

**AGENDA ITEM 33**

Hold public hearing regarding the resubdivision of lots 4, 7, & 28, Bear Creek Country Estates.

Judge Doerfler announced the public hearing on the resubdivision of lots 4, 7, & 28, Bear Creek Country Estates open at 10:36 a.m. on Tuesday, July 17, 2001.

No one addressed the court.

Judge Doerfler announced the public hearing on the resubdivision of lots 4, 7, & 28, Bear Creek Country Estates closed at 10:37 a.m. on Tuesday, July 17, 2001.

Judge Doerfler reopened the public hearing on the resubdivision of lots 4, 7, & 28, Bear Creek Country Estates at 10:45 a.m. on Tuesday, July 17, 2001.

James Ellet, a nearby resident, addressed the court with his concerns regarding the resubdivision.

Bill Rockmoor, representative for Bear Creek Country Estates developer, Austin 2000, addressed the court concerning resubdivision issues.

Judge Doerfler announced the public hearing on the resubdivision of lots 4, 7, & 28, Bear Creek Country Estates closed at 10:58 a.m. on Tuesday, July 17, 2001.

**AGENDA ITEM 34**

Discuss and consider approving the resubdivision of lots 4, 7 & 28, Bear Creek Country Estates.

Moved: **Commissioner Boatright**

Seconded: **Commissioner Heiligenstein**

Motion: To approve the resubdivision of Lots 4, 7 & 28, Bear Creek Country Estates.

Vote: 5 – 0

**AGENDA ITEM 35**

Consider approving professional services contract for Cobb, Fendley & Assoc. for utility management on Roads Program.

Moved: **Commissioner Boatright**

Seconded: **Commissioner Heiligenstein**

Motion: To approve professional services contract for Cobb, Fendley & Assoc. for utility management on Roads Program.

Vote: 5 – 0

< Attachment >

### Checklist

#### Prior to Initiation of Work

- ☒ Signed and Executed Agreement
- ☒ Scope of Services – Appendix A
  - ☒ Exhibit A – Services to be provided by County
  - ☒ Exhibit B – 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 - Attachment A to Exhibit I
  - ☒ 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

#### 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)

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- ☐ 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
-

**PROFESSIONAL SERVICES AGREEMENT**

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PROFESSIONAL SERVICES AGREEMENT

STATE OF TEXAS                   §  
   §  
 COUNTY OF WILLIAMSON       §

This 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 Cobb, Fendley & Assoc., Inc. (*the "Engineer"*).

WHEREAS, *County* proposes to <sup>implement</sup>~~construct~~ a utility management program;

WHEREAS, *County* desires to obtain professional services for utility management (*the "Project"*);

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

NOW, THEREFORE, *County* and *Engineer* agree to the performance of the professional 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 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 the Scope of Services in Appendix A, or as otherwise designated (*individually or collectively the "County Judge"*). The *County Judge* shall have complete authority for the purpose of resolving technical matters. In all other cases, the decision of the Williamson County Commissioners Court shall be final and binding, subject to any civil remedies otherwise deemed appropriate by the parties hereto.

### Section II Basic 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 Attachment A to Exhibit I.

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- C. *County* shall provide *Engineer* with all existing plans, maps, studies, reports, field notes, statistics, computations, and other data in its possession relative to existing facilities and 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 Basic Scope of Services:
1. The basic Scope of Services shall generally consist of all elements of work, materials and equipment required for the development of the *Project*, including any Public Hearings, satisfactory to the *County Judge* and the County's Commissioners Court, in accordance with the requirements, policies, and general practices of Williamson County.
  2. The following documents shall be used in the development of the *Project*:
    - a. TxDOT 1980 Texas Manual of Uniform Traffic Control Devices for Streets and Highways, Revision 5, including:
      - i) The 1998 reprint of the Texas Manual on Uniform Traffic Control Devices for Streets and Highways
      - ii) The September 31, 1998, Federal Highway Administration Mandate from the National Cooperative Highway Research Program (NCHRP), Report 350
    - b. Texas Department of Transportation Construction Manual
    - c. Texas Department of Transportation's Standard Specifications for Construction of Highways, Streets, and Bridges, 1993 (English units)
    - d. National Environmental Policy Act (NEPA)
    - e. Texas Accessibility Standards (TAS) of the Architectural Barriers Act, Article 9102, Texas Civil Statutes, Effective April 4, 1994
    - f. Americans with Disabilities Act (ADA) Regulations
    - g. U.S. Army Corps Regulations
    - h. Southern Building Code
    - i. Uniform Building Code. Note: Williamson County will use the 1997 Uniform Building Code (May 1, 1997) as a guide for design.
    - j. National Electrical Code (most current version)
    - k. Williamson County Bond Program Standard Procedures Manual
    - l. TxDOT Bridge Division Foundation Manual
  3. As part of the Scope of Services, *Engineer* shall submit its work products to *County* for review at regular intervals.
  4. The detailed Scope of Services for the *Project* is set forth herein as Appendix A to this Agreement, and is expressly incorporated and made a part hereof.

### Section III Fee schedule

- A. For and in consideration of the performance by **Engineer** of the work 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 II. Exhibits I and II 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 III, 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 services described in Appendix A, the Scope of Services, in accordance with the Production Schedule attached hereto as Exhibit IV and made a part hereof.
- 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 design, construction contract award and construction of the **Project**, including warranty periods and any extensions of time, unless terminated earlier as provided for herein. **Engineer** shall complete all <sup>assigned</sup> design work as described in the Scope of Services within   1   calendar days from receipt by **Engineer** of **County's** written Work Authorization ~~and in accordance with the production timeline included in the Scope of Services.~~ <sup>the period defined in each work authorization</sup> ADW
- 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



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Notice of Reinstatement from *County. Engineer*, upon receipt of a Notice of Suspension shall follow the procedures described in the attached Exhibit V, 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.

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- E. Either party may terminate this Agreement for the substantial failure of the other party to perform in accordance with the terms of this Agreement (the substantiality 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, and *County* may terminate this Agreement for reasons other than substantial failure by *Engineer* to perform by delivering a written Notice of Termination which shall take effect on the tenth day following receipt. 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 V upon issuance or receipt of such notice. In the event of termination of this Agreement because of the substantial 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. *Engineer* specifically acknowledges that *County* will sustain damages for each day beyond the required dates of completion of the Preliminary and Design Phases as defined in the Scope of Services that the work has not been accepted and approved. Because of the impracticality and extreme difficulty of fixing and ascertaining *County's* actual damages, *Engineer* agrees that One Hundred and No/100 Dollars (\$100.00) per day shall be retained by *County* from any amounts due *Engineer* for every day that *Engineer* does not meet the production requirements set forth in Exhibit IV. ADW
- G. Periods of time (i) during which a Notice of Suspension is in effect, or (ii) during which a submitted and complete engineering work product is in technical review, as described in Section VI, or (iii) during which a delay directly related to matters described in section IV(C) above, shall not be taken into account in computing the amount of liquidated damages. In the event that an engineering work product received by *County* is found to be incomplete, as defined in Section VI, Paragraph B, the period of time from the original submittal of the engineering work product to the receipt of subsequent submittal necessary to produce a completed submittal will be taken into account in computing the number of days and the amount of liquidated damages
- H. 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 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 Attachment A to Exhibit I.
- C. *Engineer* shall furnish all available data and reasonable assistance necessary for the
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development of applications or supporting documentation for any permits, grants, or planning advances as applicable to the professional services to be rendered pursuant to this Agreement, provided that *Engineer* shall not be obligated to develop additional data, appear at hearings, or prepare extensive reports, unless compensated for such work under other provisions of this Agreement.

- D. *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 constraints affecting the *Project*.
- E. *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 Work Product

- A. *Engineer's* engineering work product will be reviewed by *County* under its applicable technical requirements and procedures.
  - B. Reports, plans, specifications, and supporting documents, (the "engineering work products"), shall be submitted by *Engineer* on or before the dates specified in the Production Schedule set forth in Exhibit IV. Upon receipt of the engineering work products, the submission shall be checked for completion. "Completion" shall be defined as: all of the required items (as defined by the scope of services described herein) have been included in the engineering work products in compliance with the requirements of this Agreement. . The completeness of any engineering work product submitted to *County* shall be determined by *County* within thirty (30) days of such submittal and *County* shall notify *Engineer* in writing within such 30-day period if such work product has been found to be incomplete.
  - C. If the submission is complete, *County* shall notify *Engineer* and *County's* technical review process will begin.
  - D. If the submission is incomplete, *County* shall notify *Engineer*, who shall perform such professional services as are required to complete the work and resubmit it to *County*. This process shall be repeated until a submission is complete.
  - E. *County* shall review the completed work for compliance with the scope of work. If necessary, the completed work shall be returned to *Engineer*, who shall perform any required work and resubmit it to *County*. This process shall be repeated until the work is accepted. "Acceptance" shall mean that in the *County Judge's* opinion substantial compliance with the requirements of this Agreement has been achieved.
  - F. After acceptance, *Engineer* shall perform any required modifications, changes, alterations, corrections, redesigns, and additional work necessary to receive final approval by the *County Judge*. "Approval" in this sense shall mean formal recognition that the work has been fully carried out.
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- G. After approval of final engineering work products, *Engineer* shall without additional compensation perform any work required as a result of *Engineer's* development of the products which is found to be in error or omission due to *Engineer's* negligence. However, any work required or occasioned for the convenience of *County* after approval of a final product shall be paid for as Additional Services.
- H. In the event of any dispute over the classification of *Engineer's* work products as complete, 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 Work Product

*Engineer* shall make without expense to *County* such revisions to the work product as may be required to correct negligent errors or omissions so the work product meets the needs of *County*, but after the approval of the work product 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 work products, which are found to be in negligent error or omission as a result of the *Engineer's* development of the work product, at any time, without additional compensation. If it is necessary due to such error or omission by *Engineer* to revise the plans in order to make the *Project* constructable, *Engineer* shall do so without additional compensation. 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 he or someone under his 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 properly waivable by the *County Judge*.

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- C. Acceptance and approval of the final plans by **County** shall not release **Engineer** of any responsibility or liability for the accuracy and competency of his designs, working drawings, specifications, or other documents or work performed under this Agreement. Neither acceptance nor approval by **County** shall be an assumption of responsibility or liability by **County** for any defect, error, or omission in the designs, working drawings, specifications, or other documents prepared by **Engineer**.
  - D. **Engineer** shall indemnify, protect, and save harmless **County**, its officials and employees and its agents and agents' employees from and against all claims, 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 subcontractors in connection with the performance of services under this Agreement; provided, however, **Engineer** shall not be responsible for the negligence of any other party, other than its subcontractors.
  - E. **Engineer's** opinions of probable **Project** cost or construction cost represent **Engineer's** professional judgment as a design 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.
  - F. **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.
  - G. **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.
  - H. 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**.
  - I. **Engineer** shall furnish all equipment, transportation, supplies, and materials required for its operations under this Agreement.
  - J. **Engineer** shall place his Texas Professional Engineer's seal of endorsement on all documents and engineering data furnished to **County**, as required by law.
  - K. **Engineer** is an independent contractor under this Agreement. Neither he nor any officer, agent nor employee of **Engineer** shall be classified as an employee of **County**.
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**Section IX**  
**Ownership of Documents**

- A. Any and all documents, 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 designs, plans, or specifications on this **Project** or any other project, except to the extent such documents were deemed complete or otherwise "Accepted" or "Approved" as provided herein or represent completed work sealed 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 plans and documents described in subsection A performed by any entity other than Williamson County, and **County's** respective engineers and contractors, without the specific written consent of **Engineer**. Any modification as described in this paragraph shall be made in accordance with all applicable professional standards.

**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**, together with documentation of evaluations and study results 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
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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.

### Section XI Miscellaneous

- A. ***Severability.*** Any clause, sentence, provision, paragraph, or article of this Agreement held by a court of competent jurisdiction to be invalid, illegal, or ineffective shall not impair, invalidate, or nullify the remainder of this Agreement, but the effect thereof shall be limited to the clause, sentence, provision, paragraph or article so held to be invalid, illegal, or ineffective.
- B. ***Venue.*** 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 VI, 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 bonafide 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 bonafide employees working solely for *Engineer*) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the
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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: Cobb, Fendley & Associates, Inc.  
5300 Hollister, #400  
Houston, TX 77040

COUNTY: Williamson County (or successor)  
\_\_\_\_\_  
\_\_\_\_\_

with copy to: Honorable Gene Taylor (or successor)  
Williamson County Attorney  
\_\_\_\_\_  
\_\_\_\_\_

Attn: File No.

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

and to: ~~Pena Swayze & Co, LLP~~  
~~303 East Main Street~~  
~~Round Rock, Texas 78664~~  
~~Attn: Mike Swayze~~

and to: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- F. **Insurance Requirements.** **Engineer** agrees during the performance of the services under this Agreement to comply with the INSURANCE REQUIREMENTS provisions described in Exhibit VII, which is attached hereto and made a part hereof.

- G. **Property Taxes.** Notwithstanding anything to the contrary herein, to the extent **County**



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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 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. **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
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OR IMPLIED, TO AMEND THIS CONTRACT, EXCEPT PURSUANT TO SUCH EXPRESS AUTHORITY AS MAY BE GRANTED BY THE COUNTY COMMISSIONERS COURT.

- N. **Captions Not a Part Hereof.** The captions or subtitles of the several sections and divisions of this Agreement constitute no part of the content hereof, but are only labels to assist in locating and reading the provisions hereof.
- O. **Incorporation of Exhibits and Attachments.** All of the Exhibits and Attachments, and Appendices 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. **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.
- R. **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.
-

07/17/2001

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EXECUTED this 17 day of July, 2001.

THE ENGINEER:

BY: 

Printed Name: Allen Watson

Title: Vice President

WILLIAMSON COUNTY:

BY: John C. Daerfler 7-17-01

Williamson County Judge

Reviewed as to Form By: \_\_\_\_\_

County Attorney

Funds Verified By: \_\_\_\_\_

County Auditor

**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 \$ 500,000.00.
- 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 II.
- 1.3 *Engineer* shall be reimbursed for non-labor and subcontract expense incurred in the performance of the services under this Agreement at 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 II 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 Attachment A 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
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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 III.
- 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 III; however, **Engineer** shall not be compensated for work made necessary by **Engineer's** negligent errors or omissions.
- 4.3 The maximum amount payable under this Agreement without modification (the "**Compensation Cap**") is \$ 500,000.00, 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. Invoices should also contain a representation of the percentage of completion relative to that segment of the **Project**.
  - 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**.
-

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## ATTACHMENT A

## WORK AUTHORIZATION NO. \_\_\_\_\_

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:

**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.

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ATTACHMENT A (con't.)

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

ENGINEER:  
\_\_\_\_\_

COUNTY:  
Williamson County, Texas

By: \_\_\_\_\_  
Signature

By: \_\_\_\_\_  
Signature

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

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

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

LIST OF EXHIBITS

Exhibit A - Services to be Provided by County

Exhibit B - Services to be Provided by Engineer

Exhibit C - Work Schedule

Exhibit D - Fee Schedule

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**EXHIBIT II**

Page 1 of 2

**Cobb, Fendley & Associates, Inc.**  
**WILLIAMSON COUNTY**  
**UTILITY MANAGEMENT CONTRACT**  
**June 28, 2001**

Program Manager .....	\$135/HR
Project Manager .....	\$120/HR
Senior Engineer .....	\$105/HR
Project Engineer .....	\$ 95/HR
Utility Specialist.....	\$108/HR
Designer.....	\$ 75/HR
Technician.....	\$ 65/HR
CAD Operator .....	\$ 65/HR
Draftsman .....	\$ 54/HR
Registered Professional Land Surveyor.....	\$ 85/HR
Survey Technician .....	\$ 65/HR
2-Man Survey Crew .....	\$ 90/HR
3-Man Survey Crew .....	\$105/HR
4-Man Survey Crew .....	\$120/HR
Senior Right-of-Way Agent.....	\$ 75/HR
Right-of-Way Agent .....	\$ 66/HR
Construction Manager .....	\$ 90/HR
Construction Observer.....	\$ 65/HR
Telecommunications Specialist.....	\$ 70/HR
Telecommunications Technician.....	\$ 60/HR
Clerical.....	\$ 43/HR
Post Processing GPS Data .....	\$125/HR
GPS.....	\$190/Day/Receiver
Per Diem .....	\$25/Day/Person
Consultant or Specialty Contractor (Outside Firm) .....	@ COST
Reproduction, Printing, Supplies, Delivery Service, Rental of Special Equipment .....	@ COST



EXHIBIT II  
Page 2 of 2

Reasonable Out of Town Related Expenses .....	@ COST
Mileage .....	\$0.345/MILE
Title Plant Charge .....	@ COST
Expert Witness Testimony.....	\$175/HR
Subsurface Utility Engineering Technician (w/Equipment) .....	\$ 92/HR
Designation – Level B Services (Levels C & D Included)(**)	\$1.46/FT
Location – Level A Services (**):	
0 – 3 Feet .....	\$970/HOLE
3 – 6 Feet .....	\$1,190/HOLE
6 – 13 Feet .....	\$1,510/HOLE
13 – 19 Feet .....	\$2,055/HOLE
19 Feet and Over .....	\$3,290/HOLE
Designation Truck Mobilization .....	\$400/TRIP
Location Truck Mobilization .....	\$750/TRIP

(\*\*) These rates include all services to produce final product.

**EXHIBIT II**

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**McGRAY & McGRAY LAND SURVEYORS, INC.**

*3301 Hancock Drive, Suite 6*

*Austin, Texas 78731*

*Office 512/451-8591 Fax 512/451-8791*

*Email [mmcgray@austin.tx.com](mailto:mmcgray@austin.tx.com)*

**SURVEYOR RATE SCHEDULE**

**2001-2003 PROFESSIONAL SURVEYING SERVICES**

Field crew rates include all equipment and overhead necessary to perform any survey related task. Office rates include all equipment and overhead necessary to do drafting, office computations, and other related office tasks. Fees and charges include complete insurance coverage, taxes and benefits.

SERVICE	RATE / REMARKS
---------	----------------

Conventional Field Crew Services:

1- Man Reconnaissance or Data Gathering	\$ 60.00 Per Hour
2-Man Survey Crew with Vehicle and Data Collection	\$ 89.00 Per Hour
3-Man Survey Crew with Vehicle and Data Collection	\$116.00 Per Hour
4-Man Survey Crew with Vehicle and Data Collection	\$141.00 Per Hour
Flagman	\$ 25.00 Per Hour

GPS Field Services:

GPS	\$ 99.00 Per Hour
RTK	\$175.00 Per Hour

There is a minimum charge of 4 hours for above field crew services (unless otherwise agreed).

Office / Professional / Technical Services:

Researcher	\$ 46.00 Per Hour
Drafter Time	\$ 53.00 Per Hour
Secretarial	\$ 42.00 Per Hour
AutoCAD / Survey Technician Time	\$ 60.00 Per Hour
Senior Technician Time	\$ 70.00 Per Hour
GPS Processing	\$ 75.00 Per Hour
Manager	\$ 95.00 Per Hour
RPLS Time	\$ 90.00 Per Hour
RPLS (Consulting, Court Testimony, Etc.)	\$110.00 Per Hour
Principal	\$110.00 Per Hour

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**EXHIBIT III****COMPENSATION FOR ADDITIONAL PROFESSIONAL SERVICES**

1. The fees described in Exhibits I and II to this Agreement shall provide compensation to *Engineer* for the work 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.
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**EXHIBIT IV****PRODUCTION SCHEDULE**

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 design, construction contract award and construction of the *Project*, including warranty periods and any extensions of time, unless terminated earlier as provided for herein. *Engineer* shall complete all design work as described in the Scope of Services within the timeline and/or schedule provided in the Scope of Services.

The number of days expiring from the date of submittal to *County* of a complete work product to the date the review is finished and comments returned to *Engineer* shall not be included within the days allowed for completion.

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**EXHIBIT V****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 completed or partially completed designs, plans, and specifications prepared under this Agreement prior to the effective date of termination shall be delivered to *County* as a pre-condition to final payment.
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 designs, plans and specifications 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.
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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 reports, designs, plans, studies, specifications and other work product 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.
  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 VI****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 he 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.
- 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
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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.

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**EXHIBIT VII****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 \$ 1,000,000 \_\_\_\_\_ per occurrence and \$2,000,000 \_\_\_\_\_ 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 \$1,000,000 <sup>combined</sup> ~~per~~ <sub>single</sub> ~~limit~~ ~~occurrence~~ and \$ \_\_\_\_\_ 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 \$1,000,000 \_\_\_\_\_.
- 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 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

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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.

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**APPENDIX A****SCOPE OF SERVICES**

THE ATTACHED 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 BY COUNTY AS ADDITIONAL SERVICES AT THE RATE OF COMPENSATION SET FORTH IN EXHIBIT II.

EXCEPT AS PROVIDED FOR FEE SERVICES OR WORK-ORDER BASED SERVICES, THE ATTACHED SCOPE OF SERVICES SHALL INCLUDE A PRODUCTION SCHEDULE REFLECTING A TIMELINE FOR THE EXECUTION OF THE PROJECT.

**Services:**

1. Utility Program Management
  2. Project Management
  3. Consultant Coordination
  4. Utility Coordination
  5. Project & Coordination Meetings
  6. Utility Agreements
  7. Utility Design
  8. Subsurface Utility Engineering
  9. Research - Utility Data Collection
  10. Utility Construction Observation/Inspection
  11. Surveying
  12. Mapping
  13. Administration
-

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**APPENDIX B**

**CONTRACTOR'S QUALIFICATIONS STATEMENT**

## Williamson County, Texas Utility Relocation Procedures

### Utility Data Collection

This policy outlines the procedures to be followed for the identification of ownership and necessary relocations of utilities that are adjacent to or within the existing or proposed ROW of the project limits. The Consultant is responsible for the identification and the location of all utilities within the limits of construction of the project. The Utility Coordinator is responsible for reviewing the utility identifications made by the Consultant, verifying the ownership and locations of the utilities, developing plans for the utility relocations (if required), and coordination of the relocation construction. If the utility is located outside of existing County right-of-way, the Utility Coordinator will assist the County in negotiating with the utility owner for compensation by the County for relocation design and construction costs. ***No compensation will be made for any relocation required for utilities within existing right-of-way.***

Identification of both above-ground, and below-ground facilities is required. Above-ground utility information may be obtained by standard land surveying methods. Underground utility locations may be determined by conventional survey methods or by Subsurface Utility Engineering (SUE) (see Attachment A). SUE is the engineering process that uses new and existing technologies to accurately identify, characterize, and map underground utilities.

### Locate existing utilities

All existing utilities must be physically located, marked, and tied into the project survey. This includes horizontal and vertical locations, and below ground elevation information if applicable (i.e. sanitary or storm sewers). Land surveys are generally adequate for project locations with few underground utilities (i.e., in rural areas). However, in urban areas or critical locations along a rural project, other methods (i.e. SUE) may be needed.

For land surveying:

- Coordinate with local utility owners.
- Obtain "as-built" information from utility owners to establish preliminary utility locations.
- Locate, log, and survey visible features of utilities.
- "Pothole" or excavate down to the utility, if necessary, to confirm and survey locations of strategic subsurface features. Some utility owners will "pothole" their facilities at their own expense
- Mark and label locations of subsurface utilities with stakes, laths, or other means.
- Survey utility locations.

For SUE:

- Consult with the County Engineer or his designee to determine the need for SUE.

**Note:**

Utility owners are responsible for the costs of relocating their facilities within existing ROW. This includes locating existing lines, preparing plans, specifications and estimates, and letting construction contracts. It is advisable to provide the owners as much notice as possible of potential relocation requirements. Final alignments and profiles of some roadway features could be affected by existing utilities or proposed relocations, so early identification and coordination of relocation designs is desirable.

### Utility Adjustments

Major changes to existing roadways are likely to impact any utilities located within the right-of-way. It is the responsibility of the County or design consultant to formally notify all affected utility owners of proposed work and to coordinate utility adjustments with the utility owners.

### Utility Relocation/Adjustment Plans

As noted earlier, utility companies are generally responsible for the costs involved in designing and constructing relocations of services within existing ROW. The relocation plans should show both existing and proposed utilities, and both temporary (if applicable) and permanent relocations.

When projects involve new alignments that require taking of ROW, and utility relocation or adjustment is required on the acquired ROW, the County may participate in the relocation or adjustment activities. The relocation plans may be incorporated into the roadway construction plan set if the County desires to have one contract cover all construction activities.

When design of proposed underground features is approximately 50 – 60% complete, construction plans should be sent to all utility owners to aid in relocation design efforts. Construction of major utility facilities, such as transmission lines or large pipelines, can require construction schedules of twelve months or longer. These activities must be factored into the overall project construction schedule. Utility relocation and adjustment activities should be completed before the roadway construction contract is let.

**Utility Adjustment Agreements**

If the County participates in the cost of relocating and/or adjusting utilities, an agreement with each affected utility must be executed. This agreement shall specify each party's rights and responsibilities. The agreement will require approval by the County Engineer or his designee.

The agreement shall include, at a minimum, the agreement form (see Attachment B), plans specifications and cost estimates for the relocations/adjustments, utility joint-use agreement, and reimbursement/audit provisions.

**Construction of Relocations/Adjustments**

During the construction of the relocations and/or adjustments of the utilities, coordination between the County (or its agents) and the utility owner is required. Any change in the utility construction schedule could adversely impact the overall project construction schedule. Periodic inspection of the utility construction is advisable.

To avoid affecting proposed construction, utility adjustments should start as necessary right of way is available, plans and estimates are approved, and agreements are executed.

**Resource Material for Utility Relocations**

- *TxDOT Utility Manual*
- *Subsurface Utility Engineering, USDOT, FHWA, Office of Engineering, Federal-Aid & Design Division, Federal-Aid Program Branch, November 1995*
- *Subsurface Utility Engineering, An Engineering Process for Obtaining Reliable*
- *Underground Utility Information – A Paper by C. Paul Scott, P.E., Office of Engineering, Federal Highway Administration, March 1998*
- *Subsurface Utility Engineering – A New Standard of Care, American Society of Civil Engineers, National Standards Activity*
- *TxDOT Architectural and Engineering Services Volume of Contract Management Manual*

## **Subsurface Utility Engineering (SUE) – Attachment A**

SUE is the non-destructive process of accurately locating, identifying, and mapping underground utilities. SUE is an interdisciplinary service that involves professional engineers, geologists, and licensed land surveyors and which provides comprehensive and reliable information in the format selected by the County. SUE is a professional service resulting in signed and sealed deliverables.

The three major activities involved in SUE are:

- Designating – the use of surface geophysical techniques to determine the existence and horizontal position of underground utilities. Designating can be done with electromagnetics, magnetometers, terrain conductivity meters, resonant sonics, and other geophysical designating equipment.
- Locating – the use of non-destructive digging equipment (such as vacuum excavation) at critical points along a subsurface utility's path to determine the precise horizontal and vertical position, the size, the composition, and the condition of buried utilities.
- Data Management – the acquisition of utility-location data by conventional and high-tech surveying methods and the reduction and documentation of the data in a format suitable to the client. This may be in the form of a set of plans or an electronic CADD format.

Four "quality levels" of data are described below. Work done for each level includes work done in lower levels. For example, work done in level B includes work done in C and D.

- Quality Level A information provides the highest level of accuracy presently available. It involves locating (described above) utilities at critical points. When surveyed and mapped, precise plan and profile information is available for use in making final design decisions. The use of non-destructive digging equipment, particularly vacuum excavation, eliminates damage to underground utility facilities traditionally caused by backhoes. By knowing exactly where a utility is positioned, the designer can often make small adjustments in design elevations or horizontal locations and avoid the need to relocate utilities.
- Quality Level B involves designating (described above) the horizontal position of almost all utilities within the project limits. The information obtained in this manner is surveyed to project control. This two-dimensional horizontal mapping information is usually sufficient to accomplish preliminary engineering goals. Decisions can be made on where to place storm drainage systems and other design features in order to avoid conflicts with existing utilities. Slight adjustments in the design can produce substantial cost savings by eliminating utility relocations.



- Quality Level C information is a little less accurate than B. It involves surveying visible above ground utility facilities, such as manholes, valve boxes, posts, etc., and correlating this information with existing utility records. When using this information it is not unusual to find that many underground utilities have been either omitted or erroneously plotted on utility records. Its usefulness, therefore, should be confined to rural projects where utilities are not prevalent, or are not too expensive to repair or relocate.
- Quality Level D is the most basic level of information. It comes solely from existing utility records. It may provide an overall understanding for the congestion of utilities, but it is often highly limited in terms of comprehensiveness and accuracy. Its usefulness should be confined to project planning and route selection activities.

**Attachment B****Standard Utility Agreement  
COUNTY ROAD BOND PROGRAM  
Agreement No. \_\_\_\_\_**

PROJECT NAME \_\_\_\_\_ PROJECT NO. \_\_\_\_\_  
CONTRACT NO. \_\_\_\_\_

---

This Agreement by and between Williamson County, Texas, hereinafter called the **County**, and \_\_\_\_\_ hereinafter called the **Owner**, acting by and through its duly authorized representative, shall be effective on the date of approval and execution by and on behalf of the **County**.

**WHEREAS**, the **County** has deemed it necessary to make certain roadway improvements generally described as follows: Roadway \_\_\_\_\_ from \_\_\_\_\_ to \_\_\_\_\_; and,

**WHEREAS**, this proposed roadway will necessitate the relocation or adjustment of certain facilities of **Owner** as indicated in the following statement of work:

and such work is shown in more detail in **Owner's** preliminary plans, specifications and cost estimates which are attached hereto and made a part hereof; and,

**WHEREAS**, the **County** desires to implement the relocation or adjustment of **Owner's** facilities by entering into an agreement with said **Owner** as soon as possible.

**NOW, THEREFORE, BE IT AGREED:**

The **County**, subject to the acquisition of such rights or interests as may be deemed necessary along or across **Owner's** interest in land, will pay **Owner** the costs incurred in relocating and adjusting **Owner's** facilities up to the amount said costs may be eligible for State participation.

The **Owner** has determined that the method to be used in developing the relocation or adjustment costs shall be as specified for the method checked and described hereafter:

- ☐ (1) Actual direct and related indirect costs accumulated in accordance with a work order accounting procedure prescribed by Williamson County.
- ☐ (2) Actual direct and related indirect costs accumulated in accordance with an established accounting procedure developed by the **Owner** and approved by the **County**.

- ☐ (3) An agreed lump sum of \$ \_\_\_\_\_, as supported by the analysis of estimated cost attached hereto.

If costs are developed under procedure (1) or (2) as before specified, the **County** will, upon satisfactory completion of the relocation or adjustment and upon receipt of a detailed final billing prepared in acceptable form and manner, make such payment in the amount of 90% of the eligible costs as shown in the final billing prior to the required audit and after such audit shall make final payment in an amount so that the total payments will equal the amount found eligible for State reimbursement by the final audit. When requested, the **County** will make intermediate payments at not less than monthly intervals to **Owner** when properly billed and such payments will not exceed 80% of the eligible cost as shown in each such billing. Intermediate payments shall not be construed as final payment for items included in the intermediate payment.

If costs are developed under procedure (3) as before specified, the **County** will, upon satisfactory completion of the relocation and adjustment and upon receipt of a billing prepared in acceptable form, make payment to **Owner** in the agreed amount.

Upon execution of this agreement by both parties hereto, the **County** will, by written notice, authorize the **Owner** to proceed with the necessary relocation or adjustment, and the **Owner** agrees to prosecute such work diligently to completion in such manner as will not result in avoidable interference or delay in either the **County's** roadway construction or in the said work.

The **Owner** will carry out said relocation and adjustment, accurately record the costs, and retain such records in accordance with applicable rules, regulations and procedures and the costs paid by the **County** pursuant to this agreement shall be full compensation to **Owner** for all costs incurred by **Owner** in making such relocation and adjustment.

Bills for work hereunder should be submitted to the **County** not later than 60 days after completion of the work.

In the event, it is determined that a substantial change from the statement of work contained in this agreement is required, reimbursement therefor shall be limited to costs covered by a modification of this agreement or a written change or extra work order approved by the **County**.

It is expressly understood that this agreement is subject to cancellation by the **County** at any time up to the date that work under this agreement has been authorized and that such cancellation will not create any liability on the part of the **County**.

The **Owner** by execution of this agreement does not waive any of the rights which **Owner** may legally have within the limits of the law.

Owner: \_\_\_\_\_

Execution Recommended:

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

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

\_\_\_\_\_  
Engineer

Date: \_\_\_\_\_

WILLIAMSON COUNTY

Certified as being executed for the purpose and effect of activating and /or carrying out the orders, established policies, or work programs heretofore approved and authorized by the Williamson County Commissioners Court.

BY: \_\_\_\_\_  
County Judge

Date: \_\_\_\_\_

Client#: 1050

COBBFENDLE

<b>ACORD™ CERTIFICATE OF LIABILITY INSURANCE</b>		DATE (MM/DD/YY) 053001
<b>PRODUCER</b> Brady, Chapman, Holland & Assoc. 2190 North Loop West Suite 200 Houston, TX 77018		<b>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.</b>
<b>INSURED</b> Cobb Fendley & Associates Inc 5300 Hollister, Suite 400 Houston, TX 77040		
		<b>INSURERS AFFORDING COVERAGE</b>
		INSURER A: Valley Forge Insurance Co. <CNA>
		INSURER B: Continental Casualty Co. <CNA>
		INSURER C: First American Insurance Co
		INSURER D:
		INSURER E:

## 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 LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC	172018106	07/10/00	07/10/01	EACH OCCURRENCE	\$1,000,000
					FIRE DAMAGE (Any one fire)	\$300,000
					MED EXP (Any one person)	\$10,000
					PERSONAL & ADV INJURY	\$1,000,000
					GENERAL AGGREGATE	\$2,000,000
					PRODUCTS - COMP/OP AGG	\$2,000,000
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	C172023113	07/10/00	07/10/01	COMBINED SINGLE LIMIT (Ea accident)	\$1,000,000
					BODILY INJURY (Per person)	\$
					BODILY INJURY (Per accident)	\$
					PROPERTY DAMAGE (Per accident)	\$
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT	\$
					OTHER THAN AUTO ONLY: EA ACC	\$
					AGG	\$
B	EXCESS LIABILITY <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE  DEDUCTIBLE <input checked="" type="checkbox"/> RETENTION \$10000	C172023130	07/10/00	07/10/01	EACH OCCURRENCE	\$1,000,000
					AGGREGATE	\$1,000,000
						\$
						\$
						\$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	6TXWCI001824	07/10/00	07/10/01	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER	
					E.L. EACH ACCIDENT	\$1,000,000
					E.L. DISEASE - EA EMPLOYEE	\$1,000,000
					E.L. DISEASE - POLICY LIMIT	\$1,000,000
	OTHER					

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

<b>CERTIFICATE HOLDER</b>	<b>ADDITIONAL INSURED; INSURER LETTER:</b>	<b>CANCELLATION</b>
Judge Doepler, County Judge Williamson County Courthouse 710 Main Georgetown, TX 78626		SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 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 <i>Peter S. Postman</i>

## **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.

07/17/2001

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Form **W-9**  
(Rev. March 1994)**Request for Taxpayer  
Identification Number and Certification**Give form to the  
requester. Do NOT  
send to the IRS.Department of the Treasury  
Internal Revenue ServiceName (If joint names, list first and circle the name of the person or entity whose number you enter in Part I below. See instructions on page 2 if your name has changed.)  
**COBB, FENDLEY & ASSOCIATES INC**Business name (Sole proprietors see instructions on page 2.)  
**SAME**Please check appropriate box: ☐ Individual/Sole proprietor ☒ Corporation ☐ Partnership ☐ OtherAddress (number, street, and apt. or suite no.)  
**5300 HOLLISTER, SUITE 400**City, state, and ZIP code  
**HOUSTON TEXAS 77040**

Requester's name and address (optional)

List account number(s) here (optional)

**Part I Taxpayer Identification Number (TIN)**

Enter your TIN in the appropriate box. For individuals, this is your social security number (SSN). For sole proprietors, see the instructions on page 2. For other entities, it is your employer identification number (EIN). If you do not have a number, see How To Get a TIN below.

Social security number

OR

Employer identification number

**74-2119187-9**

Note: If the account is in more than one name, see the chart on page 2 for guidelines on whose number to enter.

**Part II For Payees Exempt From Backup Withholding (See Part II instructions on page 2)****Part III Certification**

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding.

Certification Instructions.—You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because of underreporting interest or dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, the acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. (Also see Part III instructions on page 2.)

Sign Here Signature **Marilyn Gertz** Date **7-6-01**

Section references are to the Internal Revenue Code.

Purpose of Form.—A person who is required to file an information return with the IRS must get your correct TIN to report income paid to you, real estate transactions, mortgage interest you paid, the acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA. Use Form W-9 to give your correct TIN to the requester (the person requesting your TIN) and, when applicable, (1) to certify the TIN you are giving is correct, (or you are waiting for a number to be issued), (2) to certify you are not subject to backup withholding, or (3) to claim exemption from backup withholding if you are an exempt payee. Giving your correct TIN and making the appropriate certifications will prevent certain payments from being subject to backup withholding.

Note: If a requester gives you a form other than a W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

What Is Backup Withholding?—Persons making certain payments to you must withhold and pay to the IRS 31% of such

payments under certain conditions. This is called "backup withholding." Payments that could be subject to backup withholding include interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

If you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return, your payments will not be subject to backup withholding. Payments you receive will be subject to backup withholding if:

- You do not furnish your TIN to the requester, or
- The IRS tells the requester that you furnished an incorrect TIN, or
- The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or

- You do not certify to the requester that you are not subject to backup withholding under 3 above (for reportable

interest and dividend accounts opened after 1983 only), or

- You do not certify your TIN. See the Part III instructions for exceptions.

Certain payees and payments are exempt from backup withholding and information reporting. See the Part II instructions and the separate instructions for the Requester of Form W-9.

How To Get a TIN.—If you do not have a TIN, apply for one immediately. To apply, get Form SS-5, Application for a Social Security Number Card (for individuals), from your local office of the Social Security Administration, or Form SS-4, Application for Employer Identification Number (for businesses and all other entities), from your local IRS office.

If you do not have a TIN, write "Applied For" in the space for the TIN in Part I, sign and date the form, and give it to the requester. Generally, you will then have 60 days to get a TIN and give it to the requester. If the requester does not receive your TIN within 60 days, backup withholding, if applicable, will begin and continue until you furnish your TIN.

RECORDERS MEMORANDUM

All or parts of the text on this page was not clearly legible for satisfactory reproduction.

**AGENDA ITEM 36**

Consider appointing election judges for period from August 1, 2001 to July 31, 2002.

Moved: **Judge Doerfler**

Seconded: **Commissioner Heiligenstein**

Motion: To approve appointment of election judges for period from August 1, 2001 to July 31, 2002, as presented by the Elections Department.

Vote: **5 – 0**

< Attachment >