE TITLE REPORT, G.F. NO. 80I-06-1369, PROVIDED BY TITLE RESOURCES GUARANTY COMPANY, DATED JANUARY 18, 2007.
- 2) THE TELEPHONE LINE EASEMENT GRANTED TO TEXAS POWER AND LIGHT COMPANY BY INSTRUMENT RECORDED IN VOLUME 239, PAGE 132 OF THE DEED RECORDS OF WILLIAMSON COUNTY, TEXAS, IS INSUFFICIENTLY DESCRIBED IN SAID DOCUMENT AND CANNOT BE PLACED OR LOCATED HEREON.
- 3) THE ELECTRIC AND COMMUNICATIONS LINES EASEMENT GRANTED TO TEXAS UTILITIES ELECTRIC COMPANY BY INSTRUMENT RECORDED IN DOCUMENT NO. 9621459 OF THE OFFICIAL RECORDS OF WILLIAMSON COUNTY, TEXAS, DOES NOT AFFECT THIS PARCEL.
- 4) ALL BEARINGS SHOWN HEREON ARE BASED ON GRID BEARINGS. ALL DISTANCES ARE SURFACE DISTANCES. COORDINATES ARE SURFACE VALUES BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, CENTRAL ZONE, NAD 83, USING A COMBINED SURFACE ADJUSTMENT FACTOR OF 1.00011.
- 5) IMPROVEMENTS SHOWN HEREON ARE BASED UPON AERIAL SURVEY DIGITAL FILES PROVIDED BY OTHERS AND SUPPLEMENTED BY ON THE GROUND SURVEYING PERFORMED BY INLAND GEODETICS, L.P.

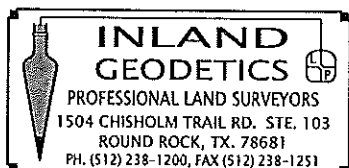
I HEREBY CERTIFY THAT THIS PLAT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AND THAT THE PROPERTY SHOWN HEREON WAS DETERMINED BY A SURVEY MADE ON THE GROUND UNDER MY DIRECTION AND SUPERVISION.

M. Stephen Truesdale 13 June 07

M. STEPHEN TRUESDALE
REGISTERED PROFESSIONAL LAND SURVEYOR NO. 4933
LICENSED STATE LAND SURVEYOR
INLAND GEODETICS, L.P.
1504 CHISHOLM TRAIL ROAD, SUITE 103
ROUND ROCK, TEXAS 79681



PAGE 4 OF 4



PARCEL PLAT SHOWING PROPERTY OF
MADELINE DECKER
TEICHELMAN



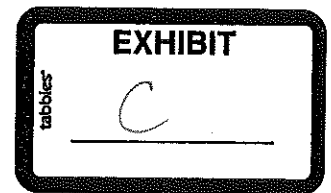
SCALE
1" = 100'

CSJ #

PROJECT
U.S. 79

COUNTY
WILLIAMSON

PARCEL 27-E



SPECIAL WARRANTY DEED
US 79 Right of Way

THE STATE OF TEXAS

§
§
§

COUNTY OF WILLIAMSON

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

WHEREAS, Williamson County, Texas and the State of Texas, acting by and through the Texas Transportation Commission, are authorized to purchase and receive land and such other property rights deemed necessary or convenient for the construction, expansion, enlargement, extension, improvement, or operation of a portion of the proposed US Highway 79 improvements ("Project"); and,

WHEREAS, the acquisition of the hereinafter-described premises has been deemed necessary or convenient for the construction, expansion, enlargement, extension, improvement, or operation of the Project;

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

That MADELINE DECKER TEICHELMAN and REBECCA LYNN TEICHELMAN BORGNE, TRUSTEE OF THE EDWIN CARL TEICHELMAN TESTAMENTARY TRUST, hereinafter referred to as Grantor, whether one or more, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration to Grantor in hand paid by Williamson County, Texas, receipt and sufficiency of which is hereby acknowledged, and for which no lien is retained, either expressed or implied, have this day Sold and by these presents do Grant, Bargain, Sell and Convey unto the State of Texas, acting by and through the Texas Transportation Commission, all those certain tracts or parcels of land lying and being situated in the County of Williamson, State of Texas, along with any improvements thereon, being more particularly described as follows:

All of that certain 3.351 acre tract of land, more or less, being out of the William Gatlin Survey, Abstract No. 271, Williamson County, Texas; said tract being more particularly described by metes and bounds in Exhibit "A" attached hereto and incorporated herein (Parcel 27)

RESERVATIONS FROM AND EXCEPTIONS TO CONVEYANCE AND WARRANTY:

Easements and rights-of-way of record; all presently recorded restrictions, reservations, covenants, conditions, oil, gas or other mineral leases, mineral severances, and other instruments, other than liens and conveyances, that affect the property; rights of adjoining owners in any walls and fences situated on a common boundary; and any encroachments or overlapping of improvements.

Grantors reserve all of the oil, gas and other minerals in and under the land herein conveyed but waive all rights of ingress and egress to the surface thereof for the purpose of exploring, developing, mining or drilling or pumping the same; provided, however, that operations for exploration or recovery of any such minerals and water shall be permissible so long as all surface operations in connection therewith are located at a point outside the acquired parcel and upon the condition that none of such operations shall be conducted so near the surface of said land as to interfere with the intended use thereof or in any way interfere with, jeopardize, or endanger the facilities of the Texas Department of Transportation or create a hazard to the public users thereof; it being intended, however, that nothing in this reservation shall affect the title and the rights of Grantee to take and use without additional compensation any, stone, earth, gravel, caliche, iron ore, gravel or any other road building material upon, in and under said land for the construction and maintenance of US 79, but shall not be used or exported from the Property for any other purpose.

TO HAVE AND TO HOLD the premises herein described and herein conveyed together with all and singular the rights and appurtenances thereto in any wise belonging unto the State of Texas, acting by and through the Texas Transportation Commission, and its assigns forever; and Grantors do hereby bind ourselves, our heirs, executors, administrators, successors and assigns to Warrant and Forever Defend all and singular the said premises herein conveyed unto the State of Texas, acting by and through the Texas Transportation Commission and its assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof by, through, or under Grantors, but not otherwise.

This deed is being delivered in lieu of condemnation.

IN WITNESS WHEREOF, this instrument is executed on this the ____ day of _____, 2011.

GRANTOR:

Madeline Decker Teichelman

Rebecca Lynn Teichelman Borgne,
Trustee of the Edwin Carl Teichelman
Testamentary Trust

ACKNOWLEDGMENT

STATE OF TEXAS

§

§

COUNTY OF _____

§

This instrument was acknowledged before me on this the ____ day of _____, 2011 by Madeline Decker Teichelman, in the capacity and for the purposes and consideration recited therein.

Notary Public, State of Texas

STATE OF TEXAS

§

§

COUNTY OF _____

§

This instrument was acknowledged before me on this the ____ day of _____, 2011 by Rebecca Lynn Teichelman Borgne, in the capacity and for the purposes and consideration recited therein.

Notary Public, State of Texas

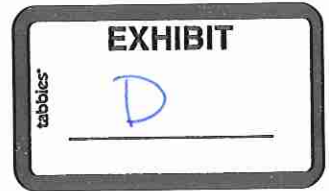
PREPARED IN THE OFFICE OF:

Sheets & Crossfield, P.C.
309 East Main
Round Rock, Texas

GRANTEE'S MAILING ADDRESS:

Texas Department of Transportation
Attn: Right of Way Administrator
7901 N. IH 35, Building A
Austin, Texas 78761

AFTER RECORDING RETURN TO:



PUBLIC UTILITY EASEMENT

THE STATE OF TEXAS
COUNTY OF WILLIAMSON

§
§
§

KNOW ALL BY THESE PRESENTS:

That MADELINE DECKER TEICHELMAN and REBECCA LYNN TEICHELMAN BORGNE, TRUSTEE OF THE EDWIN CARL TEICHELMAN TESTAMENTARY TRUST, and their successors and assigns, hereinafter referred to as Grantor (whether one or more), for and in consideration of the sum of Ten and No/100 (\$10.00) Dollars cash in hand paid and other good and valuable consideration paid to Grantor by the CITY OF HUTTO, TEXAS, its agents and assigns, hereinafter referred to as Grantee, receipt of which consideration is hereby acknowledged, has GRANTED, SOLD and CONVEYED, and by these premises does hereby GRANT, SELL and CONVEY unto Grantee a perpetual easement interest in, on, over, upon, above and across the below-described property:

All of that certain 1.313 acre tract of land out of the William Gatlin Survey, Abstract No. 271, Williamson County, Texas; being more fully described by metes and bounds in Exhibit "A", attached hereto and incorporated herein (Parcel 27PUE)

The perpetual easement, right-of-way, rights and privileges herein granted shall be used for the purposes of location, placement, relocation, construction, operation, enlargement, maintenance, alteration, repair, rebuilding, removal and patrol of any or all public utilities and drainage, including but not limited to gas lines, electric lines, wastewater lines, water lines, sewer lines, storm water drainage lines, telecommunications, drainage, and any and all other public utilities deemed necessary by Grantee.

The perpetual easement, right-of-way, rights and privileges herein granted shall also encompass the right of Grantee to trim, cut, fell and remove therefrom all trees, underbrush, vegetation, and obstructions, structures or obstacles within the limits of the Property, but only such as necessary to carry out the purposes of the easement; reserving to the landowners and their heirs and assigns, however, all such rights and privileges as may be used without interfering with or abridging the rights and purposes of the easement herein acquired by Grantee.

Grantee shall indemnify Grantor against any loss and damage which shall be caused by the exercise of the rights of ingress and egress or by any wrongful or negligent act or omission of Grantee's agents or employees in the course of their employment. Grantee shall be responsible for the correction of, or compensation for, any damage to Grantor's property which is the result of actions outside the granted purposes of this easement.

TO HAVE AND TO HOLD the same, in perpetuity, in and to Grantee, and its successors and assigns, together with all and singular all usual and customary rights thereto in anywise belonging, and together with the right and privilege at any and all times to enter said premises, or any part thereof, for the purpose of constructing or maintaining said utilities and drainage and for making connections therewith.

And Grantor does hereby bind his heirs, executors, administrators and assigns to WARRANT AND FOREVER DEFEND, all and singular, the said premises unto the City of Hutto, Texas, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof.

The perpetual easement, right-of-way, rights and privileges granted herein are exclusive, and Grantor covenants not to convey any other easement or conflicting rights within the premises covered by this grant, without the express written consent of Grantee, which consent shall not be unreasonably withheld.

EXECUTED on this the ____ day of _____, 2011.

GRANTOR:

Madeline Decker Teichelman

Rebecca Lynn Teichelman Borgne,
Trustee of the Edwin Carl Teichelman
Testamentary Trust

Acknowledgment

State of Texas

County of _____

This instrument was acknowledged before me on this the ____ day of _____, 2011 by Madeline Decker Teichelman, in the capacity and for the purposes and consideration recited herein.

Notary Public, State of Texas

State of Texas

County of _____

This instrument was acknowledged before me on this the ____ day of _____, 2011 by Rebecca Lynn Teichelman Borgne, in the capacity and for the purposes and consideration recited herein.

Notary Public, State of Texas

PREPARED IN THE OFFICE OF:

Sheets & Crossfield, P.C.
309 East Main
Round Rock, Texas

AFTER RECORDING RETURN TO:

Teichelman Real Estate Contract - Hwy 79 Section 5A - P38 Commissioners Court - Regular Session

Date: 03/29/2011
Submitted By: Charlie Crossfield, Road Bond
Submitted For: Charlie Crossfield
Department: Road Bond
Agenda Category: Regular Agenda Items

Information

Agenda Item

Consider authorizing County Judge to execute a Real Estate Contract with Madeline Decker Teichelman and Rebecca Lynn Teichelman Borgne, Trustee of the Edwin Carl Teichelman Testamentary Trust, for right-of-way needed on Hwy 79 Section 5A. (P38)

Background

Fiscal Impact

From/To	Acct No.	Description	Amount	Sort Seq
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Attachments

Link: [Teichelman RE Contract Hwy 79 Section 5A P38](#)

Form Routing/Status

Form Started By: Charlie Crossfield Started On: 03/24/2011 08:22 AM
Final Approval Date: 03/24/2011

REAL ESTATE CONTRACT
US79 Right of Way

State of Texas
County of Williamson

THIS REAL ESTATE CONTRACT ("Contract") is made by and between MADELINE DECKER TEICHELMAN and REBECCA LYNN TEICHELMAN BORGNE, TRUSTEE OF THE EDWIN CARL TEICHELMAN TESTAMENTARY TRUST, (referred to in this Contract as "Seller", whether one or more) and the COUNTY OF WILLIAMSON (referred to in this Contract as "Purchaser"), upon the terms and conditions set forth in this Contract.

ARTICLE I
PURCHASE AND SALE

By this Contract, Seller sells and agrees to convey, and Purchaser purchases and agrees to pay for, the tract(s) of land described as follows:

All of that certain 1.988 acre tract of land, more or less, out of the J. J. Stubblefield Survey, Abstract No. 567, Williamson County, Texas; said tract being more particularly described by metes and bounds in Exhibit "A" attached hereto and incorporated herein (Parcel 38, Part 1); and

All of that certain 0.567 acre tract of land, more or less, out of the J. J. Stubblefield Survey, Abstract No. 567, Williamson County, Texas; said tract being more particularly described by metes and bounds in Exhibit "B" attached hereto and incorporated herein (Parcel 38, Part 2)

together with all and singular the rights and appurtenances pertaining to the property, including any right, title and interest of Seller in and to adjacent streets, alleys or rights-of-way (all of such real property, rights, and appurtenances being referred to in this Contract as the "Property"), and any improvements and fixtures situated on and attached to the Property described herein, for the consideration and upon and subject to the terms, provisions, and conditions set forth below.

ARTICLE II
PURCHASE PRICE

Purchase Price

2.01. The purchase price for the Property and any improvements thereon, and for any damage to or reconfiguration or curative measures for the remaining property of Seller, shall be the sum of THREE HUNDRED SIXTY FIVE THOUSAND SIX HUNDRED FIFTEEN and 00/100 Dollars (\$365,615.00).

Pursuant to the terms of a Possession and Use Agreement recorded in Document No. 2009045854, Purchaser has previously paid to Seller the amount of \$282,858.00 for which Purchaser shall receive a credit herein, leaving a remaining purchase price to be paid at the closing of this transaction of **EIGHTY TWO THOUSAND SEVEN HUNDRED FIFTY SEVEN and 00/100 Dollars (\$82,757.00)**.

Payment of Purchase Price

2.02. The Purchase Price shall be payable in cash at the closing.

**ARTICLE III
PURCHASER'S OBLIGATIONS**

Conditions to Purchaser's Obligations

3.01. The obligations of Purchaser hereunder to consummate the transactions contemplated hereby are subject to the satisfaction of each of the following conditions (any of which may be waived in whole or in part by Purchaser at or prior to the closing.)

Miscellaneous Conditions

3.02. Seller shall have performed, observed, and complied with all of the covenants, agreements, and conditions required by this Contract to be performed, observed, and complied with by Seller prior to or as of the closing.

**ARTICLE IV
REPRESENTATIONS AND WARRANTIES
OF SELLER**

Seller hereby represents and warrants to Purchaser as follows, which representations and warranties shall be deemed made by Seller to Purchaser also as of the closing date, to the best of Seller's knowledge:

(1) There are no parties in possession of any portion of the Property as lessees, tenants at sufferance, or trespassers, other than previously disclosed to Purchaser;

(2) Seller has complied with all applicable laws, ordinances, regulations, statutes, rules and restrictions relating to the Property, or any part thereof;

The Property herein is being conveyed to Purchaser under threat of condemnation.

ARTICLE V CLOSING

Closing Date

5.01. The closing shall be held at the office of Texas American Title Company on or before April 22, 2011, or at such time, date, and place as Seller and Purchaser may agree upon, or within 10 days after the completion of any title curative matters if necessary for items as shown on the Title Commitment or in the contract (which date is herein referred to as the "closing date").

Seller's Obligations at Closing

5.02. At the closing Seller shall:

(1) Deliver to the State of Texas a duly executed and acknowledged Special Warranty Deed conveying good and marketable title in fee simple to all of the Property described herein, free and clear of any and all liens and restrictions, except for the following:

- (a) General real estate taxes for the year of closing and subsequent years not yet due and payable;
- (b) Any exceptions approved by Purchaser pursuant to Article III hereof; and
- (c) Any exceptions approved by Purchaser in writing.
- (d) Any items listed on Schedule B of the title commitment obtained by Purchaser.

The deed shall be in the form as shown in Exhibit "C" attached hereto and incorporated herein.

(2) Deliver to Purchaser a Texas Owner's Title Policy at Purchaser's sole expense, issued by Title Company, in Grantee's favor in the full amount of the purchase price, insuring Grantee's fee simple title to the Property subject only to those title exceptions listed herein, such other exceptions as may be approved in writing by Purchaser, and the standard printed exceptions contained in the usual form of Texas Owner's Title Policy, provided, however:

- (a) The boundary and survey exceptions shall be deleted;
- (b) The exception as to restrictive covenants shall be endorsed "None of Record", if applicable; and

- (3) Deliver to Purchaser possession of the Property if not previously done.

Purchaser's Obligations at Closing

5.03. At the Closing, Purchaser shall:

- (a) Pay the cash portion of the Purchase Price.

Prorations

5.04. General real estate taxes for the then current year relating to the Property shall be prorated as of the closing date and shall be adjusted in cash at the closing. If the closing shall occur before the tax rate is fixed for the then current year, the apportionment of taxes shall be upon the basis of the tax rate for the next preceding year applied to the latest assessed valuation. Agricultural roll-back taxes, if any, shall be paid by Purchaser.

Closing Costs

5.05. All costs and expenses of closing in consummating the sale and purchase of the Property shall be borne and paid as follows:

- (1) Owner's Title Policy and survey to be paid by Purchaser.
- (2) Deed, tax certificates, and title curative matters, if any, paid by Purchaser.
- (3) All other closing costs shall be paid by Purchaser.
- (4) Attorney's fees paid by each respectively.

ARTICLE VI BREACH BY SELLER

In the event Seller shall fail to fully and timely perform any of its obligations hereunder or shall fail to consummate the sale of the Property for any reason, except Purchaser's default, Purchaser may: (1) enforce specific performance of this Contract; or (2) request that the Escrow Deposit shall be forthwith returned by the title company to Purchaser.

**ARTICLE VII
BREACH BY PURCHASER**

In the event Purchaser should fail to consummate the purchase of the Property, the conditions to Purchaser's obligations set forth in Article III having been satisfied and Purchaser being in default and Seller not being in default hereunder, Seller shall have the right to receive the Escrow Deposit, if any, from the title company, the sum being agreed on as liquidated damages for the failure of Purchaser to perform the duties, liabilities, and obligations imposed upon it by the terms and provisions of this Contract, and Seller agrees to accept and take this cash payment as its total damages and relief and as Seller's sole remedy hereunder in such event. If no Escrow Deposit has been made then Seller shall receive the amount of \$500 as liquidated damages for any failure by Purchaser.

**ARTICLE VIII
MISCELLANEOUS**

Notice

8.01. Any notice required or permitted to be delivered hereunder shall be deemed received when sent by United States mail, postage prepaid, certified mail, return receipt requested, addressed to Seller or Purchaser, as the case may be, at the address set forth opposite the signature of the party.

Texas Law to Apply

8.02. This Contract shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Williamson County, Texas.

Parties Bound

8.03. This Contract shall be binding upon and inure to the benefit of the parties and their respective heirs, executors, administrators, legal representatives, successors and assigns where permitted by this Contract.

Legal Construction

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

Prior Agreements Superseded

8.05. This Contract constitutes the sole and only agreement of the parties and supersedes any prior understandings or written or oral agreements between the parties respecting the within subject matter.

Time of Essence

8.06. Time is of the essence in this Contract.

Gender

8.07. Words of any gender used in this Contract shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, and vice versa, unless the context requires otherwise.

Memorandum of Contract

8.08. Upon request of either party, the parties shall promptly execute a memorandum of this Contract suitable for filing of record.

Compliance

8.09 In accordance with the requirements of Section 20 of the Texas Real Estate License Act, Purchaser is hereby advised that it should be furnished with or obtain a policy of title insurance or Purchaser should have the abstract covering the Property examined by an attorney of Purchaser's own selection.

Effective Date

8.10 This Contract shall be effective as of the date it is approved by the Williamson County Commissioner's Court, which date is indicated beneath the Judge's signature below.

Counterparts

8.11 This Contract may be executed in any number of counterparts, which may together constitute the Contract. Signatures transmitted by facsimile may be considered effective as originals for purposes of this Contract.

[signature page follows]

SELLER:

Madeline Decker Teichelman

Date: _____

Address: _____

Rebecca Lynn Teichelman Borgne,
Trustee of the Edwin Carl Teichelman
Testamentary Trust

Date: _____

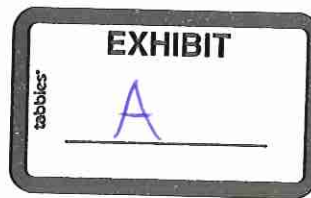
Address: _____

PURCHASER:

COUNTY OF WILLIAMSON

By: _____
Dan A. Gattis, County Judge
Date: _____

Address: 710 Main Street, Suite 101
Georgetown, Texas 78626



County: Williamson
 Parcel No.: 38 Part 1
 Highway: US 79
 Limits: US 79 from East of Hutto City Limit to CR 402
 CSJ:

PROPERTY DESCRIPTION FOR PARCEL 38 PART 1

DESCRIPTION OF A 1.988 ACRE (86,609 SQUARE FOOT) TRACT OF LAND SITUATED IN THE J. J. STUBBLEFIELD SURVEY ABSTRACT NO. 562, IN WILLIAMSON COUNTY, TEXAS, BEING A PORTION OF THAT CALLED 101.62 ACRE TRACT OF LAND CONVEYED TO REBECCA LYNN TEICHELMAN BORGNE, TRUSTEE OF THE EDWIN CARL TEICHELMAN TESTAMENTARY TRUST BY CAUSE NO. 03-0043-CP1, FILED IN COUNTY COURT AT LAW NO. 1 IN WILLIAMSON COUNTY, TEXAS, AND AS EVIDENCED BY INSTRUMENT RECORDED IN DOCUMENT NO. 2006049418 OF THE OFFICIAL PUBLIC RECORDS OF WILLIAMSON COUNTY, TEXAS, SAID 101.62 ACRE TRACT BEING THE REMAINDER OF THAT CALLED 104.44 ACRE TRACT OF LAND DESCRIBED IN VOLUME 435, PAGE 496 OF THE DEED RECORDS OF WILLIAMSON COUNTY, TEXAS, SAID 1.988 ACRE (86,609 SQUARE FOOT) TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING FOR REFERENCE at a found 1/2" iron rod with plastic cap at an interior ell corner in the southerly boundary line of said 101.62 acre tract, same being the northwesterly corner of that called 1 acre tract of land conveyed to Madeline Decker Teichelman as Independent Executrix of the Estate of Edwin Carl Teichelman by Cause No. 03-0043-CP1 in County Court No. 1, in Williamson County, Texas and Rebecca Lynn Teichelman, Trustee of the Edwin Carl Teichelman Testamentary Trust, and as described by said instrument recorded in Document No. 2006049418 of the Official Public Records of Williamson County, Texas, 288.14 feet left of proposed U.S. 79 baseline station 685+97.20;

THENCE, with said common boundary line, **S 13°20'56" E** for a distance of **173.97** feet to a set 1/2" iron rod with TXDOT aluminum cap in the proposed northerly right-of-way line of U.S. 79, 114.19 feet left of proposed U.S. 79 baseline station 685+99.24, being the northeasterly corner and **POINT OF BEGINNING** of the herein described tract;

1. **THENCE**, departing said proposed northerly right-of-way line of U.S. 79, continuing with said common boundary line, **S 13°20'56" E** for a distance of **95.01** feet to a calculated point in the existing northerly right-of-way line of U.S. 79 (120 foot right-of-way width), being an exterior ell corner in the southerly boundary line of said 101.62 acre tract and the southwesterly corner of said 1 acre tract, and being the southeasterly corner of the herein described tract, from which a found 1/2" iron rod with plastic cap bears **N 13°20'56" W**, a distance of 0.72 feet;
2. **THENCE**, departing said common boundary line, with the southerly boundary line of said 101.62 acre tract, same being the existing northerly right-of-way line of U.S. 79, **S 77°19'11" W** for a distance of **912.41** feet to a calculated point, being the southwesterly corner of said 101.62 acre tract and the southeasterly corner of that called 128.019 acre tract of land conveyed to Larry W. Leschber by instrument recorded in Document No. 9642144 of the Official Records of Williamson County, Texas, and being the southwesterly corner of the herein described tract, from which a found 80d nail bears **N 12°26'52" W**, a distance of 0.32 feet;

PLAT TO ACCOMPANY DESCRIPTION

LEGEND

- TXDOT TYPE I CONCRETE MONUMENT FOUND
- TXDOT TYPE II MONUMENT SET
- TXDOT TYPE II MONUMENT FOUND
- 1/2" IRON PIPE FOUND UNLESS NOTED
- 1/2" IRON ROD WITH PLASTIC CAP FOUND
- 1/2" IRON ROD SET W/TXDOT ALUMINUM CAP UNLESS NOTED
- 1/2" IRON ROD FOUND UNLESS NOTED
- ▲ 60 D NAIL SET UNLESS NOTED
- ▲ 80 D NAIL FOUND UNLESS NOTED
- △ CALCULATED POINT
- R PROPERTY LINE
- C CENTER LINE
- () RECORD INFORMATION
- P.O.B. POINT OF BEGINNING
- P.O.R. POINT OF REFERENCE
- P.C. POINT OF CURVATURE
- P.T. POINT OF TANGENT
- X- FENCE
- D.R.W.C.T. DEED RECORDS OF WILLIAMSON COUNTY, TEXAS
- O.P.R.W.C.T. OFFICIAL PUBLIC RECORDS OF WILLIAMSON COUNTY, TEXAS
- LINE BREAK

CARSSOW FAMILY
PARTNERSHIP, LTD.
(79.222 AC.)
DOC. NO. 9738895
O.R.W.C.T.

LARRY W. LESCHBER
(128.019 AC.)
DOC. NO. 9642144
O.R.W.C.T.

STRIP OF LAND
RESERVED FOR ROADWAY
13 VARS WIDE
VOL. 127, PG. 496
A VOL. 435, PG. 496
D.R.W.C.T.
8 DOC. NO. 2006049418
O.P.R.W.C.T.

TERRIE LEA DAVIS
(2.00 ACRES)
DOC. NO. 199962881
O.P.R.W.C.T.

REBECCA LYNN TEICHELMAN BORGNE, TRUSTEE
OF THE EDWIN CARL TEICHELMAN TESTAMENTARY TRUST

(101.62 AC.)

CAUSE NO. 03-0043-CPI
COUNTY COURT AT LAW NO. 1
WILLIAMSON COUNTY, TEXAS

DOC. NO. 2006049418, O.P.R.W.C.T.
(REMAINDER OF 104.44 ACRES DESCRIBED
IN VOL. 435, PG. 496, D.R.W.C.T.)

MADELINE DECKER TEICHELMAN
INDEPENDENT EXECUTRIX OF THE
ESTATE OF EDWIN CARL TEICHELMAN
CAUSE NO. 03-0043-CPI
COUNTY COURT AT LAW NO. 1
WILLIAMSON COUNTY, TEXAS

AND REBECCA LYNN TEICHELMAN BORGNE, TRUSTEE
OF THE EDWIN CARL TEICHELMAN
TESTAMENTARY TRUST

(1 AC. DESCRIBED IN DOC. NO. 2006049418,
O.P.R.W.C.T., BEING A PORTION OF 104.44 ACRES CONVEYED
TO EDWIN TEICHELMAN IN VOL. 435, PG. 496, D.R.W.C.T.)

PART I

1988 ACRES
86,609 SQ. FT.

N 77°19'11" E 910.91'

Sta 680+00.00
114.18' LT

N 77°19'11" E 311.68'

N 77°19'11" E

N 12°26'52" W 95.00'

Sta 676+88.32
114.18' LT

N 13°20'56" W 173.97'

S 13°20'56" E 95.01'

SEE DETAIL 1

SEE DETAIL 2

SEE DETAIL 3

SEE DETAIL 4

SEE DETAIL 5

SEE DETAIL 6

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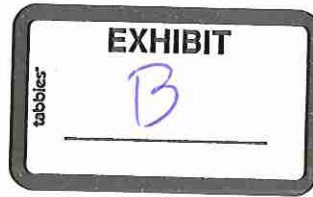
SEE DETAIL 224

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SEE DETAIL 226

SEE DETAIL 227

SEE DETAIL 228



County: Williamson
Parcel No.: 38 Part 2
Highway: US 79
Limits: US 79 from East of Hutto City Limit to CR 402
CSJ:

PROPERTY DESCRIPTION FOR PARCEL 38 PART 2

DESCRIPTION OF A 0.567 ACRE (24,691 SQUARE FOOT) TRACT OF LAND SITUATED IN THE J. J. STUBBLEFIELD SURVEY ABSTRACT NO. 562, IN WILLIAMSON COUNTY, TEXAS, BEING A PORTION OF THAT CALLED 101.62 ACRE TRACT OF LAND CONVEYED TO REBECCA LYNN TEICHELMAN BORGNE, TRUSTEE OF THE EDWIN CARL TEICHELMAN TESTAMENTARY TRUST BY CAUSE NO. 03-0043-CP1, FILED IN COUNTY COURT AT LAW NO. 1 IN WILLIAMSON COUNTY, TEXAS, AND AS EVIDENCED BY INSTRUMENT RECORDED IN DOCUMENT NO. 2006049418 OF THE OFFICIAL PUBLIC RECORDS OF WILLIAMSON COUNTY, TEXAS, SAID 101.62 ACRE TRACT BEING THE REMAINDER OF THAT CALLED 104.44 ACRE TRACT OF LAND DESCRIBED IN VOLUME 435, PAGE 496 OF THE DEED RECORDS OF WILLIAMSON COUNTY, TEXAS, SAID 0.567 ACRE (24,691 SQUARE FOOT) TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING FOR REFERENCE at a set iron rod stamped ref/witness in the common boundary line of said 101.62 acre tract and that 135.209 acre remainder of that called 145.59 acre tract described in Volume 479, Page 343 of the Deed records of Williamson County, Texas, and conveyed to Trona T. Blaha, formerly known as Trona T. Krueger, Daniel Dwayne Krueger, also known as Daniel D. Krueger, and Treila Latrelle Krueger Aery, formerly known as Treila Latrelle Krueger, by Cause No. 14,882 filed in County Court of Law No. 2 in Williamson County, Texas, and as evidenced by instrument recorded in Volume 301, Page 309 of the Deed Records of Williamson County, Texas, 164.19 feet left of proposed U.S. 79 baseline station 690+22.29;

THENCE, with said common boundary line, **S 12°21'22" E** for a distance of **50.00** feet to a set TXDOT Type II monument in the proposed northerly right-of-way of U.S. 79, 114.19 feet left of proposed U.S. 79 baseline station 690+22.01, being the northeasterly corner and **POINT OF BEGINNING** of the herein described tract;

1. **THENCE**, departing said proposed northerly right-of-way line of U.S. 79, continuing with said common boundary, **S 12°21'22" E**, passing a found iron rod at a distance of 94.45 feet, and continuing for a total distance of **95.00** feet to a calculated point in the existing northerly right-of-way line of U.S. 79 (120 foot right-of-way width), being the southeasterly corner of said 101.62 acre tract and the southwesterly corner of said 135.209 acre tract, and being the southeasterly corner of the herein described tract;

PLAT TO ACCOMPANY DESCRIPTION

LEGEND

- TXDOT TYPE I CONCRETE MONUMENT FOUND
- ▣ TXDOT TYPE II MONUMENT SET
- ▣ TXDOT TYPE II MONUMENT FOUND
- 1/2" IRON PIPE FOUND UNLESS NOTED
- 1/2" IRON ROD SET W/TXDOT ALUMINUM CAP UNLESS NOTED
- 1/2" IRON ROD FOUND UNLESS NOTED
- ▲ 60 D NAIL SET UNLESS NOTED
- ▲ 80 D NAIL FOUND UNLESS NOTED
- △ CALCULATED POINT
- FENCE POST
- ℙ PROPERTY LINE
- ℄ CENTER LINE
- () RECORD INFORMATION
- P.O.B. POINT OF BEGINNING
- P.O.R. POINT OF REFERENCE
- P.C. POINT OF CURVATURE
- P.T. POINT OF TANGENT
- X— FENCE
- D.R.W.C.T. DEED RECORDS OF WILLIAMSON COUNTY, TEXAS
- O.P.R.W.C.T. OFFICIAL PUBLIC RECORDS OF WILLIAMSON COUNTY, TEXAS
- LINE BREAK

EMMANUEL ANDERSON
(149.0 AC.)
DOC. NO. 2000018292
O.P.R.W.C.T.



Scale 1" = 100'

PATRICK O'DAUGHERTY SURVEY
ABSTRACT NO. 184

APPROXIMATE SURVEY LINE

J. J. STUBBLEFIELD SURVEY
ABSTRACT NO. 562

REBECCA LYNN TEICHELMAN BORGNE, TRUSTEE
OF THE EDWIN CARL TEICHELMAN TESTAMENTARY TRUST
(101.62 AC.)

CAUSE NO. 03-0043-CPI
COUNTY COURT AT LAW NO. 1
WILLIAMSON COUNTY, TEXAS
DOC. NO. 2006049418, O.P.R.W.C.T.
(REMAINDER OF 104.44 ACRES DESCRIBED
IN VOL. 435, PG. 496, D.R.W.C.T.)

LINE TABLE

NO.	BEARING	DISTANCE
LI	S 12°21'22" E	50.00'

MADELINE DECKER TEICHELMAN
INDEPENDENT EXECUTRIX OF THE
ESTATE OF EDWIN CARL TEICHELMAN
CAUSE NO. 03-0043-CPI
COUNTY COURT AT LAW NO. 1
WILLIAMSON COUNTY, TEXAS
AND REBECCA LYNN TEICHELMAN BORGNE, TRUSTEE
OF THE EDWIN CARL TEICHELMAN
TESTAMENTARY TRUST
(1 AC. DESCRIBED IN DOC. NO. 2006049418,
O.P.R.W.C.T., BEING A PORTION OF 104.44 ACRES CONVEYED
TO EDWIN TEICHELMAN IN VOL. 435, PG. 496, D.R.W.C.T.)

P.O.R.
STAMPED REF/WITNESS
Sta 690+22.29
164.19' LT

P.O.B.
Sta 690+22.01
114.19' LT

PART 2
(38)

0.567 ACRES
24,691 SQ. FT.

U. S. HIGHWAY NO. 79
(120' R.O.W. WIDTH)

EXISTING R.O.W.
UNION PACIFIC RAILROAD
(100' R.O.W.)

INLAND GEODETICS
PROFESSIONAL LAND SURVEYORS
1504 CHISHOLM TRAIL RD. STE. 103
ROUND ROCK, TX. 78681
PH. (512) 238-1200, FAX (512) 238-1251

PARCEL PLAT SHOWING PROPERTY OF
REBECCA LYNN
TEICHELMAN BORGNE, TRUSTEE



Texas Department of Transportation

© 2003

SCALE
1" = 100'

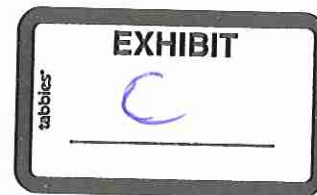
CSJ #

PROJECT
U.S. 79

COUNTY
WILLIAMSON

PARCEL 38
PART 2

SPECIAL WARRANTY DEED
US 79 Right of Way



THE STATE OF TEXAS

§

COUNTY OF WILLIAMSON

§

§

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

WHEREAS, Williamson County, Texas and the State of Texas, acting by and through the Texas Transportation Commission, are authorized to purchase and receive land and such other property rights deemed necessary or convenient for the construction, expansion, enlargement, extension, improvement, or operation of a portion of the proposed US Highway 79 improvements ("Project"); and,

WHEREAS, the acquisition of the hereinafter-described premises has been deemed necessary or convenient for the construction, expansion, enlargement, extension, improvement, or operation of the Project;

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

That MADELINE DECKER TEICHELMAN and REBECCA LYNN TEICHELMAN BORGNE, TRUSTEE OF THE EDWIN CARL TEICHELMAN TESTAMENTARY TRUST, hereinafter referred to as Grantor, whether one or more, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration to Grantor in hand paid by Williamson County, Texas, receipt and sufficiency of which is hereby acknowledged, and for which no lien is retained, either expressed or implied, have this day Sold and by these presents do Grant, Bargain, Sell and Convey unto the State of Texas, acting by and through the Texas Transportation Commission, all those certain tracts or parcels of land lying and being situated in the County of Williamson, State of Texas, along with any improvements thereon, being more particularly described as follows:

All of that certain 1.988 acre tract of land, more or less, being out of the J. J. Stubblefield Survey, Abstract No. 567, Williamson County, Texas; said tract being more particularly described by metes and bounds in Exhibit "A" attached hereto and incorporated herein (Parcel 38, Part 1), and

All of that certain 0.567 acre tract of land, more or less, being out of the J. J. Stubblefield Survey, Abstract No. 567, Williamson County, Texas; said tract being more particularly described by metes and bounds in Exhibit "A" attached hereto and incorporated herein (Parcel 38, Part 2)

RESERVATIONS FROM AND EXCEPTIONS TO CONVEYANCE AND WARRANTY:

Easements and rights-of-way of record; all presently recorded restrictions, reservations, covenants, conditions, oil, gas or other mineral leases, mineral severances, and other instruments, other than liens and conveyances, that affect the property; rights of adjoining owners in any walls and fences situated on a common boundary; and any encroachments or overlapping of improvements.

Grantors reserve all of the oil, gas and other minerals in and under the land herein conveyed but waive all rights of ingress and egress to the surface thereof for the purpose of exploring, developing, mining or drilling or pumping the same; provided, however, that operations for exploration or recovery of any such minerals and water shall be permissible so long as all surface operations in connection therewith are located at a point outside the acquired parcel and upon the condition that none of such operations shall be conducted so near the surface of said land as to interfere with the intended use thereof or in any way interfere with, jeopardize, or endanger the facilities of the Texas Department of Transportation or create a hazard to the public users thereof; it being intended, however, that nothing in this reservation shall affect the title and the rights of Grantee to take and use without additional compensation any, stone, earth, gravel, caliche, iron ore, gravel or any other road building material upon, in and under said land for the construction and maintenance of US 79, but shall not be used or exported from the Property for any other purpose.

TO HAVE AND TO HOLD the premises herein described and herein conveyed together with all and singular the rights and appurtenances thereto in any wise belonging unto the State of Texas, acting by and through the Texas Transportation Commission, and its assigns forever; and Grantors do hereby bind ourselves, our heirs, executors, administrators, successors and assigns to Warrant and Forever Defend all and singular the said premises herein conveyed unto the State of Texas, acting by and through the Texas Transportation Commission and its assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof by, through, or under Grantors, but not otherwise.

This deed is being delivered in lieu of condemnation.

IN WITNESS WHEREOF, this instrument is executed on this the ____ day of _____, 2011.

GRANTOR:

Madeline Decker Teichelman

Rebecca Lynn Teichelman Borgne,
Trustee of the Edwin Carl Teichelman
Testamentary Trust

ACKNOWLEDGMENT

STATE OF TEXAS

§

§

COUNTY OF _____

§

This instrument was acknowledged before me on this the ____ day of _____, 2011 by Madeline Decker Teichelman, in the capacity and for the purposes and consideration recited therein.

Notary Public, State of Texas

STATE OF TEXAS

§

§

COUNTY OF _____

§

This instrument was acknowledged before me on this the ____ day of _____, 2011 by Rebecca Lynn Teichelman Borgne, in the capacity and for the purposes and consideration recited therein.

Notary Public, State of Texas

PREPARED IN THE OFFICE OF:

Sheets & Crossfield, P.C.
309 East Main
Round Rock, Texas

GRANTEE'S MAILING ADDRESS:

Texas Department of Transportation
Attn: Right of Way Administrator
7901 N. IH 35, Building A
Austin, Texas 78761

AFTER RECORDING RETURN TO:

Teichelman Real Estate Contract - Hwy 79 Section 5A - P49 Commissioners Court - Regular Session

Date: 03/29/2011
Submitted By: Charlie Crossfield, Road Bond
Submitted For: Charlie Crossfield
Department: Road Bond
Agenda Category: Regular Agenda Items

Information

Agenda Item

Consider authorizing County Judge to execute a Real Estate Contract with Madeline Decker Teichelman and Rebecca Lynn Teichelman Borgne, Trustee of the Edwin Carl Teichelman Testamentary Trust, for right-of-way needed on Hwy 79 Section 5A. (P49)

Background

Fiscal Impact

From/To	Acct No.	Description	Amount	Sort Seq
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Attachments

Link: [Teichelman RE Contract Hwy 79 Section 5A P49](#)

Form Routing/Status

Form Started By: Charlie Crossfield Started On: 03/24/2011 08:35 AM
Final Approval Date: 03/24/2011

REAL ESTATE CONTRACT
US79 Right of Way

State of Texas
County of Williamson

THIS REAL ESTATE CONTRACT ("Contract") is made by and between MADELINE TEICHELMAN, A/K/A MADELINE DECKER TEICHELMAN, (referred to in this Contract as "Seller", whether one or more) and the COUNTY OF WILLIAMSON (referred to in this Contract as "Purchaser"), upon the terms and conditions set forth in this Contract.

ARTICLE I
PURCHASE AND SALE

By this Contract, Seller sells and agrees to convey, and Purchaser purchases and agrees to pay for, the tract(s) of land described as follows:

All of that certain 0.353 acre tract of land, more or less, out of the J. J. Stubblefield Survey, Abstract No. 562, Williamson County, Texas; said tract being more particularly described by metes and bounds in Exhibit "A" attached hereto and incorporated herein (Parcel 49),

together with all and singular the rights and appurtenances pertaining to the property, including any right, title and interest of Seller in and to adjacent streets, alleys or rights-of-way (all of such real property, rights, and appurtenances being referred to in this Contract as the "Property"), and any improvements and fixtures situated on and attached to the Property described herein, for the consideration and upon and subject to the terms, provisions, and conditions set forth below.

ARTICLE II
PURCHASE PRICE

Purchase Price

2.01. The purchase price for the Property and any improvements thereon, and for any damage to or reconfiguration or curative measures for the remaining property of Seller, shall be the sum of NINETY THOUSAND and 00/100 Dollars (\$90,000.00).

Pursuant to the terms of a Possession and Use Agreement recorded in Document No. 2009029196, Purchaser has previously paid to Seller the amount of \$71,404.00 for which Purchaser shall receive a credit herein, leaving a remaining purchase price to be paid at the closing of this transaction of **TWO HUNDRED FIFTY TWO THOUSAND TWO HUNDRED SIXTY and 00/100 Dollars (\$18,596.00)**.

Payment of Purchase Price

2.02. The Purchase Price shall be payable in cash at the closing.

**ARTICLE III
PURCHASER'S OBLIGATIONS**

Conditions to Purchaser's Obligations

3.01. The obligations of Purchaser hereunder to consummate the transactions contemplated hereby are subject to the satisfaction of each of the following conditions (any of which may be waived in whole or in part by Purchaser at or prior to the closing.)

Miscellaneous Conditions

3.02. Seller shall have performed, observed, and complied with all of the covenants, agreements, and conditions required by this Contract to be performed, observed, and complied with by Seller prior to or as of the closing.

**ARTICLE IV
REPRESENTATIONS AND WARRANTIES
OF SELLER**

Seller hereby represents and warrants to Purchaser as follows, which representations and warranties shall be deemed made by Seller to Purchaser also as of the closing date, to the best of Seller's knowledge:

(1) There are no parties in possession of any portion of the Property as lessees, tenants at sufferance, or trespassers, other than previously disclosed to Purchaser;

(2) Seller has complied with all applicable laws, ordinances, regulations, statutes, rules and restrictions relating to the Property, or any part thereof;

The Property herein is being conveyed to Purchaser under threat of condemnation.

ARTICLE V CLOSING

Closing Date

5.01. The closing shall be held at the office of Texas American Title Company on or before April 22, 2011, or at such time, date, and place as Seller and Purchaser may agree upon, or within 10 days after the completion of any title curative matters if necessary for items as shown on the Title Commitment or in the contract (which date is herein referred to as the "closing date").

Seller's Obligations at Closing

5.02. At the closing Seller shall:

(1) Deliver to the State of Texas a duly executed and acknowledged Special Warranty Deed conveying good and marketable title in fee simple to all of the Property described in Exhibit "A", free and clear of any and all liens and restrictions, except for the following:

- (a) General real estate taxes for the year of closing and subsequent years not yet due and payable;
- (b) Any exceptions approved by Purchaser pursuant to Article III hereof; and
- (c) Any exceptions approved by Purchaser in writing.
- (d) Any items listed on Schedule B of the title commitment obtained by Purchaser.

The deed shall be in the form as shown in Exhibit "B" attached hereto and incorporated herein.

(2) Deliver to Purchaser a Texas Owner's Title Policy at Purchaser's sole expense, issued by Title Company, in Grantee's favor in the full amount of the purchase price, insuring Grantee's fee simple title to the Property subject only to those title exceptions listed herein, such other exceptions as may be approved in writing by Purchaser, and the standard printed exceptions contained in the usual form of Texas Owner's Title Policy, provided, however:

- (a) The boundary and survey exceptions shall be deleted;
- (b) The exception as to restrictive covenants shall be endorsed "None of Record", if applicable; and

- (3) Deliver to Purchaser possession of the Property if not previously done.

Purchaser's Obligations at Closing

5.03. At the Closing, Purchaser shall:

- (a) Pay the cash portion of the Purchase Price.

Prorations

5.04. General real estate taxes for the then current year relating to the Property shall be prorated as of the closing date and shall be adjusted in cash at the closing. If the closing shall occur before the tax rate is fixed for the then current year, the apportionment of taxes shall be upon the basis of the tax rate for the next preceding year applied to the latest assessed valuation. Agricultural roll-back taxes, if any, shall be paid by Purchaser.

Closing Costs

5.05. All costs and expenses of closing in consummating the sale and purchase of the Property shall be borne and paid as follows:

- (1) Owner's Title Policy and survey to be paid by Purchaser.
- (2) Deed, tax certificates, and title curative matters, if any, paid by Purchaser.
- (3) All other closing costs shall be paid by Purchaser.
- (4) Attorney's fees paid by each respectively.

ARTICLE VI BREACH BY SELLER

In the event Seller shall fail to fully and timely perform any of its obligations hereunder or shall fail to consummate the sale of the Property for any reason, except Purchaser's default, Purchaser may: (1) enforce specific performance of this Contract; or (2) request that the Escrow Deposit shall be forthwith returned by the title company to Purchaser.

**ARTICLE VII
BREACH BY PURCHASER**

In the event Purchaser should fail to consummate the purchase of the Property, the conditions to Purchaser's obligations set forth in Article III having been satisfied and Purchaser being in default and Seller not being in default hereunder, Seller shall have the right to receive the Escrow Deposit, if any, from the title company, the sum being agreed on as liquidated damages for the failure of Purchaser to perform the duties, liabilities, and obligations imposed upon it by the terms and provisions of this Contract, and Seller agrees to accept and take this cash payment as its total damages and relief and as Seller's sole remedy hereunder in such event. If no Escrow Deposit has been made then Seller shall receive the amount of \$500 as liquidated damages for any failure by Purchaser.

**ARTICLE VIII
MISCELLANEOUS**

Notice

8.01. Any notice required or permitted to be delivered hereunder shall be deemed received when sent by United States mail, postage prepaid, certified mail, return receipt requested, addressed to Seller or Purchaser, as the case may be, at the address set forth opposite the signature of the party.

Texas Law to Apply

8.02. This Contract shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Williamson County, Texas.

Parties Bound

8.03. This Contract shall be binding upon and inure to the benefit of the parties and their respective heirs, executors, administrators, legal representatives, successors and assigns where permitted by this Contract.

Legal Construction

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

Prior Agreements Superseded

8.05. This Contract constitutes the sole and only agreement of the parties and supersedes any prior understandings or written or oral agreements between the parties respecting the within subject matter.

Time of Essence

8.06. Time is of the essence in this Contract.

Gender

8.07. Words of any gender used in this Contract shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, and vice versa, unless the context requires otherwise.

Memorandum of Contract

8.08. Upon request of either party, the parties shall promptly execute a memorandum of this Contract suitable for filing of record.

Compliance

8.09 In accordance with the requirements of Section 20 of the Texas Real Estate License Act, Purchaser is hereby advised that it should be furnished with or obtain a policy of title insurance or Purchaser should have the abstract covering the Property examined by an attorney of Purchaser's own selection.

Effective Date

8.10 This Contract shall be effective as of the date it is approved by the Williamson County Commissioner's Court, which date is indicated beneath the Judge's signature below.

Counterparts

8.11 This Contract may be executed in any number of counterparts, which may together constitute the Contract. Signatures transmitted by facsimile may be considered effective as originals for purposes of this Contract.

[signature page follows]

SELLER:

Madeline Teichelman, a/k/a
Madeline Decker Teichelman

Date: _____

Address: _____

PURCHASER:

COUNTY OF WILLIAMSON

By: _____
Dan A. Gattis, County Judge
Date: _____

Address: 710 Main Street, Suite 101
Georgetown, Texas 78626



County: Williamson
 Parcel No.: 49
 Highway: US 79
 Limits: US 79 from East of Hutto City Limit to CR 402
 CSJ:

PROPERTY DESCRIPTION FOR PARCEL 49

DESCRIPTION OF A 0.353 ACRE (15,396 SQUARE FOOT) TRACT OF LAND SITUATED IN THE J. J. STUBBLEFIELD SURVEY ABSTRACT NO. 562, IN WILLIAMSON COUNTY, TEXAS, BEING A PORTION OF THAT CALLED 1 ACRE TRACT OF LAND CONVEYED TO MADELINE DECKER TEICHELMAN AS INDEPENDENT EXECUTRIX OF THE ESTATE OF CARL EDWIN TEICHELMAN AND REBECCA LYNN TEICHELMAN BORGNE AS TRUSTEE OF THE CARL EDWIN TEICHELMAN TESTAMENTARY TRUST BY CAUSE NO. 03-0043-CP1, FILED IN COUNTY COURT AT LAW NO. 1 IN WILLIAMSON COUNTY, TEXAS, SAID 1 ACRE TRACT BEING THAT SAME 1 ACRE SAVE AND EXCEPT TRACT DESCRIBED IN DOCUMENT NO. 2006049418 OF THE OFFICIAL PUBLIC RECORDS OF WILLIAMSON COUNTY, TEXAS, AND BEING A PORTION OF THAT CALLED 104.44 ACRE TRACT OF LAND CONVEYED TO EDWIN TEICHELMAN BY INSTRUMENT RECORDED IN VOLUME 435, PAGE 496 OF THE DEED RECORDS OF WILLIAMSON COUNTY, TEXAS, SAID 0.353 ACRE (15,396 SQUARE FOOT) TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS.

BEGINNING FOR REFERENCE at a found 1/2" iron rod with plastic cap at an interior ell corner in the southerly boundary line of that called 101.62 acre tract of land conveyed to Rebecca Lynn Teichelman Borgne, Trustee of the Edwin Carl Teichelman Testamentary Trust by said Cause No. 03-0043-CP1 filed in County Court at Law No. 1 in Williamson County, Texas, being the remainder of said 104.44 acre tract, of land described in Volume 435, Page 496 of the Deed Records of Williamson County, Texas, 288.14 feet left of proposed U.S. 79 baseline station 685+97.20, being the northwesterly corner of said 1 acre tract;

THENCE, with the common boundary line of said 1 acre tract and said 101.62 acre tract, **S 13°20'56" E** for a distance of **173.97** feet to a set 1/2" iron rod with TXDOT aluminum cap in the proposed northerly right-of-way line of U.S. 79, 114.19 feet left of proposed U.S. 79 baseline station 685+99.23, being the northwesterly corner and **POINT OF BEGINNING** of the herein described tract;

1. **THENCE**, departing said common boundary line, through the interior of said 1 acre tract, with said proposed northerly right-of-way line of U.S. 79, **N 77°19'11" E** for a distance of **162.06** feet to a set 1/2" iron rod with TXDOT aluminum cap in a common boundary line of said 1 acre tract and said 101.62 acre tract, 114.19 feet left of proposed U.S. 79 baseline station 687+61.29, being the northeasterly corner of the herein described tract;
2. **THENCE**, departing said proposed northerly right-of-way line of U.S. 79, with said common boundary line, **S 13°20'56" E** for a distance of **95.01** feet to a calculated point in the existing northerly right-of-way line of U.S. 79 (120 foot right-of-way width), being the southeasterly corner of said 1 acre tract and a exterior ell corner in the southerly boundary line of said 101.62 acre tract, and being the southeasterly corner of the herein described tract, from which a found 1/2" iron rod with plastic cap bears **N 13°20'56" W**, a distance of 0.74 feet;

3. **THENCE**, departing said common boundary line, with the southerly boundary line of said 1 acre tract, same being said existing northerly right-of-way line of U.S. 79, **S 77°19'11" W** for a distance of **162.06** feet to a calculated point, being the southwesterly corner of said 1 acre tract and an exterior ell corner in the southerly boundary line of said 101.62 acre tract, and being the southwesterly corner of the herein described tract, from which a found 1/2" iron rod with plastic cap bears **N 13°20'56" W**, a distance of 0.72 feet;
4. **THENCE**, departing said existing northerly right-of-way line of U.S., with said common boundary line, **N 13°20'56" W** for a distance of **95.01** feet to the **POINT OF BEGINNING**, containing 0.353 acres (15,396 square feet) of land, more or less.

This property description is accompanied by a separate parcel plat.

All bearings recited herein are based on the Texas State Plane Coordinate System, Central Zone No. 4203, NAD 83.

That I, M. Stephen Truesdale, a Registered Professional Land Surveyor, do hereby certify that the above description is true and correct to the best of my knowledge and belief and that the property described herein was determined by a survey made on the ground under my direction and supervision.

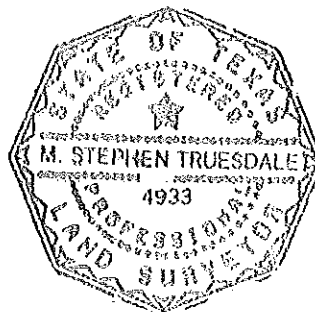
WITNESS MY HAND AND SEAL at Round Rock, Williamson County, Texas.

M. Stephen Truesdale

13 DEC 07

Date

M. Stephen Truesdale
Registered Professional Land Surveyor No. 4933
Licensed State Land Surveyor
Inland Geodetics, LP
1504 Chisholm Trail Rd., Ste. 101
Round Rock, TX. 78681



79par49.doc

PLAT TO ACCOMPANY DESCRIPTION

LEGEND

- TXDOT TYPE I CONCRETE MONUMENT FOUND
- TXDOT TYPE II MONUMENT SET
- TXDOT TYPE II MONUMENT FOUND
- ⊙ 1/2" IRON PIPE FOUND UNLESS NOTED
- 1/2" IRON ROD SET W/TXDOT ALUMINUM CAP UNLESS NOTED
- ⊙ 1/2" IRON ROD WITH PLASTIC CAP FOUND
- ▲ 60 D NAIL SET UNLESS NOTED
- ▲ 80 D NAIL FOUND UNLESS NOTED
- △ CALCULATED POINT
- FENCE POST
- PROPERTY LINE
- CENTER LINE
- () RECORD INFORMATION
- P.O.B. POINT OF BEGINNING
- P.O.R. POINT OF REFERENCE
- P.C. POINT OF CURVATURE
- P.T. POINT OF TANGENT
- X- FENCE
- D.R.W.C.T. DEED RECORDS OF WILLIAMSON COUNTY, TEXAS
- O.P.R.W.C.T. OFFICIAL PUBLIC RECORDS OF WILLIAMSON COUNTY, TEXAS
- LINE BREAK

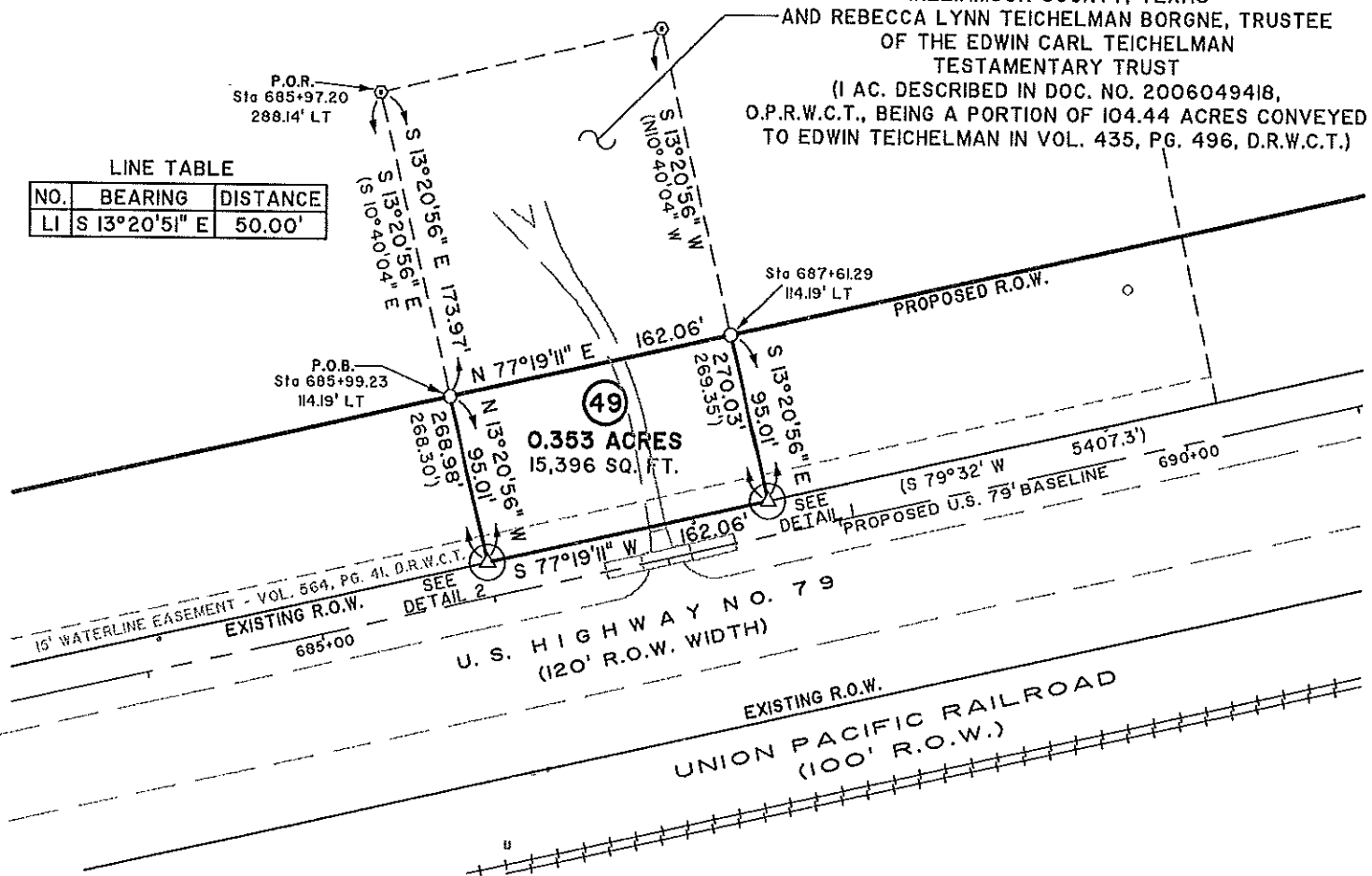
MADELINE DECKER TEICHELMAN
INDEPENDENT EXECUTRIX OF THE
ESTATE OF EDWIN CARL TEICHELMAN
CAUSE NO. 03-0043-CPI
COUNTY COURT AT LAW NO. 1
WILLIAMSON COUNTY, TEXAS

AND REBECCA LYNN TEICHELMAN BORGNE, TRUSTEE
OF THE EDWIN CARL TEICHELMAN
TESTAMENTARY TRUST
(1 AC. DESCRIBED IN DOC. NO. 2006049418,
O.P.R.W.C.T., BEING A PORTION OF 104.44 ACRES CONVEYED
TO EDWIN TEICHELMAN IN VOL. 435, PG. 496, D.R.W.C.T.)

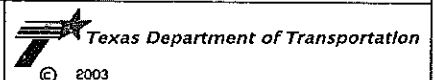
REBECCA LYNN TEICHELMAN BORGNE, TRUSTEE
OF THE EDWIN CARL TEICHELMAN TESTAMENTARY TRUST
(101.62 AC.)
CAUSE NO. 03-0043-CPI
COUNTY COURT AT LAW NO. 1
WILLIAMSON COUNTY, TEXAS
DOC. NO. 2006049418, O.P.R.W.C.T.
(REMAINDER OF 104.44 ACRES DESCRIBED
IN VOL. 435, PG. 496, D.R.W.C.T.)

LINE TABLE

NO.	BEARING	DISTANCE
LI	S 13°20'51" E	50.00'



PARCEL PLAT SHOWING PROPERTY OF
REBECCA LYNN
TEICHELMAN BORGNE, TRUSTEE



SCALE
1" = 100'

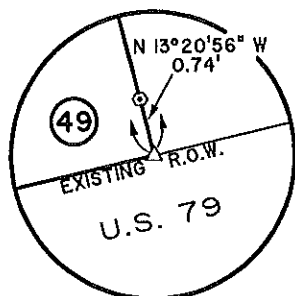
CSJ #

PROJECT
U.S. 79

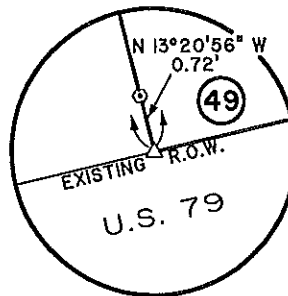
COUNTY
WILLIAMSON

PARCEL 49

PLAT TO ACCOMPANY DESCRIPTION



DETAIL 1
NOT TO SCALE



DETAIL 2
NOT TO SCALE

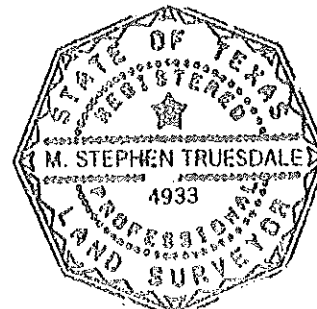
NOTES:

- 1) THE EASEMENTS SHOWN OR NOTED AND ADDRESSED ON THIS SURVEY ARE THOSE LISTED ON SCHEDULE B OF THE TITLE REPORT, G.F. NO. 801-06-1448, PROVIDED BY TITLE RESOURCES GUARANTY COMPANY, DATED DECEMBER 1, 2006.
- 2) THE ELECTRIC AND TELEPHONE LINE EASEMENT GRANTED TO TEXAS POWER AND LIGHT COMPANY BY INSTRUMENT RECORDED IN VOLUME 288, PAGE 35 OF THE DEED RECORDS OF WILLIAMSON COUNTY, TEXAS, IS INSUFFICIENTLY DESCRIBED IN SAID DOCUMENT AND CANNOT BE PLACED OR LOCATED HEREON.
- 3) THIS PARCEL IS SUBJECT TO ALL TERMS, CONDITIONS AND PROVISIONS OF THAT CERTAIN RESOLUTION NO. 2006-27R OF THE CITY OF HUTTO, TEXAS, RECORDED IN DOCUMENT NO. 2006045188 OF THE OFFICIAL PUBLIC RECORDS OF WILLIAMSON COUNTY, TEXAS.
- 4) ALL BEARINGS SHOWN HEREON ARE BASED ON GRID BEARINGS. ALL DISTANCES ARE SURFACE DISTANCES. COORDINATES ARE SURFACE VALUES BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, CENTRAL ZONE, NAD 83, USING A COMBINED SURFACE ADJUSTMENT FACTOR OF 1.00011.
- 5) IMPROVEMENTS SHOWN HEREON ARE BASED UPON AERIAL SURVEY DIGITAL FILES PROVIDED BY OTHERS AND SUPPLEMENTED BY ON THE GROUND SURVEYING PERFORMED BY INLAND GEODETICS, L.P.

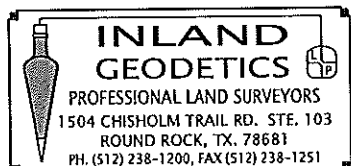
I HEREBY CERTIFY THAT THIS PLAT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AND THAT THE PROPERTY SHOWN HEREON WAS DETERMINED BY A SURVEY MADE ON THE GROUND UNDER MY DIRECTION AND SUPERVISION.

M. Stephen Truesdale 13 DEC 07

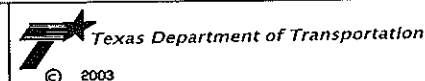
M. STEPHEN TRUESDALE
REGISTERED PROFESSIONAL LAND SURVEYOR NO. 4933
LICENSED STATE LAND SURVEYOR
INLAND GEODETICS, L.P.
1504 CHISHOLM TRAIL ROAD, SUITE 103
ROUND ROCK, TEXAS 79681



PAGE 4 OF 4

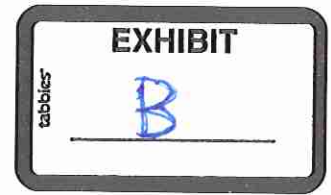


PARCEL PLAT SHOWING PROPERTY OF
REBECCA LYNN
TEICHELMAN BORGNE, TRUSTEE



SCALE 1" = 100'	CSJ #	PROJECT U.S. 79	COUNTY WILLIAMSON
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PARCEL 49



SPECIAL WARRANTY DEED
US 79 Right of Way

THE STATE OF TEXAS

§
§
§

COUNTY OF WILLIAMSON

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

WHEREAS, Williamson County, Texas and the State of Texas, acting by and through the Texas Transportation Commission, are authorized to purchase and receive land and such other property rights deemed necessary or convenient for the construction, expansion, enlargement, extension, improvement, or operation of a portion of the proposed US Highway 79 improvements ("Project"); and,

WHEREAS, the acquisition of the hereinafter-described premises has been deemed necessary or convenient for the construction, expansion, enlargement, extension, improvement, or operation of the Project;

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

That MADELINE TEICHELMAN A/K/A MADELINE DECKER TEICHELMAN, hereinafter referred to as Grantor, whether one or more, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration to Grantor in hand paid by Williamson County, Texas, receipt and sufficiency of which is hereby acknowledged, and for which no lien is retained, either expressed or implied, have this day Sold and by these presents do Grant, Bargain, Sell and Convey unto the State of Texas, acting by and through the Texas Transportation Commission, all those certain tracts or parcels of land lying and being situated in the County of Williamson, State of Texas, along with any improvements thereon, being more particularly described as follows:

All of that certain 0.353 acre tract of land, more or less, being out of the J. J. Stubblefield Survey, Abstract No. 562, Williamson County, Texas; said tract being more particularly described by metes and bounds in Exhibit "A" attached hereto and incorporated herein (Parcel 49)

RESERVATIONS FROM AND EXCEPTIONS TO CONVEYANCE AND WARRANTY:

Easements and rights-of-way of record; all presently recorded restrictions, reservations, covenants, conditions, oil, gas or other mineral leases, mineral severances, and other instruments, other than liens and conveyances, that affect the property; rights of adjoining owners in any walls and fences situated on a common boundary; and any encroachments or overlapping of improvements.

Grantors reserve all of the oil, gas and other minerals in and under the land herein conveyed but waive all rights of ingress and egress to the surface thereof for the purpose of exploring, developing, mining or drilling or pumping the same; provided, however, that operations for exploration or recovery of any such minerals and water shall be permissible so long as all surface operations in connection therewith are located at a point outside the acquired parcel and upon the condition that none of such operations shall be conducted so near the surface of said land as to interfere with the intended use thereof or in any way interfere with, jeopardize, or endanger the facilities of the Texas Department of Transportation or create a hazard to the public users thereof; it being intended, however, that nothing in this reservation shall affect the title and the rights of Grantee to take and use without additional compensation any, stone, earth, gravel, caliche, iron ore, gravel or any other road building material upon, in and under said land for the construction and maintenance of US 79, but shall not be used or exported from the Property for any other purpose.

TO HAVE AND TO HOLD the premises herein described and herein conveyed together with all and singular the rights and appurtenances thereto in any wise belonging unto the State of Texas, acting by and through the Texas Transportation Commission, and its assigns forever; and Grantors do hereby bind ourselves, our heirs, executors, administrators, successors and assigns to Warrant and Forever Defend all and singular the said premises herein conveyed unto the State of Texas, acting by and through the Texas Transportation Commission and its assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof by, through, or under Grantors, but not otherwise.

This deed is being delivered in lieu of condemnation.

IN WITNESS WHEREOF, this instrument is executed on this the ____ day of _____, 2011.

GRANTOR:

Madeline Teichelman a/k/a
Madeline Decker Teichelman

ACKNOWLEDGMENT

STATE OF TEXAS

§
§
§

COUNTY OF _____

This instrument was acknowledged before me on this the ____ day of _____, 2011 by Madeline Decker Teichelman, in the capacity and for the purposes and consideration recited therein.

Notary Public, State of Texas

PREPARED IN THE OFFICE OF:

Sheets & Crossfield, P.C.
309 East Main
Round Rock, Texas

GRANTEE'S MAILING ADDRESS:

Texas Department of Transportation
Attn: Right of Way Administrator
7901 N. IH 35, Building A
Austin, Texas 78761

AFTER RECORDING RETURN TO:

Highland Six Twenty Residential Amendment to Development Agreement - Great Oaks Blvd.

Commissioners Court - Regular Session

Date: 03/29/2011
Submitted By: Charlie Crossfield, Road Bond
Submitted For: Charlie Crossfield
Department: Road Bond
Agenda Category: Regular Agenda Items

Information

Agenda Item

Consider authorizing County Judge to execute an Amendment to Development Agreement with Highland Six Twenty Residential, Ltd. regarding Great Oaks Blvd.

Background

Fiscal Impact

From/To	Acct No.	Description	Amount	Sort Seq
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Attachments

Link: Highland Six Twenty Residential Amendment to Development Agreement re: Great Oaks Blvd.

Form Routing/Status

Form Started By: Charlie Crossfield Started On: 03/24/2011 08:51 AM
Final Approval Date: 03/24/2011

AMENDMENT TO DEVELOPMENT AGREEMENT

This Amendment to Development Agreement (this “**Amendment**”) is made the Effective Date set forth below by and between WILLIAMSON COUNTY, a political subdivision of the State of Texas (“**County**”) and HIGHLAND SIX TWENTY RESIDENTIAL, LTD., a Texas limited partnership (“**Developer**”).

RECITALS:

A. County and Developer entered into that certain Development Agreement dated July 17, 2007, providing for the construction of certain improvements to FM 620 and the extension of Great Oaks Drive through the HIGHLAND HORIZON SUBDIVISION as more particularly described in the Development Agreement.

B. Among other provisions of the Development Agreement, County agreed to be responsible for the construction of the extension of Great Oaks Drive from the initial portion to be constructed by Developer to the right-of-way of O'Connor Boulevard.

C. County and Developer have agreed that Developer shall cause the extension of Great Oaks Boulevard to be completed, subject to County reimbursing the costs incurred by Developer in completing such extension, and County and Developer desire to amend and modify the terms and provisions of the Development Agreement with respect to such agreements for the construction of the extension of Great Oaks Drive as set forth in this Amendment.

NOW, THEREFORE, in consideration of the premises, the mutual covenants and agreements for the parties set forth herein, as other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, County and Developer agree as follows:

1. All capitalized terms used herein but not defined shall have the meanings assigned to them in the Development Agreement.

2. It is confirmed, acknowledged and agreed that in accordance with the provisions of the Development Agreement, Developer has dedicated all of the right-of-way necessary for the construction of the extension of the Great Oaks Project through the Property from FM 620 to the future right-of-way for O'Connor Boulevard; Developer has constructed the initial portion of the Great Oaks Project to the area just south of Meridan Drive; and County has accepted such dedication and such initial portion of the Great Oaks Project.

3. County confirms that Developer, at Developer's sole cost and expense, has caused plans for the Great Oaks Extension as more particularly described on Exhibit A attached hereto (the “**Great Oak Extension Plans**”) from the termination of the initial portion of the Great Oaks Project to be prepared by H.D. Roye, P.E. dba HD Engineering (the “**Project Engineer**”) and County has approved the Plans as complying with all applicable County requirements and is ready to issue all necessary permits and approvals for the construction of the extension of the

4. County and Developer confirm and acknowledge that the County has commenced the construction of O'Connor Boulevard, and in connection with the construction of O'Connor Boulevard, County and Developer have this date entered into a Possession and Use Agreement providing for the conveyance of certain right-of-way by Development and the deposit by the County of the sum of \$478,800.00 (the "**Escrow Funds**") with Gracy Title Company, Inc. (the "**Escrow Agent**") to be held and disbursed by the Escrow Agent for the construction of the extension of the Great Oaks Project as provided in this Amendment and in accordance with the provisions of an Escrow Agreement to be executed by County, Developer and the Escrow Agent in the form attached hereto as **Exhibit B** (the "**Escrow Agreement**").

5. As promptly as reasonably practicable after the date of the deposit of the Escrow Funds with the Escrow Agent, County shall issue the permits and approvals required by the County for the construction of the extension of the Great Oaks Project and upon receipt of such permits, Developer shall cause the Project Engineer to publicly advertise and obtain bids for the construction of the extension of the Great Oaks Project as reflected in the Plans in accordance with the bidding requirements of Sections 252.041-252.0435 of the Texas Local Government Code. Upon receipt of such bids, County and Developer shall jointly review such bids and determine which bid shall be accepted. Promptly after the County and Developer approval of a bid, Developer shall finalize a contract with the successful bidder for the construction of the extension of the Great Oaks Project as reflected in the Plans for a fixed price or on a cost-plus with guaranteed maximum basis in the amount of the approved bid (the "**Construction Contract**").

6. Among such other terms and conditions as Developer and the successful bidder may mutually agree, the Construction Contract shall (a) provide for progress payments not more frequently than once in any calendar month; (b) shall provide for a amount equal to ten percent (10%) of the amount of each progress payment (the "**Retainage**") to be retained from the general contractor for a period of not less than thirty (30) days after the date of final completion of the construction of the extension of the Great Oaks Project; (c) shall require the contractor to provide payment and performance bonds with respect to the construction and to provide the maintenance bond for the completed extension of the Great Oaks Project in accordance with the policies of County; and (d) shall require County's approvals of any change orders or modifications to the Plans.

7. Within ten (10) days after the approval of the bid for the construction of the extension of the Great Oaks Project, and as a condition for Developer's obligation to enter into the Construction Contract with the successful bidder, County shall deposit the amount, if any, by which the approved bid exceeds the amount of the initial Escrowed Funds. In the event the Great Oaks Project Costs for the extension of the Great Oaks Project as provided in this Amendment

exceed the amount deposited by County with the Escrow Agent as a result of change orders approved by the County as provided herein, County shall deposit the amount of such increase with the Escrow Agent to be held and disbursed under the Escrow Agreement as a condition for the effectiveness of such change order. Notwithstanding the foregoing, in no event shall the total amount that the County is required to pay or deposit with the Escrow Agent under this Agreement exceed an aggregate of \$555,000.00.

8. Promptly after the execution of the Construction Contract, County shall issue such permits to the contractor as may be required for the construction of the extension of the Great Oaks Project. County agrees that all permit fees, construction inspection fees or other fees related to the issuance of the permits or otherwise required for the construction and acceptance of the extension of the Great Oaks Project are hereby waived. County further agrees to promptly conduct in a timely and expeditious manner such inspections of the construction as may be required and to cooperate fully with Developer, the Project Engineer and the contractor to obtain completion of the extension of the Great Oaks Project in accordance with the Plans in an efficient and economic manner and to accept the extension of the Great Oaks Project within sixty (60) days after the date of substantial completion.

9. Promptly after the deposit of the Escrow Funds by the County, Developer shall make application with the Williamson County Conservation Foundation for inclusion of the extension of the Great Oaks Project participation in the Williamson County Regional Habitat Conservation Plan (the “RHCP”). Developer shall be responsible for the payment of any fees required for such participation, and in no event shall County be required to pay or contribute the cost of any mitigation that may be required under the RHCP or otherwise with respect to endangered species. If approval of the inclusion of the extension of the Great Oaks Project in the RHCP has not been obtained on terms and conditions acceptable to Developer within six (6) months after the date the application is submitted, Developer may, at its sole option, at any time thereafter and whether or not such participation has been approved, elect to proceed with the construction of the extension of the Great Oaks Project. It is agreed, however, that in the event Developer is prevented by administrative or legal proceedings or actions from commencing or completing the construction of the extension of the Great Oaks Project as the result of alleged violations of the Federal Endangered Species Act, or if Developer has not commenced construction of the extension of the Great Oaks Project within one (1) year after the date of the deposit of the Escrow Funds, the County may, at its sole option, assume the obligation to construct the extension of the Great Oaks Project by giving written notice of such election at any time after the expiration of said 1-year period and prior to the date Developer commences construction of the extension of the Great Oaks Project.

10. County and Developer further agree that Developer shall be granted permission to install and maintain landscaping, lighting, fencing and irrigation within the right-of-way of the extension of the Great Oaks Project by the execution of an amendment to the existing License Agreement dated March 12, 2009, between County and Developer in the form attached hereto as **Exhibit C**, which Amendment to License Agreement shall be executed concurrently with this

Amendment, but shall be effective only upon the completion of the extension of the Great Oaks Project.

11. All notices, demands and requests required hereunder shall be in writing and shall be deemed to have been properly delivered and received (i) as of the date of delivery to the addresses set forth below if personally delivered or delivered by facsimile machine, with confirmation of delivery (in the event a facsimile is sent after 5:00 p.m. local Round Rock, Texas time, it shall be deemed to have been received on the next day), or email (as indicated below); (ii) three (3) business days after deposit in a regularly maintained receptacle for the United States mail, certified mail, return receipt requested and postage prepaid; or (iii) one (1) business day after deposit with Federal Express or comparable overnight delivery system for overnight delivery with all costs prepaid. All notices, demands and requests hereunder shall be addressed as follows:

If to County:	With a copy to:
Williamson County Attn: County Judge 710 Main Street, Suite 210 Georgetown, Texas 78726 Facsimile: Email:	Charles Crossfield, Esq. Sheets & Crossfield, P.C. 309 East Main Street Round Rock, Texas 78644 Facsimile: (512) 255-8986 Email: ccrossfield@sheets-crossfield.com
If to Developer:	With a copy to:
Highland Six Twenty Residential, Ltd. 211 E. 7 th Street, Suite 709 Austin, Texas 78701 Attn: David Bodenman Facsimile: (512) 477-2472 Email: davidcb@highlandresources.net	R. Alan Haywood Graves Dougherty Hearon & Moody 401 Congress Avenue, Suite 2200 Austin, Texas 78701 Facsimile: (512) 480-5831 Email: ahaywood@gdhm.com

Any party may designate a change of address by notice to the other parties, given at least fifteen (15) days before such change of address is to become effective. The foregoing notwithstanding, any notice hereunder shall be effective when actually received by the party to whom such notice is being sent.

12. Except as expressly amended and modified by this Amendment, the terms and provisions of the Development Agreement shall continue in full force and effect, and the same are hereby in all respects confirmed, ratified and approved.

13. Miscellaneous.

(a) THIS AMENDMENT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, AND ALL OBLIGATIONS OF THE PARTIES CREATED BY THE CONTRACT ARE PERFORMABLE IN WILLIAMSON COUNTY, TEXAS.

(b) County represents and warrants to Developer that County is duly authorized and empowered to enter into this Amendment. Developer represents and warrants to County that it has the requisite authority to enter into this Amendment. Each signatory to this Amendment represents and warrants that he or she has the authority to execute this Amendment on behalf of the party for whom such person is signing.

(c) In case anyone or more of the provisions contained in this Amendment shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Amendment, and this Amendment shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in this Amendment.

(d) This Amendment may be executed in a number of identical counterparts which, taken together, shall constitute collectively one (1) agreement, but in making proof of this Amendment, it shall not be necessary to produce• or account for more than one such counterpart.

(h) Schedule of Exhibits.

Exhibit A: Description of Plans

Exhibit B: Escrow Agreement

Exhibit C: Amendment to License Agreement

Executed by County and Developer on the dates set forth below their respective signatures below to be effective the date the last party signs (the “**Effective Date**”).

COUNTY:

WILLIAMSON COUNTY

By: _____
Dan A. Gattis, County Judge

Dated: March _____, 2011

DEVELOPER:

HIGHLAND SIX TWENTY RESIDENTIAL, LTD.

By: HRI-GP No. 1, L.L.C., a Texas limited liability
company, General Partner

By: _____
David Bodenman, President

Dated: March _____, 2011

Highland Six Twenty Residential Ltd. Escrow Agreement - Great Oaks Blvd. Commissioners Court - Regular Session

Date: 03/29/2011
Submitted By: Charlie Crossfield, Road Bond
Submitted For: Charlie Crossfield
Department: Road Bond
Agenda Category: Regular Agenda Items

Information

Agenda Item

Consider authorizing County Judge to execute an Escrow Agreement with Highland Six Twenty Residential Ltd. regarding Great Oaks Blvd.

Background

Fiscal Impact

From/To	Acct No.	Description	Amount	Sort Seq
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Attachments

Link: [Highland Six Twenty Residential Ltd. Escrow Agreement](#)

Form Routing/Status

Form Started By: Charlie Crossfield Started On: 03/24/2011 09:29 AM
Final Approval Date: 03/24/2011

ESCROW AGREEMENT

This Escrow Agreement is made to be effective the date set forth below, by and among HIGHLAND SIX TWENTY RESIDENTIAL, LTD., a Texas limited partnership ("**Highland**"), WILLIAMSON COUNTY, a political subdivision of the State of Texas ("**County**"), and GRACY TITLE COMPANY, a Texas corporation ("**Escrow Agent**").

RECITALS:

A. Pursuant to a Possession and Use Agreement effective March ____, 2011, Highland granted to the County the right of entry, possession and construction with respect to a _____ acre tract of land for the construction of O'Connor Boulevard, County agreed to deposit the sum of \$478,800.00 (the "**Escrowed Funds**") in escrow to be used for the construction of the extension of Great Oaks Boulevard.

B. County and Highland have executed an Amendment to Development Agreement Amendment effective March ____, 2011 (the "**Development Agreement Amendment**") providing for Highland to cause the extension of the Great Oaks Project as more particularly described in the Development Agreement Amendment and to receive disbursements from the Escrowed Funds to pay the costs to construct such extension of the Great Oaks Project.

C. Highland and County desire to engage Escrow Agent to act as the escrow agent pursuant to this Agreement, and Escrow Agent has agreed to serve in such capacity, to hold and distribute the Escrowed Funds in accordance with the terms hereof.

NOW, THEREFORE, in consideration of the premises, the mutual covenants and agreements of the parties set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Highland, County and Escrow Agent hereby agree as follows:

1. Except as otherwise expressly defined in this Agreement, all capitalized terms herein shall have the meanings as ascribed and defined in the Development Agreement Amendment.

2. Concurrently with the execution of this Agreement, County has delivered to Escrow Agent the Escrowed Funds. It is understood and acknowledged that additional funds may be deposited by County with the Escrow Agent pursuant to the terms of the Development Agreement Amendment, and in such event, such funds shall be held and disbursed as part of the Escrowed Funds hereunder. Escrow Agent shall immediately deposit the Escrowed Funds in a separate interest bearing account (the "**Account**"). All interest accruing on the Account shall be for the

benefit of County, and all interest accruing on the Account shall be held as a part of the Escrowed Funds.

3. County and Highland hereby designate Escrow Agent to act as the escrow agent for all purposes set forth herein, and Escrow Agent hereby agrees to such designation and assumes and accepts the obligations of the escrow agent as set forth herein. Escrow Agent agrees to hold the Escrowed Funds and to disburse the Escrowed Funds only in strict accordance with the terms of this Agreement.

4. The Escrowed Funds shall be held and disbursed only to pay the actual, out-of-pocket Costs incurred in connection with the construction of the extension of the Great Oaks Project in accordance with the terms of the Development Agreement Amendment.

5. Escrow Agent shall disburse from the Escrowed Funds to reimburse the Great Oaks Project Costs incurred from time to time in accordance with the Development Agreement Amendment. Such funds shall be disbursed by Escrow Agent within fifteen (15) days after receipt by Escrow Agent of a written request from Highland (the "**Withdrawal Request**") certifying that the following conditions (the "**Withdrawal Conditions**") have been satisfied:

a. Highland has furnished Escrow Agent copies of bills and statements for the Great Oaks Project Costs then incurred in connection with the completion of the extension of the Great Oaks Project, the total of which bills and statements, less an amount equal to ten percent (10%) of such bills and statements (the "**Retainage**"), shall be an amount equal to the amount requested in the Withdrawal Request; and

b. For each Withdrawal Request after the first Withdrawal Request, Highland has furnished Escrow Agent copies of "bills paid" affidavits and release of liens from the general contractor, and from all subcontractors supplying labor or materials in excess of an aggregate of \$10,000.00 under contracts with the general contractor, confirming the payment by Highland of the amount of the Great Oaks Project Costs, less the Retainage, through the date of the immediately preceding Withdrawal Request, and a release of liens from the Project Engineer confirming payment of all fees owed him for the period covered by the Withdrawal Request; and

c. A written statement from the Project Engineer certifying that all work to date for which payment is requested has been substantially completed to the satisfaction of the Project Engineer materially in accordance with the Plans.

d. A written statement that Highland has provided a copy of the Withdrawal Request to County concurrently with the delivery of the Withdrawal Request to the Escrow Agent.

Escrow Agent shall disburse the Escrowed Funds by preparing, executing and delivering a check against the Account of an amount equal to the portion of the Great Oaks Project Costs designated in the Withdrawal Request

6. Notwithstanding the foregoing, Escrow Agent shall not disburse more than ninety percent (90%) of the Account unless and until the following conditions are satisfied:

a. All Withdrawal Conditions have been fulfilled as set forth in Paragraph 5 above; and

b. Highland delivers to the Escrow Agent a certificate executed by the Project Engineer certifying that:

i) the extension of the Great Oaks Project has been substantially completed materially in accordance with the Plans for at least thirty-one (31) days prior to the date of the certificate; and

ii) County has inspected the extension of the Great Oaks Project and has confirmed it has been substantially completed materially in accordance with the Plans; and

c. Highland delivers to the Escrow Agent "all bills paid" affidavits and release of liens from the general contractor, and all subcontractors supplying labor or materials in excess of an aggregate of \$10,000.00 under contracts with a general contractor, confirming the payment of the total amount of the Great Oaks Project Costs, less the Retainage, and a release of lien from the Project Engineer confirming payment of all fees owed, less the Retainage.

In the event any Escrowed Funds remain after the disbursement of all of the Great Oaks Project Costs, Escrow Agent shall deliver to County the remaining Escrowed Funds.

7. Escrow Agent shall retain each original Withdrawal Request and all supporting documentation, which shall include all original "bills paid" affidavits and lien releases, for safekeeping until the final disbursement of the Escrowed Funds, at which time Escrow Agent shall deliver the originals of such documents to Highland, with a copy to County. Prior to the final disbursement of the Escrowed Funds, each of Highland and County shall have the right to inspect and take away copies of all such supporting documentation.

8. It is agreed that as provided in the Development Agreement Amendment, in the event Highland is prevented by administrative or legal proceedings or actions from commencing or

completing the construction of the extension of the Great Oaks Project as the result of alleged violations of the Federal Endangered Species Act, or if Highland has not commenced construction of the extension of the Great Oaks Project within one (1) year after the date of this Agreement, County may, at its sole option, assume the obligation to construct the extension of the Great Oaks Project by giving Highland and Escrow Agent written notice of such election at any time after the expiration of said 1-year period and prior to the date Highland commences construction of the extension of the Great Oaks Project. If County so gives such notice of its election to construct the extension of the Great Oaks Project, County may withdraw funds from time to time from the Escrowed Funds in the Account for the Great Oaks Project Costs upon satisfaction of the Withdrawal Conditions and the other provisions of Paragraphs 5 and 6 above.

9. The Escrow Agent may resign and be discharged of its duties hereunder by giving thirty (30) days' written notice to Highland and County. Such resignation shall take effect on (1) the earlier to occur of: (i) thirty (30) days after the giving of such notice, or (ii) upon receipt by the Escrow Agent of the designation of a successor escrow agent signed by Highland and County, and an instrument of acceptance executed by a successor escrow agent, and (2) upon delivery of the Escrowed Funds by the Escrow Agent to such successor escrow agent. If the Escrow Agent has resigned and has not received instructions from Highland and County within thirty (30) days from the giving of written notice of such resignation and to the appointment of a successor escrow agent, the Escrow Agent may thereupon deposit the balance of the Escrowed Funds into the registry of a court of competent jurisdiction in Williamson County, Texas, and thereupon the Escrow Agent's duties and liabilities under this Agreement shall be fully and completely discharged. The Escrow Agent may be removed at any time, with or without cause, by written agreement of Highland and County, which agreement shall designate a successor escrow agent. Immediately upon its receipt of such agreement and an instrument of acceptance executed by the designated successor escrow agent, the Escrow Agent shall deliver the Escrowed Funds to such successor escrow agent, upon which the Escrow Agent shall be fully and completely discharged.

10. The duties of the Escrow Agent hereunder shall be purely ministerial in nature and shall be limited to observance of the express provisions of this Agreement. The Escrow Agent shall not be required to exercise any discretion hereunder. The Escrow Agent shall be obligated only for the performance of such duties as are specifically set forth in this Escrow Agreement. The Escrow Agent may act in reliance upon any instruments or signatures believed by it to be genuine and it may assume that any person purporting to give any notice, execute any certificates or make any statement in connection with the provisions hereof has been duly authorized to do so. The Escrow Agent shall not be charged with any responsibility to inquire into the accuracy of facts set forth in any authorizations or statements received hereunder. Escrow Agent shall not be liable for the loss or impairment of the Escrowed Funds due to failure or insolvency of the financial institution which is the depository of the Escrowed Funds.

11. Escrow Agent shall not be responsible to see to the correct application of any amounts released from the Escrowed Funds, nor shall Escrow Agent be liable for any action taken or omitted hereunder pursuant to the terms of this Agreement and without breach of this Agreement, willful misconduct or malfeasance. The Escrow Agent shall exercise the degree of care and skill as a prudent man would exercise or use under the circumstances in the conduct of his own affairs, but the Escrow Agent shall incur no liability whatsoever, except for willful misconduct or gross negligence, as long as it has acted in good faith. No provision of this Escrow Agreement shall require the Escrow Agent to expend or risk its own funds or otherwise incur any financial liability in the performance of its obligations hereunder. In the event there should be any dispute between any of the parties with respect to the Escrowed Funds, the Escrow Agent upon learning of the dispute, shall refuse to comply with any such claims or demands so long as such disagreement continues, and in so refusing, shall make no delivery or other disposition of the Escrowed Funds being held by it under the Agreement. The Escrow Agent shall not become liable in any way for such refusal and shall be entitled to continue to refrain from acting until the rights of the adverse claimants are finally settled by adjudication in a court of competent jurisdiction, or until all differences are resolved by written agreement signed by all parties to the dispute, and the Escrow Agent has been notified of such final adjudication or written agreement. Further, the Escrow Agent shall have the right, at any time after dispute between the other parties hereto has arisen, to deliver the Escrowed Funds into the registry of a court of competent jurisdiction in Williamson County, Texas.

12. This Agreement shall terminate upon the date that all of the Escrowed Funds shall be distributed pursuant to the terms and provisions of this Agreement.

13. This Agreement shall be governed in accordance with the laws of the State of Texas, and shall be performable and enforceable in Williamson County, Texas.

14. Escrow Agent is not acting as agent for County or Highland hereunder, but Escrow Agent is a fiduciary of County and Highland. Nothing contained herein shall be deemed to create any agency or fiduciary relationship between Highland and County.

15. County and Highland shall share equally in the payment of all reasonable fees, charges and expenses of Escrow Agent and any substitute in its capacity as escrow agent pursuant to this Agreement, including but not limited to attorney's fees, expenses and other out-of-pocket costs as may be incurred by Escrow Agent and any substitute in connection with the administration of this Agreement. Except as to any expenses and costs that may be incurred by Escrow Agent in any litigation involving this Escrow Agreement, Escrow Agent agrees that it shall not receive a fee for its services under this Escrow Agreement.

16. Highland shall each indemnify and hold the Escrow Agent harmless from and against any and all losses, costs, damages or expenses (including reasonable attorneys' fees) it may sustain by reason of its service as Escrow Agent hereunder, except such losses, costs, damages or expenses incurred by reason of such acts or omissions for which the Escrow Agent is liable or responsible as provided above. Any payment to indemnify the Escrow Agent hereunder shall first be made out of the Escrowed Funds, and if the Escrowed Funds are insufficient to pay such indemnification in full, Highland shall pay the amount of the indemnification not covered by the Escrowed Funds.

17. All notices, requests, approvals, payments, reimbursements, deliveries or other communications required hereunder shall be in writing and shall be deemed to have been properly given, delivered and received (a) as of the date of delivery if personally delivered, or (b) as of the first (1st) business day after the date of deposit in the mail system if sent by United States certified mail, return receipt requested, postage prepaid, or (c) as of the date of receipt of transmission if sent by telecopy or facsimile, or (d) as of the first (1st) business day after the date of deposit with a nationally recognized overnight courier if sent by overnight delivery. For purposes of notices, the addresses of the parties are as follows:

To Highland: Highland Six Twenty Residential, Ltd.
c/o Highland Resources, Inc.
211 East 7th Street, Suite 709
Austin, Texas 78701
Attn: David Bodenman
Fax: 512/477-2472

With required copies to: Charles W. Wolcott
4700 First City Tower
1001 Fannin
Houston, Texas 77002-6792
Fax: 713/655-1344

And to: R. Alan Haywood
Graves, Dougherty, Hearon & Moody
515 Congress Avenue, Suite 2300
Austin, Texas 78701
Fax: 512/478-1976

To County: Williamson County
710 Main Street, Suite 210

Georgetown, Texas 78726
Attn: County Judge
Fax: (512) ____-____

With required copy to: Charles Crossfield
Sheets & Crossfield, P.C.
309 East Main Street
Round Rock, Texas 78644
Fax: (512) 255-8986

To Escrow Agent: Susie McCreary
Gracy Title Company
220 West Seventh Street
Austin, Texas 78701
Fax: 512/478-6038

or to such other addressee or address which any party may designate by giving the other party at least ten (10) days prior notice as aforesaid.

18. Time is of the essence of each provision of this Agreement. If the expiration of any time period set forth herein falls on a Saturday, Sunday or legal holiday, such time period shall be deemed to expire on the next day which is not a Saturday, Sunday or legal holiday. The last day of any period of time described herein shall be deemed to end at 5:00 p.m., local Austin, Texas time.

19. Notwithstanding anything contained in this Agreement to the contrary, in the event any party hereto brings suit for the breach of any term, covenant or condition of this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party all damages, costs and expenses incurred by the prevailing party, including reasonable attorneys' fees, in connection therewith, or otherwise resulting from such default.

20. If any clause or provision of this Agreement is found to be illegal, invalid or unenforceable under present or future laws, then and in that event, it is the intention of the parties hereto that the remainder of this Agreement shall not be affected thereby, and it is also the intention of the parties to this Agreement that in lieu of each clause or provision of this Agreement that is illegal, invalid or unenforceable, there be added as a part of this Agreement a clause or provision as similar in terms to such illegal, invalid or unenforceable clause or provision as may be possible and be legal, valid and enforceable.

21. This Agreement shall inure to the benefit of, and shall be binding upon, Highland and County, and their respective successors and assigns; provided, the Escrow Agent may not assign any rights, duties or obligations hereunder without the prior written consent of Highland and County.

22. This Agreement may not be amended or modified except by a written agreement executed by all parties to this Agreement, and this Agreement may not be terminated except by a written agreement executed by Highland and County.

23. It is expressly understood and agreed that the terms and provisions of this Agreement shall in no way be construed to alter, amend or affect in any manner the rights, duties and obligations of County and Highland under the Development Agreement Amendment. The exercise of any right under the terms of this Agreement shall not be deemed to be a waiver or release of any right or claim under the Development Agreement Amendment; it being intended that this Agreement shall be in addition to, and cumulative of, the rights, duties and obligations of Highland and County under the Development Agreement Amendment or any other agreement between them.

EXECUTED by the parties hereto on the dates set forth below their respective signatures to be effective the date the last party so signs this Agreement.

HIGHLAND:

HIGHLAND SIX TWENTY RESIDENTIAL, LTD.

By: HRI-GP No. 1, L.L.C., a Texas limited liability
company, General Partner

By: _____
David Bodenman, President

Dated: March ____, 2011

COUNTY:

WILLIAMSON COUNTY

By: _____
Dan A. Gattis, County Judge

Dated: March ____, 2011

ESCROW AGENT:

GRACY TITLE COMPANY

By: _____
Susie McCreary, Escrow Officer

Dated: March ____, 2011

Highland Six Twenty Residential Ltd. Amendment to License Agreement - Great Oaks Blvd.

Commissioners Court - Regular Session

Date: 03/29/2011
Submitted By: Charlie Crossfield, Road Bond
Submitted For: Charlie Crossfield
Department: Road Bond
Agenda Category: Regular Agenda Items

Information

Agenda Item

Consider authorizing County Judge to execute an Amendment to License Agreement regarding Great Oaks Blvd.

Background

Fiscal Impact

From/To	Acct No.	Description	Amount	Sort Seq
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Attachments

Link: Highland Six Twenty Residential Ltd. re: Great Oaks Blvd.

Form Routing/Status

Form Started By: Charlie Crossfield Started On: 03/24/2011 09:33 AM
Final Approval Date: 03/24/2011

AMENDMENT TO LICENSE AGREEMENT

This Amendment to License Agreement (this “**Amendment**”) is made the Effective Date set forth below by and between WILLIAMSON COUNTY, TEXAS, a political subdivision of the State of Texas (“**County**”) and HIGHLAND SIX TWENTY RESIDENTIAL, LTD., A Texas limited partnership (“**Developer**”).

RECITALS:

A. County and Developer entered into that certain License Agreement dated March 12, 2009, granting Developer permission to install and maintain landscaping, lighting, fencing and irrigation of portions of the right-of-way of Great Oaks Drive as more particularly described in the License Agreement.

B. County and Developer have agreed that Developer shall cause an extension of Great Oaks Drive to be completed, and County and Developer desire to amend and modify the terms and provisions of the License Agreement to allow the installation and/or maintenance of landscaping, lighting, fencing and irrigation of portions of the right-of-way of such extension of Great Oaks Drive as set forth in this Amendment.

NOW, THEREFORE, in consideration of the premises, the mutual covenants and agreements for the parties set forth herein, as other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, County and Developer agree as follows:

1. All capitalized terms used herein but not defined shall have the meanings assigned to them in the License Agreement.

2. The License Agreement is hereby amended to add the portion of the right-of-way of Great Oaks Drive more particularly described on **Exhibit A** attached hereto as part of the Licensed Property. All referenced to the “Licensed Property” in the License Agreement shall mean and include both the portion of the right-of-way of Great Oaks Drive described in the Exhibits attached to the License Agreement and the portion of the right-of-way of Great Oaks Drive described on Exhibit A attached to this Amendment.

3. The License Agreement is hereby amended to add as part of the Licensed Property the landscaping, lighting, fencing and irrigation more particularly described on the plans attached hereto as **Exhibit B**. All referenced to the “Licensee’s Improvements” in the License Agreement shall mean and include both those improvements described in the Exhibits attached to the License Agreement and the those improvements reflected in the plans attached as Exhibit B attached to this Amendment.

4. Except as amended and modified by this Amendment, all of the terms and provisions of the License Agreement shall continue in full force and effect, and the same are hereby confirmed, ratified and approved.

5. This Amendment may be executed in a number of identical counterparts which, taken together, shall constitute collectively one (1) agreement, but in making proof of this Amendment, it shall not be necessary to produce or account for more than one such counterpart.

Executed by County and Developer on the dates set forth below their respective signatures below to be effective the date the last party signs.

COUNTY:

WILLIAMSON COUNTY

By: _____
Dan A. Gattis, County Judge

Dated: March ____, 2011

DEVELOPER:

HIGHLAND SIX TWENTY RESIDENTIAL, LTD.

By: HRI-GP No. 1, L.L.C., a Texas limited liability
company, General Partner

By: _____
David Bodenman, President

Dated: March ____, 2011

Highland Six Twenty Residential Ltd. Possession and Use Agreement - O'Connor Blvd.**Commissioners Court - Regular Session**

Date: 03/29/2011
Submitted By: Charlie Crossfield, Road Bond
Submitted For: Charlie Crossfield
Department: Road Bond
Agenda Category: Regular Agenda Items

Information**Agenda Item**

Consider authorizing County Judge to execute a Possession and Use Agreement with Highland Six Twenty Residential Ltd. and Highland 620 Land Investment, Ltd. regarding right-of-way on O'Connor Blvd.

Background

Fiscal Impact

From/To	Acct No.	Description	Amount	Sort Seq
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Attachments

Link: Highland Six Twenty Possession and Use Agreement O'Connor Blvd

Form Routing/Status

Form Started By: Charlie Crossfield Started On: 03/24/2011 09:38 AM
Final Approval Date: 03/24/2011

POSSESSION AND USE AGREEMENT

STATE OF TEXAS

§

§

COUNTY OF WILLIAMSON

§

WHEREAS, HIGHLAND SIX TWENTY RESIDENTIAL LTD. and HIGHLAND 620 LAND INVESTMENT, LTD., hereinafter referred to as "GRANTOR", whether one or more, is the owner of that certain piece, parcel or tract of land in Williamson County, Texas, being more particularly described by metes and bounds in Exhibit "A", which is attached hereto and made a part hereof; and

WHEREAS, WILLIAMSON COUNTY, TEXAS, "GRANTEE", plans to acquire a fee simple interest in the tract(s) of land described in Exhibit "A", whether through agreement and conveyance or through eminent domain proceedings; and

WHEREAS, the GRANTEE must have possession of said-described tract of land for the purposes described below,

Construction of proposed O'Connor Blvd..

NOW THEREFORE, BE IT KNOWN:

That in consideration of GRANTEE agreeing to extend the time for additional negotiations to acquire the Property required for the Project, GRANTOR has GRANTED and CONVEYED and by these presents does GRANT and CONVEY unto the GRANTEE, its employees, agents and assigns an irrevocable right-of-entry, possession, and construction easement, with the right of exclusive possession over, upon, and across those tracts of land described in Exhibit "A".

GRANTOR warrants and represents by, through, and under the GRANTOR, but not otherwise, that the title to the Property is free and clear of all liens and encumbrances on the title to the Property, and that any necessary and proper releases will be executed for the Property prior to any funds being disbursed under this agreement. The GRANTOR further agrees to indemnify the GRANTEE from all unreleased or undisclosed liens, claims or encumbrances affecting the Property.

It is expressly agreed, acknowledged, and understood that the easements, rights, and privileges herein granted are assignable and shall be used by the GRANTEE, its employees, agents, and assigns, for the purposes of entering upon the above-described property, before the closing of the contemplated real estate transaction, and proceeding with surveying, site review and analysis, utility relocation, actual construction on the Project, and all manner of preparation and work attendant thereto. Utility relocation, if any, shall include, but not be limited to, the relocation of water and wastewater lines, electrical lines, cable television lines, telephone lines, gas lines, and their attendant facilities from the existing roadway right-of-way on the property described in Exhibit "A".

The GRANTEE, its employees, agents, and assigns shall have the full right to control and use the above-described tracts, including the right to erect and maintain fencing and traffic and pedestrian control and devices and signs, the right to clear trees and vegetation, and the right to excavate, trench, fill, and grade the real property itself.

The parties further agree as follows:

1. As additional consideration for the conveyance of the rights granted herein, GRANTEE additionally agrees that within 30 days after the issuance of a letter of substantial completion to the proposed O'Connor Blvd. roadway contractor in connection with that construction project, GRANTEE shall deposit the sum of FOUR HUNDRED FORTY FOUR THOUSAND TWO HUNDRED FIFTY DOLLARS (\$444,250.00) in an escrow account to be used according to terms and conditions of that certain Amendment to Developer Agreement between GRANTOR and GRANTEE dated _____ and providing for the construction of certain improvements, including the extension of Great Oaks Drive through the Highland Horizon Subdivision. Upon deposit of this amount by GRANTEE, GRANTOR shall execute a Donation Special Warranty Deed to GRANTEE for the Property subject to this Agreement.

2. If any fencing on the Property is required to be damaged or removed in order to carry out the activities allowed by this Agreement, then GRANTEE agrees to either (1) replace or relocate any affected fencing to the boundary of the proposed right of way with fence of like or better type; or (2) reimburse GRANTOR for the market value cost of relocating the fencing to the proposed right of way boundary within 30 days after submission to GRANTEE of invoices for such relocation work.

2. The easement, rights, and privileges herein granted shall automatically terminate upon the contemplated closing of the above-described real estate transaction and execution of the Donation Special Warranty Deed as described herein, or upon deposit of funds into the registry of the court in an eminent domain proceeding to acquire the Property.

GRANTOR covenants that it will not convey any other easement or conflicting rights within the area covered by this grant. This grant shall be binding upon legal representatives, successors, and assigns of GRANTOR for the term of this grant.

TO HAVE AND TO HOLD the possession of the above-described tracts of land for the purposes and subject to the limitations described above, and GRANTOR warrants that he knows of no persons or business entity owns a present possessory interest in the fee title to the above-described premises other than GRANTOR, and that there are no parties in possession of any portion of the referenced real property as lessees.

Executed this the ____ day of _____, 2011.

GRANTOR:

HIGHLAND SIX TWENTY RESIDENTIAL, LTD.,
a Texas limited partnership

By: HRI-GP No. 1, LLC
Its: General Partner

By: _____
David C. Bodenman
President

HIGHLAND 620 LAND INVESTMENT, LTD.,
a Texas limited partnership

By: HRI-GP No. 2, LLC
Its: General Partner

By: _____
David C. Bodenman
President

GRANTEE:
WILLIAMSON COUNTY, TEXAS

County Judge Dan A. Gattis
Williamson County, Texas

ACKNOWLEDGMENT

STATE OF TEXAS
COUNTY OF WILLIAMSON

This instrument was acknowledged before me on this the ____ day of _____, 2011
by David C. Bodenman, in the capacity and for the purposes and consideration recited herein.

Notary Public, State of Texas
Printed Name: _____
My Commission Expires: _____

STATE OF TEXAS
COUNTY OF WILLIAMSON

This instrument was acknowledged before me on this the ____ day of _____,
2011 by Dan A. Gattis, Williamson County Judge, in the capacity and for the purposes and
consideration recited herein.

Notary Public, State of Texas
Printed Name: _____
My Commission Expires: _____

After recording return to:

Sheets & Crossfield, P.C.
309 East Main St.
Round Rock, Texas 78664

Land exchange agreement between Taylor ISD and Williamson County Commissioners Court - Regular Session

Date: 03/29/2011
Submitted By: Linda Wipff, Commissioner Pct. #4
Submitted For: Ron Morrison
Department: Commissioner Pct. #4
Agenda Category: Regular Agenda Items

Information

Agenda Item

Discuss and consider a land exchange agreement between Taylor ISD and Williamson County.

Background

Agreement to facilitate potential land exchange between Taylor ISD and Williamson County. The land exchange containing +/- 10.816 acres between Taylor ISD and Williamson County Park Foundation located north of Carlos G. Parker Boulevard in Taylor, Williamson County, Texas. Costs will be divided between Williamson County and Taylor ISD for the survey and appraisal.

Fiscal Impact

From/To	Acct No.	Description	Amount	Sort Seq
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Attachments

Link: [Survey & Appraisal invoices](#)

Form Routing/Status

Form Started By: Linda Wipff Started On: 03/24/2011 09:30 AM
 Final Approval Date: 03/24/2011

KOKEL-OBERRENDER-WOOD APPRAISAL, LTD.

Larry D. Kokel, ARA, MAI
David W. Oberrender, MAI
Wendell C. Wood, MAI
Michael D. Mays
Travis Thorne

Real Estate Appraisers & Consultants
404 West 9th Street, Suite 201
Georgetown, Texas 78626

Georgetown (512) 863-6428
Austin (512) 930-3499

FAX (512) 930-5348
e-mail: realestate@k-o-wappraisal.com

INVOICE

- CLIENT FILE COPY -

August 26, 2010

BILL TO: Taylor Independent School District
602 West 12th Street
Taylor, Texas 76574

Attn: Mr. David Krueger
Office of the Assistant Superintendent
Support Operations

RE: Analysis related to a pending land exchange containing 10.816 acres between Taylor I.S.D. and Williamson County Park Foundation located north of Carlos G. Parker Boulevard in Taylor, Williamson County, Texas.

FEE: \$1,500.00

CHECK

PAYABLE TO: Kokel-Oberrender-Wood Appraisal, Ltd.
404 W. 9th Street, Suite 201
Georgetown, Texas 78626

INVOICE NO.: 10-044



1978 S. Austin Ave.
Georgetown, TX 78626
Tel: (512) 930-9412 Fax: (512) 930-9416

Invoice Date	Invoice Num
Oct 11, 2010	994545
Billing From	Billing To
Aug 26, 2010	Oct 11, 2010

Taylor Independent School District
David Krueger, Asst. Superintendent/Operations
602 W. 12th
Taylor TX 76574

Project#: 21806:
Project Name: Taylor ISD: amended plat

INVOICE

For professional engineering services associated with the amended plat of Lots 1 & 2, Block 1 of the North Loop School Addition Subdivision and surveying approximately 10 acres out of 35 acres in the City of Taylor, work to date;

Work on plat preparation for submittal to Taylor through notice to cease work on 10/06/2010.

Description	Hours	Rate	Cost	Tax Amt	Amount
Services:					
2 Man Survey Crew	1.44	\$120.00	\$172.80	\$0.00	\$172.80
CADD Technician/Draftsman	6.50	\$90.00	\$585.00	\$0.00	\$585.00
Registered Surveyor	0.02	\$120.00	\$2.20	\$0.00	\$2.20
Total Services:			\$760.00	\$0.00	\$760.00

Total Amount Due This Invoice: \$760.00

This invoice is due upon receipt

Please Pay
DK



1978 S. Austin Ave.
Georgetown, TX 78626
Tel: (512) 930-9412 Fax: (512) 930-9416

Page 1 of 1

Invoice Date

Sep 20, 2010

Invoice Num

994511

Billing From

Jul 26, 2010

Billing To

Aug 25, 2010

Taylor Independent School District
David Krueger, Asst. Superintendent/Operations
602 W. 12th
Taylor TX 76574

Project#: 21806:
Project Name: Taylor ISD: amended plat

INVOICE

For professional engineering services associated with the amended plat of Lots 1 & 2, Block 1 of the North Loop School Addition Subdivision and surveying approximately 10 acres out of 35 acres in the City of Taylor, work to date;
Re: Boundary survey of North Loop school addition and 10 acre tract, survey plat of both tracts, amended plat preparation

Description	Hours	Rate	Cost	Tax Amt	Amount
Services:					
2 Man Survey Crew	10.75	\$120.00	\$1,290.00	\$0.00	\$1,290.00
CADD Technician/Draftsman	8.50	\$90.00	\$765.00	\$0.00	\$765.00
Clerical	0.50	\$65.00	\$32.50	\$0.00	\$32.50
Engineer (P.E.)	0.50	\$145.00	\$72.50	\$0.00	\$72.50
Registered Surveyor Taxable	9.00	\$120.00	\$1,080.00	\$0.00	\$1,080.00
Total Services:			\$3,240.00	\$0.00	\$3,240.00

Total Amount Due This Invoice: \$3,240.00

This invoice is due upon receipt

Review and consider approving resolution authorizing resale of property held in trust by the County of Williamson, Texas
Commissioners Court - Regular Session

Date: 03/29/2011
Submitted By: Kathryn Morehouse, County Tax Assessor Collector
Submitted For: Deborah Hunt
Department: County Tax Assessor Collector
Agenda Category: Regular Agenda Items

Information

Agenda Item

Review and consider authorizing resale of property held in trust by the County of Williamson, Texas

Background

A property (see attachment) was offered for sale by the Constable of Williamson County at public auction pursuant to judgment of foreclosure for delinquent taxes by the District Court of Williamson County; and whereas, the following described property did not receive a sufficient bid as set by law and was struck off to The County of Williamson, Texas, Trustee, for the use and benefit of itself and the other taxing units which levied taxes on the property, pursuant to Section 34.01 (j) Texas Tax Code; and Whereas, the resale of the interest of The County of Williamson, Texas in the property is authorized by Section 34.05 (i), Texas Tax Code, for any amount or other consideration which the Commissioner's's Court of the County of Williamson, Texas believes is in the best interest of the County; wherefore, be it resolved the The County of Williamson, Texas shall convey all of its interest in the property described below to The City of Taylor, Texas, a municipal corporation, for the sum of One Dollar and other good and valuable consideration recited herein.

Fiscal Impact

From/To	Acct No.	Description	Amount	Sort Seq
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Attachments

Link: [Resale of Property](#)

Form Routing/Status

Form Started By: Kathryn Morehouse
 Started On: 03/24/2011 07:21 AM
 Final Approval Date: 03/24/2011

STATE OF TEXAS

COUNTY OF WILLIAMSON

**RESOLUTION AUTHORIZING RESALE OF PROPERTY HELD IN TRUST BY
THE COUNTY OF WILLIAMSON, TEXAS**

WHEREAS, the following described property was offered for sale by the Constable of Williamson County, Texas at a public auction pursuant to judgment of foreclosure for delinquent taxes by the District Court of Williamson County; and

WHEREAS, the following described property did not receive a sufficient bid as set by law and was struck off to The County of Williamson, Texas, Trustee, for the use and benefit of itself and the other taxing units which levied taxes on the property, pursuant to Section 34.01 (j) Texas Tax Code; and

WHEREAS, the resale of the interest of The County of Williamson, Texas in the property is authorized by Section 34.05(i), Texas Tax Code, for any amount or other consideration which the Commissioners' Court of The County of Williamson, Texas believes is in the best interest of the County;

WHEREFORE, BE IT RESOLVED that The County of Williamson, Texas shall convey all of its interest in the property described below to The City of Taylor, Texas, a municipal corporation, for the sum of One Dollar and other good and valuable consideration recited herein.

Property to be conveyed:

Tax Account #R375602, Tract 22, Block 319 out of Abstract 131 of the P. Coursey Survey, City of Taylor, Williamson County, Texas being that property more particularly described in Volume 20, Page 398 of the Deed Records and Document #2010070257 of the Official Public Records, Williamson County, Texas (approximate situs address: 2nd Street, Taylor)

BE IT FURTHER RESOLVED that the County Judge of Williamson County, Texas, is authorized to execute any deed necessary to convey the property sold pursuant to this Resolution.

THIS RESOLUTION WAS ADOPTED this _____ day of _____, 2011 by the Commissioners Court of Williamson County, Texas.

County Judge

Attested: County Clerk

Redistricting

Commissioners Court - Regular Session

Date: 03/29/2011
Submitted By: Peggy Vasquez, County Judge
Department: County Judge
Agenda Category: Regular Agenda Items

Information

Agenda Item

Discuss and take appropriate action regarding Redistricting.

Background

Fiscal Impact

From/To	Acct No.	Description	Amount	Sort Seq
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Attachments

No file(s) attached.

Form Routing/Status

Form Started By: Peggy Vasquez
Started On: 03/23/2011 02:25 PM
Final Approval Date: 03/23/2011

Rental of Office to Representative Schwertner Commissioners Court - Regular Session

Date: 03/29/2011
Submitted By: Peggy Vasquez, County Judge
Department: County Judge
Agenda Category: Regular Agenda Items

Information

Agenda Item

Discuss and take appropriate action regarding leasing district office space in Historic Courthouse to Representative Schwertner.

Background

Representative Schwertner has requested the opportunity to lease district office space in the Historic Williamson County Courthouse. Representative Gattis during his term in the legislature leased two offices on the second floor of the Historic Courthouse. The square footage for Office #221 (14.6 x 16) = 233 sq feet. The square footage for Office #222 (11 x 16) = 176 sq feet. The total square footage leased to Representative Gattis was 409 Square Feet at \$500.00 per month at a rate of \$1.22 per square foot.

Representative Schwertner has requested to lease Office #222 (11 x 16) = 176 sq feet.

Attached you will find current commercial property lease comps for similar property in the downtown area.

Approximately \$1.25 per square foot is reflected in these comps.

At \$1.25 per square foot. Representative Schwertner would be asked to pay \$220.00 per month for Office #222.

Fiscal Impact

From/To	Acct No.	Description	Amount	Sort Seq
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Attachments

Link: [Commercial Office Lease Comps](#)

Form Routing/Status

Form Started By: Peggy Vasquez
 Started On: 03/23/2011 02:44 PM
 Final Approval Date: 03/23/2011

TURNER COMMERCIAL PROPERTIES

3613 Williams Dr., Suite 304
Georgetown, TX 78628

BROKER: STEVE TURNER
Representing the Lessor
512-930-2800 (O)
512-632-9225 (M)

For Lease: 824 S. Austin Avenue Georgetown, Texas 78626



Located one block south of the Square on the corner of Austin Avenue and 9th Street. This historic building was built in the early 1900's and for many years was used as a dental office. The building has new flooring, paint and lighting. This building has been and will continue to be one of the most recognizable addresses and locations in Georgetown, with much history through the years. See Broker for details.

DEPOSIT:	\$2,000.00	SIZE:	1,790 +/- sq. ft.
EST. 2009 TAX:	\$5,700.00	LEASE RATE:	\$2,000.00 per month
MOVE-IN:	Available now	LEASE TERM:	24 to 60 months
EST. PROPERTY INSURANCE:	\$1,000.00	COMMISSION:	3% to Lessee's Agent

The Broker is submitting the attached information in its capacity as an agent and representative of the owner. The Broker makes no warranty, express or implied, as to the accuracy of the information contained herein. All information submitted is subject to change without notice as regards price, terms or availability. Additionally, the Broker has conducted no environmental investigation of the property and makes no representations regarding the environmental status of the property. The Broker STRONGLY encourages an independent examination of the property be conducted by representatives of the buyer. IN ACCORDANCE WITH THE LAW, THIS PROPERTY IS OFFERED WITHOUT REGARD TO RACE, COLOR, CREED, FAMILIAL STATUS, NATIONAL ORIGIN, RELIGION OR HANDICAP STATUS.

TURNER COMMERCIAL PROPERTIES
3613 Williams Drive, Suite 304 • Georgetown, Texas 78628
512/930-2800 (Phone) • 512/819-0141(Fax)

TURNER COMMERCIAL

PROPERTIES

3613 Williams Drive, Suite 304
Georgetown, TX 78628

BROKER: STEVE TURNER
Representing the Lessor
512-930-2800 (O)
512-632-9225 (M)

AVAILABLE FOR LEASE: 109 & 111 WEST 9TH STREET, GEORGETOWN, TEXAS 7862

Located one block south of the Historic Georgetown Square. Best use could be either office or retail use.

PARKING: 5 spaces

LEASE TERM: 2 to 5 years

DEPOSIT: 1 months rent

SIGNAGE: To be located on the building

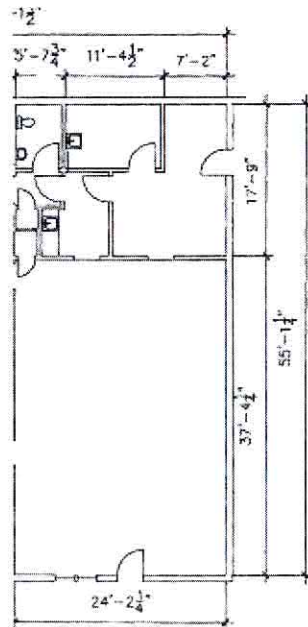
MONTHLY RENTAL: \$1.25 per sq. ft. plus \$.20 per sq. ft. for Common Area Maintenance

TENANT IMPROVEMENTS: Property is being leased in its "AS IS, WHERE IS" condition.

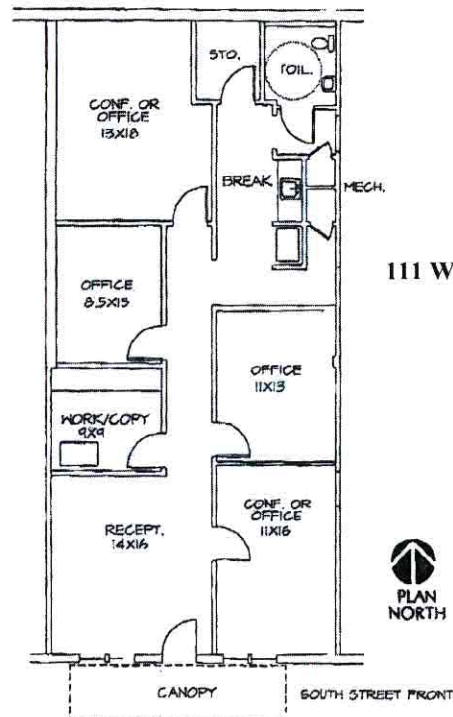
109 W. 9TH STREET: 1,475 +/- sq. ft. – available now **111 W. 9TH STREET:** 1,475 +/- sq. ft. – available now

COMMISSION: 3% to Lessee's Agent

109 W. 9th



111 W. 9th



FLOOR PLAN

PROPOSED
OFFICE
109-111 W. 9TH ST., GEORGETOWN, TEXAS

The Broker is submitting the attached information in its capacity as an agent and representative of the owner. The Broker makes no warranty, express or implied, as to the accuracy of the information contained herein. All information submitted is subject to change without notice as regards price, terms or availability. Additionally, the Broker has conducted no environmental investigation of the property and makes no representations regarding the environmental status of the property. The Broker STRONGLY encourages an independent examination of the property be conducted by representatives of the

TURNER COMMERCIAL PROPER

3613 Williams Drive, Suite 304 • Georgetown, Texas 78628
512/930-2800 (Phone) • 512/819-0141(Fax)

TURNER COMMERCIAL

PROPERTIES

3613 Williams Drive, Suite 304
Georgetown, TX 78628

BROKER: STEVE TURNER
Representing the Lessor
512-930-2800 (O)
512-632-9225 (M)

FOR LEASE: MAKEMSON-STEEL-WEIR BUILDING 800 S. AUSTIN AVENUE GEORGETOWN, TX 78626

LOCATION: Southwest corner of Austin Avenue and 8th Street on the Square in Georgetown. The most recognized address in the city of Georgetown.

SIZE: Suite M-204: (office space upstairs) – 436 +/- useable sq. ft. – 532 +/- rentable sq. ft. \$700.00 per month, plus \$4.50 per sq. ft. operating expense – available 10-1-05

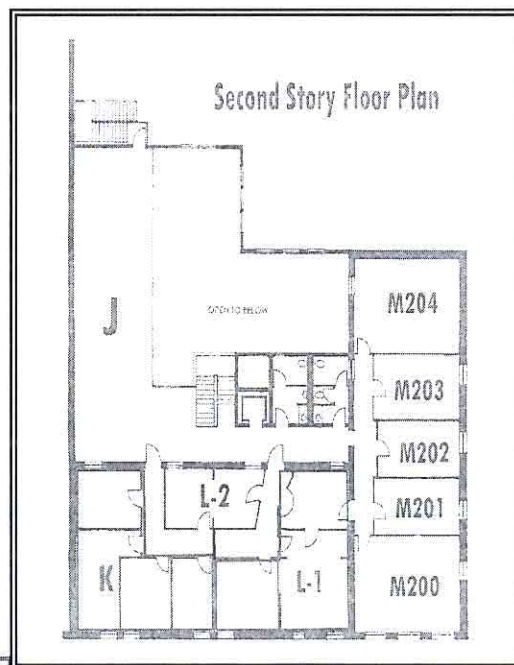
Suite M-201 & 202 & 203: 651 +/- useable sq. ft. – 791 +/- rentable sq. ft.
\$1,450.00 per month, plus \$4.50 per sq. ft. operating expense – available now

DEPOSIT: One months rent

LEASE TERM: 24 to 60 months

MOVE-IN: 30 days after lease signing

COMMISSION: 3% to Lessee's Agent



The Broker is submitting the attached information in its capacity as an agent and representative of the owner. The Broker makes no warranty, express or implied, as to the accuracy of the information contained herein. All information submitted is subject to change without notice as regards price, terms or availability. Additionally, the Broker has conducted no environmental investigation of the property and makes no representations regarding the environmental status of the property. The Broker STRONGLY encourages an independent examination of the property be conducted by representatives of the buyer. IN ACCORDANCE WITH THE LAW, THIS PROPERTY IS OFFERED WITHOUT REGARD TO RACE, COLOR, CREED, FAMILIAL STATUS, NATIONAL ORIGIN, RELIGION OR HANDICAP STATUS.

**Discuss and take appropriate action on Victim Coordinator and Liaison Grant (VCLG) for District Attorney's Office
Commissioners Court - Regular Session**

Date: 03/29/2011
Submitted By: Sandi Andrews, District Attorney
Submitted For: Sandi Andrews
Department: District Attorney
Agenda Category: Regular Agenda Items

Information

Agenda Item

Discuss and take appropriate action on Victim Coordinator and Liaison Grant (VCLG) for District Attorney's Office

Background

There is no fiscal impact to the county as a result of accepting this grant; no matching funds are requested or required.

Fiscal Impact

From/To	Acct No.	Description	Amount	Sort Seq
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Attachments

Link: [OAG Resolution](#)

Form Routing/Status

Form Started By: Sandi Andrews
Started On: 03/15/2011 01:07 PM
Final Approval Date: 03/17/2011

ATTACHMENT B

That on the _____ day of March, 2011 the Commissioners Court of Williamson County, Texas met in duly called session at the Williamson County Courthouse, 710 Main Street, Georgetown, Texas with the following members present:

Dan A. Gattis, County Judge
Lisa L. Birkman, Commissioner Precinct One
Cynthia P. Long, Commissioner Precinct Two
Valerie Covey, Commissioner Precinct Three
Ron Morrison, Commissioner Precinct Four

And at said meeting, among other business, the Court considered the following:

RESOLUTION OF GOVERNING BODY

LEGAL NAME OF APPLICANT: Williamson County District Attorney's Office

UNIQUE APPLICATION NUMBER (if applicable): V0035-12-1390

Be it known as follows:

WHEREAS, the District Attorney's Office of Williamson County, has applied or wishes to apply to the Office of the Attorney General, (OAG) Crime Victim Services Division for the following grant program (check one):

____ Other Victim Assistance Grant (OVAG)
☒ Victim Coordinator and Liaison Grant (VCLG)
____ Sexual Assault Prevention and Crisis Services (SAPCS) – State Funds
____ Sexual Assault Prevention and Crisis Services (SAPCS) – Federal Funds

WHEREAS, the Williamson County Commissioners' Court, has considered and supports the Application filed or to be filed with the OAG;

WHEREAS, the District Attorney's Office of Williamson County, has designated or wishes to designate the following individual as the "Authorized Official" who is given or has been given the power to apply for, accept, reject, alter, or terminate that certain grant with the OAG, Crime Victim Services Division as well as given the authority to sign all grant adjustment requests, inventory reports, progress reports and financial reports or any other official documents related to the grant on behalf of the grantee:

Name of Person Designated as "Authorized Official": Dan A. Gattis

Position Title: County Judge

NOW THEREFORE, BE IT RESOLVED that this governing body approves the submission of the Application to the OAG, Crime Victim Services Division as well as the designation of the Authorized Official.

RESOLVED THIS _____ DAY OF MARCH, 2011

Dan A. Gattis, County Judge

ATTEST: Nancy E. Rister, County Clerk

Date

FM 1660 at CR 128 (Landfill Road)
Commissioners Court - Regular Session

Date: 03/29/2011
Submitted By: Patrick Strittmatter, Purchasing
Submitted For: HNTB
Department: Purchasing
Agenda Category: Regular Agenda Items

Information

Agenda Item

Consider authorizing advertising and setting date of April 27, 2011 at 3:00pm in the Purchasing Department to receive bids for FM 1660 at CR 128 (Landfill Road), bid# 11WC913.

Background

Fiscal Impact

From/To	Acct No.	Description	Amount	Sort Seq
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Attachments

No file(s) attached.

Form Routing/Status

Form Started By: Patrick Strittmatter Started On: 03/24/2011 08:21 AM
Final Approval Date: 03/24/2011

**Bid # 11WC911, CR 174 (Hairy Man Rd) @ Brushy Creek
Commissioners Court - Regular Session**

Date: 03/29/2011
Submitted By: Patrick Strittmatter, Purchasing
Submitted For: HNTB
Department: Purchasing
Agenda Category: Regular Agenda Items

Information**Agenda Item**

Consider awarding bids received for Bid # 11WC911, CR 174 (Hairy Man Rd) @ Brushy Creek, to the lowest and best bidder- Patin Construction, LLC.

Background

Consider awarding bids received for Bid # 11WC911, CR 174 (Hairy Man Rd) @ Brushy Creek, to the lowest and best bidder- Patin Construction, LLC.

Fiscal Impact

From/To	Acct No.	Description	Amount	Sort Seq
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Attachments

Link: [HNTB Recommendation](#)

Link: [Bid Analysis](#)

Form Routing/Status

Form Started By: Patrick Strittmatter Started On: 03/24/2011 08:26 AM
Final Approval Date: 03/24/2011

March 24, 2011

Williamson County Purchasing Department
301 S.E. Inner Loop, Suite 106
Georgetown, Texas 78626



Attention: Jonathan Harris
Assistant Purchasing Agent

Re: Williamson County Road Bond Program
CR 174 (Hairy Man Rd.) @ Brushy Creek
Williamson County Project No. 11WC911
Recommendation of Contractor Award

Dear Mr. Harris,

Please find attached the bid tabulations for the subject-referenced project. The bids have been reviewed and none of the bids had to be adjusted for correctness. The bids are therefore accepted as hereby submitted, with Patin Construction being the low bidder. Following is a summary of the bid totals:

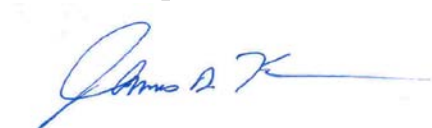
1.	Patin Construction	\$186,373.00
2.	Greater Austin Development	\$212,533.30
3.	Jay Reese Constructors	\$251,232.00
4.	Joe Bland Construction	\$477,470.00
5.	Austin Engineering	\$656,276.00

In addition to meeting the bid qualifications subject to being low bidder, Patin Construction has received positive references from the City of Round Rock, City of Taylor, and the Texas School for the Blind and Visually Impaired. Based on the references provided by the Contractor, we recommend award of the CR 174 (Hairy Man Rd.) @ Brushy Creek construction contract to Patin Construction LLC in the contract amount of \$186,373.00.

Please feel free to contact our office with any questions.

Respectfully Submitted,

HNTB Corporation



James D. Klotz, P.E.

VIA E-MAIL

Attachments: Bid Tabulation Analysis, Engineer's Letter of Recommendation

Cc: Judge Gattis, Williamson County Judge
Commissioner Birkman, Williamson County, Pct. 1
Commissioner Long, Williamson County, Pct. 2
Commissioner Covey, Williamson County, Pct. 3
Commissioner Morrison, Williamson County, Pct. 4
Robert Daigh, Williamson County
Joe England, Williamson County
Mike Weaver, Prime Strategies, Inc.
Richard Ridings, HNTB Corporation

Bid Comparison

Bidder	Bid Amount	Rank	Difference from Engineer's Estimate (\$)	Difference from Engineer's Estimate (%)	Difference from Low Bid (\$)	Difference from Low Bid (%)
Patin Construction	\$ 186,373.00	1	\$ 23,948.20	14.7%	-	-
Greater Austin Development	\$ 212,533.30	2	\$ 50,108.50	30.9%	\$ 26,160.30	14.0%
Jay Reese Constructors	\$ 251,232.00	3	\$ 88,807.20	54.7%	\$ 64,859.00	34.8%
Joe Bland Construction	\$ 477,470.00	4	\$ 315,045.20	194.0%	\$ 291,097.00	156.2%
Austin Engineering	\$ 656,276.00	5	\$ 493,851.20	304.0%	\$ 469,903.00	252.1%

BID ITEM	TECH SPEC	DESCRIPTION	BID QUANTITY	UNIT MEASURE	Engineer's Estimate		Patin Construction		Greater Austin Development		Jay Reese Constructors	
					UNIT COST	AMOUNT BID	UNIT COST	AMOUNT BID	UNIT COST	AMOUNT BID	UNIT COST	AMOUNT BID
1	100-2002	PREPARING ROW	1.3	STA	\$800.00	\$1,040.00	\$3,000.00	\$3,900.00	\$13,000.00	\$16,900.00	\$15,000.00	\$19,500.00
2	420-2006	CL C CONC (RAIL FOUNDATION)	20.4	CY	\$300.00	\$6,120.00	\$600.00	\$12,240.00	\$350.00	\$7,140.00	\$700.00	\$14,280.00
3	429-2003	CONC STRUCT REPAIR (1" TO 6")	56	SF	\$40.00	\$2,240.00	\$40.00	\$2,240.00	\$150.00	\$8,400.00	\$180.00	\$10,080.00
4	429-2004	CONC STRUCT REPAIR (OVER 6")	18	SF	\$60.00	\$1,080.00	\$50.00	\$900.00	\$250.00	\$4,500.00	\$200.00	\$3,600.00
5	432-2039	RIPRAP (MOW STRIP) (4")	26	CY	\$210.00	\$5,460.00	\$90.00	\$2,340.00	\$432.00	\$11,232.00	\$500.00	\$13,000.00
6	450-2080	RAIL (TY T221)	200	LF	\$60.00	\$12,000.00	\$140.00	\$28,000.00	\$69.10	\$13,820.00	\$100.00	\$20,000.00
7	450-2160	RAIL (TY 221) (RETROFIT)	354	LF	\$70.00	\$24,780.00	\$150.00	\$53,100.00	\$108.60	\$38,444.40	\$130.00	\$46,020.00
8	500-2001	MOBILIZATION	1	LS	\$42,070.80	\$42,070.80	\$14,000.00	\$14,000.00	\$21,000.00	\$21,000.00	\$20,000.00	\$20,000.00
9	502-2001	BARRICADES, SIGNS, AND TRAFFIC HANDLING	2	MO	\$3,000.00	\$6,000.00	\$600.00	\$1,200.00	\$6,955.00	\$13,910.00	\$1,000.00	\$2,000.00
10	506-2002	ROCK FILTER DAMS (INSTALL) (TY 2)	30	LF	\$20.00	\$600.00	\$27.00	\$810.00	\$26.80	\$804.00	\$28.00	\$840.00
11	506-2009	ROCK FILTER DAMS (REMOVE) (TY 2)	30	LF	\$10.00	\$300.00	\$8.00	\$240.00	\$7.30	\$219.00	\$15.00	\$450.00
12	506-2057	TEMPORARY SEDIMENT CONTROL FENCE	494	LF	\$3.00	\$1,482.00	\$2.00	\$988.00	\$3.60	\$1,778.40	\$2.00	\$988.00
13	512-2008	PORT CTB (FURN & INSTALL)(LOW PROF)(TY 1)	680	LF	\$30.00	\$20,400.00	\$35.00	\$23,800.00	\$37.30	\$25,364.00	\$65.00	\$44,200.00
14	512-2009	PORT CTB (FURN & INSTALL)(LOW PROF)(TY 2)	80	LF	\$40.00	\$3,200.00	\$35.00	\$2,800.00	\$39.65	\$3,172.00	\$65.00	\$5,200.00
15	512-2044	PORT CTB (REMOV)(LOW PROF)(TY 1)	680	LF	\$6.00	\$4,080.00	\$5.00	\$3,400.00	\$13.25	\$9,010.00	\$7.00	\$4,760.00
16	512-2045	PORT CTB (REMOV)(LOW PROF)(TY 2)	80	LF	\$7.00	\$560.00	\$5.00	\$400.00	\$11.25	\$900.00	\$7.00	\$560.00
17	540-2001	MTL BEAM GD FEN (TIM POST)	200	LF	\$14.00	\$2,800.00	\$20.50	\$4,100.00	\$20.85	\$4,170.00	\$20.00	\$4,000.00
18	540-2011	MTL BEAM GD FEN TRANS (THRIE-BEAM)	4	EA	\$1,350.00	\$5,400.00	\$1,500.00	\$6,000.00	\$1,795.00	\$7,180.00	\$1,300.00	\$5,200.00
19	542-2001	REMOVING METAL BEAM GUARD FENCE	902	LF	\$2.00	\$1,804.00	\$1.50	\$1,353.00	\$1.25	\$1,127.50	\$2.00	\$1,804.00
20	544-2001	GUARD RAIL END TREATMENT INSTALL	4	EA	\$2,000.00	\$8,000.00	\$2,200.00	\$8,800.00	\$2,300.00	\$9,200.00	\$2,100.00	\$8,400.00
21	544-2003	GUARD RAIL END TREATMENT (REMOVE)	4	EA	\$210.00	\$840.00	\$300.00	\$1,200.00	\$275.00	\$1,100.00	\$250.00	\$1,000.00
22	658-2241	INSTL DEL ASSM (D-SW) SZ 1 (FLX) GF2 (BI)	6	EA	\$28.00	\$168.00	\$27.00	\$162.00	\$27.00	\$162.00	\$25.00	\$150.00
23	6834-2001	PORTABLE CHANGEABLE MESSAGE SIGN	4	EA	\$3,000.00	\$12,000.00	\$3,600.00	\$14,400.00	\$3,250.00	\$13,000.00	\$6,300.00	\$25,200.00
TOTAL COST ADJUSTED FOR CORRECTNESS					\$162,424.80		\$186,373.00		\$212,533.30		\$251,232.00	
ACTUAL BID PROPOSAL							\$186,373.00		\$212,533.30		\$251,232.00	
ADJUSTMENT DIFFERENCE							\$0.00		\$0.00		\$0.00	
Acknowledgment of Addenda												
Addendum No. 1:							Yes		Yes		Yes	
BID BOND							Yes		Yes		Yes	
Conflict of Interest Statement							Yes		Yes		Yes	
Disclosure of Lobbing Activities							No		No		No	
References (Minimum of Three)							Yes		Yes		Yes	

BID ITEM	TECH SPEC	DESCRIPTION	BID QUANTITY	UNIT MEASURE	Joe Bland Construction		Austin Engineering	
					UNIT COST	AMOUNT BID	UNIT COST	AMOUNT BID
1	100-2002	PREPARING ROW	1.3	STA	\$7,500.00	\$9,750.00	\$35,000.00	\$45,500.00
2	420-2006	CL C CONC (RAIL FOUNDATION)	20.4	CY	\$600.00	\$12,240.00	\$1,300.00	\$26,520.00
3	429-2003	CONC STRUCT REPAIR (1" TO 6")	56	SF	\$60.00	\$3,360.00	\$60.00	\$3,360.00
4	429-2004	CONC STRUCT REPAIR (OVER 6")	18	SF	\$200.00	\$3,600.00	\$110.00	\$1,980.00
5	432-2039	RIPRAP (MOW STRIP) (4")	26	CY	\$400.00	\$10,400.00	\$625.00	\$16,250.00
6	450-2080	RAIL (TY T221)	200	LF	\$85.00	\$17,000.00	\$305.00	\$61,000.00
7	450-2160	RAIL (TY 221) (RETROFIT)	354	LF	\$145.00	\$51,330.00	\$320.00	\$113,280.00
8	500-2001	MOBILIZATION	1	LS	\$47,700.00	\$47,700.00	\$58,200.00	\$58,200.00
9	502-2001	BARRICADES, SIGNS, AND TRAFFIC HANDLING	2	MO	\$16,000.00	\$32,000.00	\$16,500.00	\$33,000.00
10	506-2002	ROCK FILTER DAMS (INSTALL) (TY 2)	30	LF	\$23.50	\$705.00	\$30.00	\$900.00
11	506-2009	ROCK FILTER DAMS (REMOVE) (TY 2)	30	LF	\$8.50	\$255.00	\$4.00	\$120.00
12	506-2057	TEMPORARY SEDIMENT CONTROL FENCE	494	LF	\$5.00	\$2,470.00	\$3.00	\$1,482.00
13	512-2008	PORT CTB (FURN & INSTALL)(LOW PROF)(TY 1)	680	LF	\$125.00	\$85,000.00	\$280.00	\$190,400.00
14	512-2009	PORT CTB (FURN & INSTALL)(LOW PROF)(TY 2)	80	LF	\$125.00	\$10,000.00	\$300.00	\$24,000.00
15	512-2044	PORT CTB (REMOV)(LOW PROF)(TY 1)	680	LF	\$30.00	\$20,400.00	\$55.00	\$37,400.00
16	512-2045	PORT CTB (REMOV)(LOW PROF)(TY 2)	80	LF	\$30.00	\$2,400.00	\$55.00	\$4,400.00
17	540-2001	MTL BEAM GD FEN (TIM POST)	200	LF	\$20.50	\$4,100.00	\$22.00	\$4,400.00
18	540-2011	MTL BEAM GD FEN TRANS (THRIE-BEAM)	4	EA	\$1,275.00	\$5,100.00	\$1,750.00	\$7,000.00
19	542-2001	REMOVING METAL BEAM GUARD FENCE	902	LF	\$125.00	\$112,750.00	\$2.00	\$1,804.00
20	544-2001	GUARD RAIL END TREATMENT INSTALL	4	EA	\$2,275.00	\$9,100.00	\$2,150.00	\$8,600.00
21	544-2003	GUARD RAIL END TREATMENT (REMOVE)	4	EA	\$500.00	\$2,000.00	\$325.00	\$1,300.00
22	658-2241	INSTL DEL ASSM (D-SW) SZ 1 (FLX) GF2 (BI)	6	EA	\$35.00	\$210.00	\$30.00	\$180.00
23	6834-2001	PORTABLE CHANGEABLE MESSAGE SIGN	4	EA	\$8,900.00	\$35,600.00	\$3,800.00	\$15,200.00
		TOTAL COST ADJUSTED FOR CORRECTNESS			\$477,470.00		\$656,276.00	
		ACTUAL BID PROPOSAL			\$477,470.00		\$656,276.00	
		ADJUSTMENT DIFFERENCE			\$0.00		\$0.00	
		Acknowledgment of Addenda						
		Addendum No. 1:			Yes		Yes	
		BID BOND			Yes		Yes	
		Conflict of Interest Statement			Yes		Yes	
		Disclosure of Lobbing Activities			No		Yes	
		References (Minimum of Three)			Yes		Yes	

Renewal for Jail Pharmecuticals contract Commissioners Court - Regular Session

Date: 03/29/2011
Submitted By: Jonathan Harris, Purchasing
Submitted For: Sheriff's office jail
Department: Purchasing
Agenda Category: Regular Agenda Items

Information

Agenda Item

Consider renewing current contract to WestWood Pharmacy for the Williamson County Jail contract at the same pricing, terms and conditions as the exisiting contract. The renewal period will be for the next fiscal year beginning January 1,2011 through September 30,2011.

Background

Fiscal Impact

From/To	Acct No.	Description	Amount	Sort Seq
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Attachments

Link: [Renewal letter](#)

Form Routing/Status

Form Started By: Jonathan Harris Started On: 03/24/2011 10:01 AM
Final Approval Date: 03/24/2011

5823 Patterson Avenue
Richmond, VA 23226
(866) 996-6379 (toll-free)



www.westwoodpharmacy.com
info@westwoodpharmacy.com
(866) 288-6707 (fax)

Hunter Hoggatt
Vice President
Westwood Pharmacy
5823 Patterson Avenue
Richmond, Virginia 23226

March 23, 2011

Williamson County Purchasing Department
Attn: Jonathan Harris
301 SE Inner Loop – Suite 106
Georgetown, TX 78626

RE: Renewal – Pharmaceutical Services for Williamson County Jail 10WCAP100

Mr. Harris:

This letter is to inform Williamson County that Westwood Pharmacy wishes to renew our current Pharmaceuticals and Pharmaceutical Services for the Williamson County Jail contract at the same pricing, terms and conditions as the existing contract.

The renewal period will be for the next fiscal year beginning January 1, 2011 through September 30, 2011.

Sincerely,

A handwritten signature in black ink, appearing to be "H. Hoggatt", written over a circular stamp or seal.

Hunter Hoggatt
Vice President
Westwood Pharmacy

award of asphalt bids

Commissioners Court - Regular Session

Date: 03/29/2011
Submitted By: Kerstin Hancock, Purchasing
Department: Purchasing
Agenda Category: Regular Agenda Items

Information

Agenda Item

Consider awarding bids received for Asphalt Mixes, Asphalt Cement and Cut Back and Asphalt Emulsions to the low bids meeting specifications - complete list filed with official minutes

Background

Asphalt Mixes 11WCA042 B: Ergon Asphalt primary item# 1,2,3,5; secondary item# 4
 Performance Grade Asphalt primary item# 7, 8; secondary item# 2,5; tertiary item# 4
 Martin Asphalt Company primary item# 4; secondary item# 1; tertiary item# 2
 Cleveland Asphalt Products tertiary item# 5

Asphalt Cement and Cut Back 11WCA043: Martin Asphalt Company – primary on item # 2-4
 Performance Grade Asphalt – secondary on item# 1, 2 & 4
 Cleveland Asphalt Products, Inc – secondary on item# 3

Asphalt Emulsions 11WCA044: Ergon Asphalt – primary on item# 1, 2, 3 & 5; secondary on item# 4
 Performance Grade Asphalt – primary on item# 7, 8; secondary on item# 2,5; tertiary on item# 4
 Martin Asphalt Company – primary on item# 4; secondary on item# 1; tertiary on item# 2
 Cleveland Asphalt Products – tertiary on item# 5

Fiscal Impact

From/To	Acct No.	Description	Amount	Sort Seq
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Attachments

Link: [Bid Tab Asphalt Mixes](#)

Link: [Bid Tab Cut Back](#)

Link: [Bid Tab Emulsions](#)

Form Routing/Status

Form Started By: Kerstin Hancock Started On: 03/24/2011 10:42 AM
 Final Approval Date: 03/24/2011

**WILLIAMSON COUNTY BID TABULATION
FOR UNIFIED ROAD AND BRIDGE SYSTEM
ASPHALT MIXES
BID NUMBER: 11WCA042**

Contract Period April 1, 2011 through September 30, 2011

**Recommended Award: Primary item# 1 – 6 - RTI Hot Mix Ltd.
Primary item# 7, 8 – Vulcan Construction Materials, LP**

ITEM #	DESCRIPTION	Cleveland	RTI	VULCAN
1	Hot Mix Asphalt Concrete, (Black Base) TxDot Item 340, Type A To reach 95% Lab density	N/B	44.71	N/B
2	Hot Mix Asphalt Concrete, TxDot Item 340, Type C To reach 95% Lab density	N/B	49.29	N/B
3	Hot Mix Asphalt Concrete, TxDot Item 340, Type D To reach 95% Lab density	N/B	50.87	N/B
4	Hot Mix Asphalt concrete, TxDot Item 340, Type F To reach 95% Lab density	N/B	63.05	N/B
5	Hot Mix Cold Lay, TxDot Item 334, Type D To reach 95% Lab density	N/B	63.68	N/B
6	Hot Mix Cold Lay Black Base Type A – TxDot Item 334 N/B To reach 95% Lab density	N/B	58.83	N/B
7	TxDot Item 330 Limestone rock asphalt (Black Base) Type AA Type A Type B Type C Type CC Type D	N/B	N/B	See attachment
8	TxDot Item 332 Limestone Rock Asphalt (Trap Mix) Type BS Type CS Type DS Type FS	N/B	N/B	See attachment

Attachment to Bid Number: 11WCA042 B

#7

**TXDOT Item 330 Limestone Rock Asphalt Types, AA,A,B,C,CC,D
Truck Delivery**

	<u>UNIT PRICE</u>					
	<u>AA</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>CC</u>	<u>D</u>
Granger	65.75	65.75	65.75	66.75	66.75	69.25
Florence	65.75	65.75	65.75	67.25	67.25	69.25
Liberty Hill	64.25	64.25	64.25	65.25	65.25	67.75
Taylor	63.25	63.25	63.25	64.50	64.50	67.00
Georgetown	62.00	62.00	62.00	63.00	63.00	65.50

8

**TXDOT Item 332 Limestone Rock Asphalt (Trap Mix) Types
BS,CS,DS,FS Truck Delivery**

	<u>UNIT PRICE</u>
Granger	66.75
Florence	66.75
Liberty Hill	65.25
Taylor	64.50
Georgetown	63.00

**WILLIAMSON COUNTY BID TABULATION
FOR ROAD & BRIDGE SYSTEM**

ASPHALT CEMENT & CUT BACK

BID NUMBER: 11WCA043

Contract Period: April 1, 2011 through September 30, 2011

Recommended Award: Martin Asphalt Company – primary on item # 2-4
Performance Grade Asphalt – secondary on item# 1, 2 & 4
Cleveland Asphalt Products, Inc – secondary on item# 3

ITEM #	DESCRIPTION	UNIT	Cleveland		Martin		Performance Grade	
			F.O.B. SITE	UNIT	F.O.B. SITE	UNIT		
1	AC-5 TxDot Item 300.2, Table 2	Gal	3.2391	3.03	2.40	2.20	2.75	2.75
2	AC-10 TxDot Item 300.2, Table 2	Gal	3.2391	3.03	2.40	2.20	2.75	2.75
3	RC-250 TxDot Item 300.2, Table 4	Gal	3.7691	3.56	3.20	3.00	N/B	N/B
4	MC-30 TxDot Item 300.2, Table 5	Gal	3.7691	3.56	3.20	3.00	3.40	3.40
5	PUMP CHARGE		N/C	N/C	N/C	N/C	N/C	N/C

**WILLIAMSON COUNTY BID TABULATION
ROAD & BRIDGE
ASPHALT EMULSIONS
BID NUMBER: 11WCA044**

Contract Period: April 1, 2011 through September 30, 2011

Recommended award: Ergon Asphalt – primary on item# 1, 2, 3 & 5; secondary on item# 4
Performance Grade Asphalt – primary on item# 7, 8; secondary on item# 2, 5; tertiary on item# 4
Martin Asphalt Company – primary on item# 4; secondary on item# 1; tertiary on item# 2
Cleveland Asphalt Products – tertiary on item# 5

ITEM #	DESCRIPTION	CLEVELAND		ERGON		MARTIN		PERFORMANCE GRADE	
		F.O.B. SITE	UNIT PRICE	F.O.B. SITE	UNIT PRICE	F.O.B. SITE	UNIT PRICE	F.O.B. SITE	UNIT PRICE
1	HFRS-2 <i>TxDot Item 300.2, Table 7</i>	N/B	N/B	2.0209	1.90	2.30	2.10	ANY SITE	N/B
2	CRS-2, <i>TxDot Item 300.2, Table 8</i>	2.4091	2.20	2.0346	1.90	2.30	2.10	ANY SITE	2.15
3	HFRS-2P <i>TxDot Item 300.2, Table 9</i>	N/B	N/B	2.6209	2.50	N/B	N/B	ANY SITE	N/B
4	CRS-2P <i>TxDot Item 300.2, Table 9</i>	3.0291	2.82	2.6346	2.50	2.30	2.10	ANY SITE	2.65
5	SS-1 Emulsion <i>TxDot Item 300.2, Table 7</i>	2.2491	2.04	2.0209	1.90	2.30	2.10	ANY SITE	2.15
6	RS-1P Emulsion <i>TxDOT Item 200.2, Table 9</i>	N/B	N/B	N/B	N/B	N/B	N/B	ANY SITE	N/B
7	Asphalt Rejuvenation Agent (see above)	N/B	N/B	N/B	N/B	N/B	N/B	ANY SITE	2.80
8	Asphalt Emulsion Stabilizer (see above)	N/B	N/B	N/B	N/B	N/B	N/B	ANY SITE	2.80
9	Pump Charge		NO CHARGE		\$80 PER LOAD		NO CHARGE		NONE

Extra Duty and Voluntary Duty Pay BA 03-29-2011

Commissioners Court - Regular Session

Date: 03/29/2011
Submitted By: Lisa Moore, County Auditor
Submitted For: David Dukes
Department: County Auditor
Agenda Category: Regular Agenda Items

Information

Agenda Item

Consider an order declaring an emergency and a grave necessity due to unforeseeable circumstances and approve a budget amendment to acknowledge additional revenues for March 2011 Extra Duty and Voluntary Duty:

Background

Extra Duty and Voluntary Duty for law enforcement are now paid through payroll.

Fiscal Impact

From/To	Acct No.	Description	Amount	Sort Seq
	0100.0000.341220	Vol Duty Revenue, SO	\$11,330.73	01
	0100.0000.341240	Ex Duty Revenue, SO	\$31,501.54	02
	0100.0000.341221	Revenue, Const 1	\$1,798.73	03
	0100.0000.341222	Revenue, Const 2	\$1,299.03	04
	0100.0000.341224	Revenue, Const 4	\$5,094.60	05
	0100.0000.341226	Revenue, Juv	\$760.39	06

Attachments

No file(s) attached.

Form Routing/Status

Form Started By: Lisa Moore
 Started On: 03/23/2011 10:16 AM
 Final Approval Date: 03/23/2011

Extra Duty and Voluntary Duty Pay BA 03-29-2011

Commissioners Court - Regular Session

Date: 03/29/2011
Submitted By: Lisa Moore, County Auditor
Submitted For: David Dukes
Department: County Auditor
Agenda Category: Regular Agenda Items

Information

Agenda Item

Consider an order declaring an emergency and a grave necessity due to unforeseeable circumstances and approve a budget amendment to acknowledge additional expenditures for March 2011 Extra Duty and Voluntary Duty pay:

Background

Extra Duty and Voluntary Duty for law enforcement are now paid through payroll.

Fiscal Impact

From/To	Acct No.	Description	Amount	Sort Seq
	0100.0551.001118	Payroll, Const 1	\$1,450.00	01
	0100.0551.002010	FICA, Const 1	\$110.93	02
	0100.0551.002020	Retirement, Const 1	\$165.30	03
	0100.0551.002050	Worker's Comp, Const 1	\$72.50	04
	0100.0552.001118	Payroll, Const 2	\$1,047.18	05
	0100.0552.002010	FICA, Const 2	\$80.11	06
	0100.0552.002020	Retirement, Const 2	\$119.38	07
	0100.0552.002050	Worker's Comp, Const 2	\$52.36	08
	0100.0554.001117	Payroll, Const 4	\$4,522.50	09
	0100.0554.002010	FICA, Const 4	\$345.97	10
	0100.0554.002050	Worker's Comp, Const 4	\$226.13	11
	0100.0560.001117	Vol Duty, SO	\$8,087.85	12
	0100.0560.001118	Extra Duty, SO	\$25,394.23	13
	0100.0560.002010	FICA, SO	\$2,561.38	14
	0100.0560.002020	Retirement, SO	\$2,894.94	15
	0100.0560.002050	Worker's Comp, SO	\$1,674.10	16
	0100.0570.001117	Payroll, Jail	\$1,970.50	17
	0100.0570.002010	FICA, Jail	\$150.74	18
	0100.0570.002050	Worker's Comp, Jail	\$98.53	19

	0100.0576.001117	Payroll, Juv	\$675.00	20
	0100.0576.002010	FICA, Juv	\$51.64	21
	0100.0576.002050	Worker's Comp, Juv	\$33.75	22

Attachments

No file(s) attached.

Form Routing/Status

Form Started By: Lisa Started On: 03/23/2011 10:23
 Moore AM
 Final Approval Date: 03/23/2011

Discuss Real Estate Matters

Commissioners Court - Regular Session

Date: 03/29/2011
Submitted By: Charlie Crossfield, Road Bond
Submitted For: Charlie Crossfield
Department: Road Bond
Agenda Category: Executive Session

Information

Agenda Item

Discuss real estate matters (EXECUTIVE SESSION as per VTCA Govt. Code sec. 551.0721 Deliberation Regarding Real Estate Property if deliberation in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with third person.)

1. Proposed or potential purchase or lease of property by the County:

- a) Discuss proposed acquisition of property for right-of-way for SH 195 0.805 South of Bell County Line to IH 35.
- b) Discuss proposed acquisition of property for right-of-way for O'Connor Boulevard and 620 project.
- c) Discuss proposed acquisition of property for right-of-way for Ronald Reagan Blvd. Phase II project from FM 3405 to Reagan Blvd.
- d) Discuss proposed acquisition of property for right-of-way for Ronald Reagan Blvd. Phase III and Phase IV.
- e) Discuss proposed acquisition of property for proposed SH 29 Safety Improvement project.
- f) Discuss proposed acquisition of property for right-of-way along Lakeline extension.
- g) Discuss proposed acquisition of property for right-of-way along SW By-Pass.
- h) Discuss proposed acquisition of property for right-of-way along Pearson and Neenah.
- i) Discuss proposed Northwoods Road District.
- j) Discuss conveyance of University Boulevard right-of-way.
- k) Discuss proposed acquisition of property for right-of-way for US 79 Section 3 from East of Hutto to CR 402.

l) Discuss proposed realignment project along FM 1660.

m) Discuss proposed acquisition of property for right-of-way along Pond Springs Road.

n) Discuss proposed acquisition of property for right-of-way along Chandler III A.

o) Discuss proposed acquisition of property for right-of-way for US 183 Extension from 1,000 feet South of San Gabriel to 1,000 feet North of SH 29.

Background

Fiscal Impact

From/To	Acct No.	Description	Amount	Sort Seq
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Attachments

No file(s) attached.

Form Routing/Status

Form Started By: Charlie Crossfield Started On: 03/24/2011 09:47 AM
Final Approval Date: 03/24/2011
