

Tom Green County Commissioners' Court
February 11, 2003

The Commissioners' Court of Tom Green County, Texas, met in Regular Session February 11, 2003 in the Edd B. Keyes Building, with the following members present:

Clayton Friend, Commissioner of Precinct #1
Jodie R. Weeks, Commissioner of Precinct #3
Richard Easingwood, Commissioner of Precinct #4
Michael D. Brown, County Judge

County Judge, Mike Brown, called the meeting to order at 8:37 AM.

The Pledge of Allegiance to the United States and the Texas flags were recited.

Dr. Judy Gonzales, Dean of Students at Life Christian University-San Angelo Campus, offered the invocation.

4. Commissioner Friend moved to approve the Consent Agenda as presented, with the exclusion of item (G) dealing with the contracts for the Indigent Health Care Provider with Shannon Medical Center, Shannon Pharmacy, and La Esperanza Clinic, which will be passed until the final contracts are available for review. The motion were seconded by Commissioner Easingwood. The following items were presented:

- A. Approved the minutes of the Regular Meeting, January 28, 2003 .
- B. Approved the Minutes of the Accounts Allowable from 1/29/03 – 2/4/03 in the amount of \$1,146,361.45 and from 2/5-11/03 in the amount of \$220,573.94 for a combined total of \$ 1,366,935.39; Purchase Orders from 1/27-31/03 in the amount of \$92,358.11 and from 2/3-7/03 in the amount of \$19,044.68 for a combined total of \$111,402.79.

- C. Accepted Personnel Actions as presented:

The following salary expenditures are being presented for your *Approval*:

<u>NAME</u>	<u>DEPARTMENT</u>	<u>ACTION</u>	<u>EFF. DATE</u>	<u>GRADE /STEP</u>	<u>SALARY</u>	
Boatright, Robin W.	Building Maintenance	Rehire	02/10/03	9/1	\$ 604.14	S/M
Foley, Merle E.	Collections	New Hire	02/05/03	16/1	\$ 852.90	S/M
Tarraferro, Nick A.	District Clerk	New Hire	02/06/03	Temp	\$ 6.25	/HR
Carroll, Tyrie D.	Juv Detention (043)	Salary Increase	02/06/03	Standby	\$ 6.00	/HR
Castaneda, Monica J.	Juv Detention (043)	New Hire	02/04/03	Standby	\$ 5.50	/HR
Fuentez, Feinando R.	Juv Detention (043)	New Hire	02/04/03	Standby	\$ 5.50	/HR
Geffers, Amanda F.	Juv Detention (043)	Rehire	02/04/03	Standby	\$ 5.50	/HR
Herrera, Oscar S.	Juv Detention (043)	New Hire	02/04/03	Standby	\$ 5.50	/HR
Johnson, Amanda R.	Juv Detention (043)	Salary Increase	02/06/03	Standby	\$ 6.00	/HR
Robinson, Sasha D.	Juv Detention (043)	Salary Increase	02/06/03	Standby	\$ 6.00	/HR
Sadler, Jena K.	Juv Detention (043)	New Hire	02/04/03	Standby	\$ 5.50	/HR
West, James D.	Juv Detention (043)	Salary Increase	02/06/03	Standby	\$ 6.00	/HR
Potter, Harold E.	Juv Probation (056)	New Hire	02/12/03	N/A	\$ 958.33	S/M
Price, Kayla A.	Vehicle Registration	New Hire	02/03/03	10/1	\$ 634.29	S/M

The following personnel actions are presented for *Acknowledgement* and as a matter of record:

<u>NAME</u>	<u>DEPARTMENT</u>	<u>ACTION</u>	<u>EFF. DATE</u>	<u>GRADE /STEP</u>	<u>SALARY</u>	
Russell, James C. "Jake"	Jail	Resignation	02/02/03	16/1	\$ 852.90	S/M
Fuentes, Frank R.	Road & Bridge 2/4	Resignation	01/28/03	13/1	\$ 735.52	S/M
Castillo, Valleri A.	Sheriff	Resignation	02/03/03	12/1	\$ 699.98	S/M
Tucker, William M.	CSCD (271)	*Status Change	01/16/03	P/T	\$ 8.25	/HR

* Went from full-time to part-time

- D. Approved the purchase of a shredder in the amount of \$225.00 to be paid out of Records Management fund 019 for the County Clerk's office.

- E. Approved request from Verizon Southwest to bury communication line within the right of way of a County Road starting 300 feet northeast of the intersection of US Hwy 87 on Spring Avenue in the east right of way to directly bury in a northerly direction for 1,644 feet then bore and push a 1.5 inch subduct from ROW to ROW, then continuing in a northerly direction boring a minimum of 30 inches in depth and within 3 feet of ROW.
- F. Approved request by Concho Rural Water Corp. to install a 4 inch Water line along the south side of Reece Road from the west end of the road to a point 3,960 feet east and bore approximately 40 feet from the south side to the north side of the road. (Recorded with these minutes.)
- G. Passed

All voted in favor of the motion.

- 5. **Judge Brown moved to grant LCRA Transmission Services Corporation an Extension of Right of Entry to the 17.66 acre tract located at the intersection of Grape Creek Road and US Hwy 87 North. Commissioner Easingwood seconded the motion and all voted in favor.** (Recorded with these minutes.)

- 6. Eric Gray, Legal Counsel for Southern Correction System, Inc. DBA AVALON, Inc., was present for questions and explanations regarding request made by his client. Mark Williams, Juvenile Probation Director, explained to the Court that he poled 19 different similar facilities to make a comparison and the potential of occupancy. He explained that many of the facilities are County operated, others are with private firms. Some of the County operated facilities house only their own Juveniles and do not take Juveniles from other Counties. He explained that Tom Green County does not have enough Juvenile offenders to fill the facility and we need the influx from other Counties to keep the numbers up. Mark explained that the numbers traditionally go down in the spring and summer, then back up in the fall. He also explained that if programming changes could be adopted, then more of the Tom Green County Juveniles can be housed locally instead of having to transport them to other facilities that have programs other than drug and alcohol abuse. Any program changes would have to be approved by the Juvenile Board prior to being implemented. Mr. Gray explained that due to the low numbers, that his client has lost approximately \$70,000.00 from September through December. He requested some subsidizing of utility and food costs or operational expenses at the facility.

Commissioner Weeks moved to approve (1) permanent modification of the existing contract with Southern Corrections Systems, Inc., to provide maximum flexibility for the Roy K. Robb Post Adjudication Facility to receive juveniles in need of secure placement regardless of the need for substance abuse treatment. Such modification would include flexibility in programming, staffing and policies as well as any other areas requiring change to serve the needs of the juveniles. Allow negotiations with ARAMARK for food service, utilizing our facilities. Commissioner Friend seconded the motion. Commissioners Friend and Weeks and Judge Brown voted in favor of the motion. Commissioner Easingwood voted in opposition of the motion. The motion passed.

Judge Brown and Keith Davis, Counsel for Tom Green County, will discuss some further negotiations and then bring it back to the Court for future consideration.

- 7. Sheri Woodfin, District Clerk explained that this was an amendment to the contract changing the retention period for these records from 5 years to 3 years.
Judge Brown moved to approve Amendment #1 on the Cooperative Agreement between the Office of the Attorney General of the State of Texas and Tom Green County on Contract No. 01-02506 and authorize the County Judge to sign the necessary papers. The motion was seconded by Commissioner Friend and all voted in favor of the motion. (Recorded with these minutes)
- 8. **Judge Brown moved to approve the acceptance of the Discretionary Grant from the Task Force on Indigent Defense in the amount of \$42,480.00. Commissioner Easingwood seconded the motion and all voted in favor.** (Recorded with these minutes.)
- 9. **Judge Brown moved to grant permission to the County Auditor to request proposals for telecommunication equipment pursuant to the Task force on**

Indigent Defense Discretionary Grant funding. Commissioner Easingwood seconded the motion and all voted in favor.

10. **Commissioner Easingwood moved to award Phase V of the Christoval Water Systems Project Professional Services Agreement to GSWW, Inc., as engineer. Commissioner Weeks seconded the motion and all voted in favor. (Recorded with these minutes.)**
11. **Commissioner Weeks moved to grant the County Treasurer permission to close funds 24 (93 I&S) and 54 (95 I&S) and place any additional taxes collected from these funds into Fund 39 (94 I&S). Commissioner Friend seconded the motion and all voted in favor.**
12. **Margaret Ballard and Jim Bristow were the names drawn from the Grand Jury list to serve on the Tom Green County 2003 Grievance Committee. The County Clerk will mail notice to these 2 citizens seeking their acceptance to serve on this committee.**
13. Myron Schmiedekamp, Superintendent for Parks/Solid Waste Department, presented the Court with prices of new and used skid loaders and tractors with a front loader to replace the rental that is being used at present. The Court discussed rental options for the remainder of the year. **No action was taken.**
14. **Judge Brown moved to table the ARAMARK discussion until representatives are present. Commissioner Weeks seconded the motion and all voted in favor.**
15. **Purchase of tractor/loader for the Parks Department was passed.**
16. **Judge Brown moved to approve the de-designation of San Angelo/TomGreen County Enterprise Zone No. One Program. Commissioner Friend seconded the motion and all voted in favor.**
17. Judge Brown recessed the Regular Commissioners' Court Meeting at 10:24 AM to hold an Open Public Meeting to discuss the abandonment and vacating of a road right of way in the Louis Williams Subdivision in the Wall area of Precinct #2. Judge Brown called the Open Public Hearing to order at 10:25 AM. Commissioner Friend addressed the Court, in the absence of Commissioner Bookter, to explain that a road had been dedicated in 1924 but never established due to a low water area. A road was built in a different area and deeded in 1935 and is now known as Schwartz Road. Being no further comment from the public, Judge Brown closed the Open Public Hearing at 10:27 AM.
18. Judge Brown reconvened the Regular Commissioners' Court Meeting at 10:27 AM.
19. **Judge Brown moved to abandon and vacate that portion of the right of way that would have been Schwartz Road, as indicated in plat dated Jan 28, 1924 and recorded in volume 109 page 352 of the Tom Green County Deed Records, that transverses the property subject to the legal description of meets and bounds to be filed with these minutes and reference the new road easement deeded in 1935 and recorded in volume 183 page 453 of the Tom Green County Deed Records. Commissioner Friend seconded the motion and all voted in favor.**
20. Herb Hooker, SK Engineering, addressed the Court regarding some clarification of the wording and time lines of the paving of roads in new subdivisions . A discussion was held regarding the necessity to require bonds by the developers. **No action was taken on any issues relating to the Tom Green County Subdivision and Manufactured Home Rental Community Development Regulations.**
21. **Judge Brown moved to approve the following line item transfers from the General Fund. Commissioner Weeks seconded the motion.**

<u>Department</u>	<u>Account</u>	<u>Budget Increase</u>	<u>Budget Decrease</u>
036 County Treasurer	0514 Special Projects	6,303.00	
192 Contingency	0601 Reserves		6,303.00
003 County Clerk	0403 Bond Premiums	6,212.50	
014 District Clerk	0403 Bond Premiums	1,065.00	
021 County Court 2	0403 Bond Premiums	177.50	
036 County Treasurer	0403 Bond Premiums	8,875.00	
192 Contingency	0601 Reserves		16,330.00
008 Information Technology	0109 Salary/Supervisor	45,281.04	
008 Information Technology	0105 Salary/Employee		45,281.04
All voted in favor of the motion.			

Future Agenda Items:

- 1. Consider purchase/rental of skid loader or tractor for Parks Department.
- 2. The next regular Commissioners’ Court meeting will be February 25th, 2003.

Announcements:

Judge Brown adjourned the meeting at 11:07 A.M.

Michael D. Brown, County Judge

Elizabeth McGill, County Clerk and
Ex-officio Clerk of the Commissioners’ Court

Water
at Your
Service



CONCHO RURAL WATER CORP.
8174 Hwy. 87 N., SAN ANGELO, TEXAS 76901
OFFICE: (915) 658-2961

Fax: (915) 658-2962

Home: (915) 465-4692

January 25, 2003

agenda for 11th

Commissioners Court
Tom Green County
Karl W. Bookter
Precinct 2

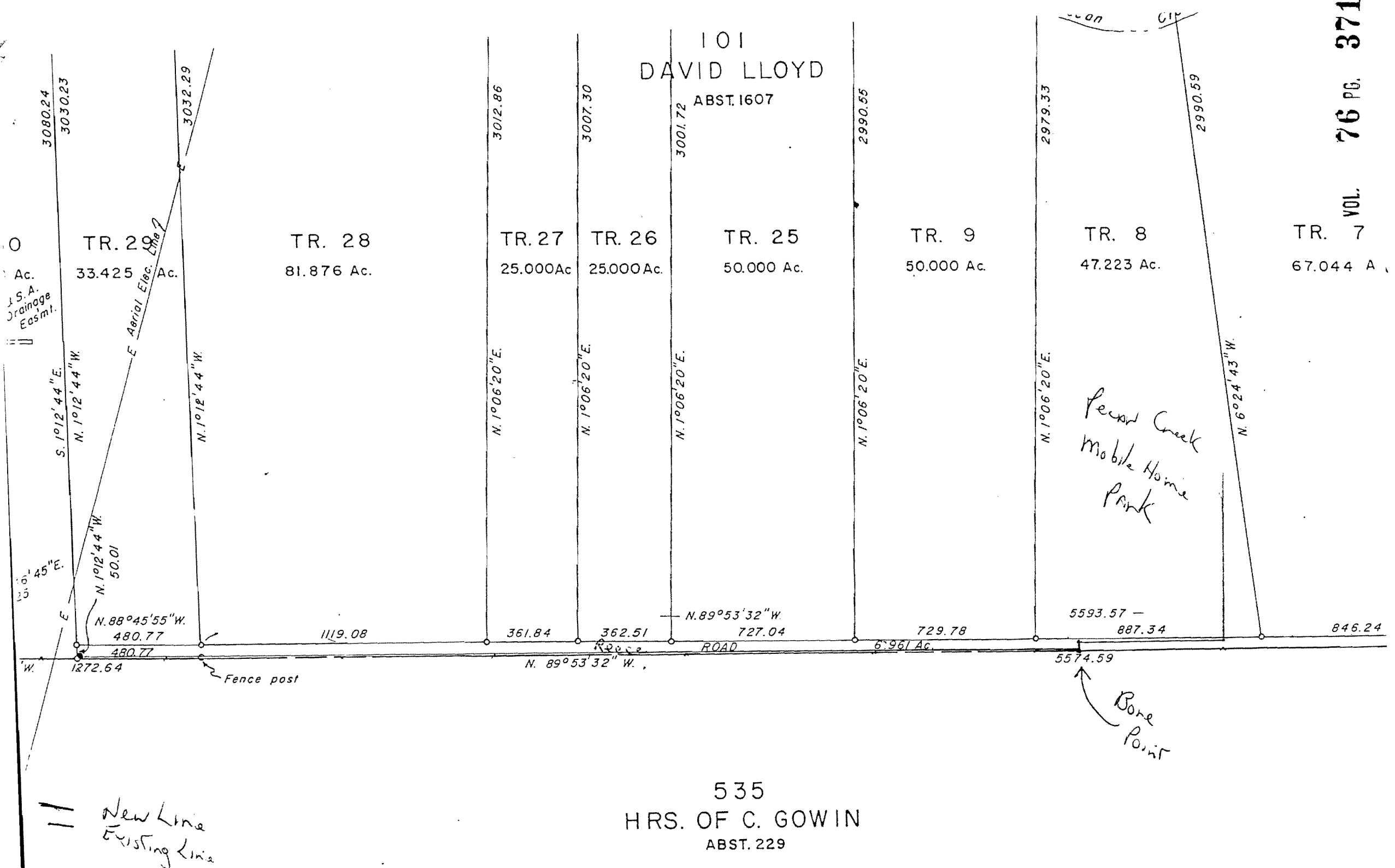
Dear Mr. Bookter:

Concho Rural Water Corp., a public utility operating under CCN.# 11361 hereby request permission to install a 4" inch Water line approximately 3960' feet in length along the South side of Reece Road from the West end of the road to a point 3960' feet East. At this point a Road Bore will need to be made approximately 40' feet in length from the South side to the North Side of the Road. I have a copy of the adopted County construction regulations and specifications for Tom Green County. We will make every effort to comply.

Respectfully yours.

B. F. Wiese

B. F. Wiese
8174 Hwy 87N
San Angelo, Texas 76901
P853(915) 658-2961



EXTENSION OF RIGHT OF ENTRY

DATE: January 28, 2003

OWNER: Tom Green County

OWNER'S ADDRESS: Tom Green County Justice Center
122 W. Harris
San Angelo, Texas 76903

LCRA: LCRA TRANSMISSION SERVICES CORPORATION

LCRA'S ADDRESS: P. O. Box 220
Austin, Texas 78767

PROPERTY: Attached as Exhibits A and B

PROJECT: Morgan Creek to Comanche Transmission Line
Project

RECITALS

The LCRA Transmission Services Corporation ("LCRA"), Board of Directors has authorized the construction of the PROJECT in Tom Green County to provide electrical power to its customers.

LCRA has completed the preliminary work in anticipation of constructing the PROJECT. A portion of the PROJECT will be located and constructed within the PROPERTY.

LCRA now desires to construct the PROJECT.

Due to the need for LCRA to obtain possession of the OWNER'S PROPERTY for the PROJECT and to accommodate the schedules of the parties, LCRA has requested, and OWNER has agreed, to grant LCRA the right to enter the PROPERTY.

A Right of Entry was granted by the OWNER on October 10, 2002, however the Right of Entry shall expire January 30, 2003, and LCRA needs additional time to construct the PROJECT, and OWNER has agreed to the granting of additional time.

AGREEMENT

OWNER, in consideration of the promises made herein, hereby grants and demises to LCRA and its authorized agents the right and privilege to enter upon the PROPERTY for the purposes of brush removal, clearing of right-of-way and construction of PROJECT.

This Right of Entry is personal to the LCRA and its contractors for this PROJECT. It is not assignable, and any attempt to assign this Right of Entry will terminate the privileges granted to LCRA hereunder.

It is agreed that in the use of the PROPERTY, LCRA is acting independently and not as an agent, employee, or representative of OWNER. LCRA, to the extent allowed by law, hereby binds itself, its successors and assigns, to indemnify and hold OWNER, its employees, agents, representatives, elected officials, successors and assigns harmless from any and all claims, demands and causes of action of any kind or character asserted against OWNER, its successors and assigns to the extent such claims, demands and causes of action arise out of or result from the acts and/or omissions of LCRA and its employees, in connection with (a) the PROJECT; or (b) the exercise of any right or privilege hereunder; or (c) any condition created, maintained or suffered to exist on or about the PROPERTY to the extent same is due to the acts or omissions of LCRA and its employees, agents or representatives.

LCRA, by acceptance of this Extension of Right of Entry agrees to, at all times after completing any work on the PROPERTY, restore the surface of the PROPERTY, as nearly as possible, to the condition in which the PROPERTY was found immediately before such work was undertaken.

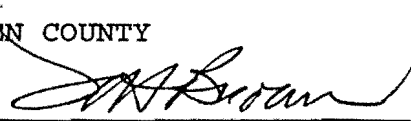
By virtue of the granting of permission to LCRA to enter upon the PROPERTY in accordance with this Extension of Right of Entry, OWNER does not waive any legal rights or defenses under the Constitution of the United States, the Constitution and Statutes of the State of Texas or any other provisions of the law that OWNER may have in connection with the acquisition of the rights to the PROPERTY by LCRA under the right of eminent domain, all such legal rights and defenses being expressly reserved to OWNER.

This Right of Entry shall be effective until August 1, 2003.

When the context requires, singular nouns and pronouns include the plural.

TOM GREEN COUNTY

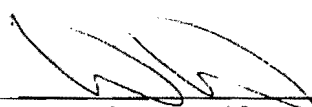
By: _____


Michael D. Brown, County Judge
Acting in his Official Capacity
and not in his Individual Capacity

LCRA TRANSMISSION SERVICES CORPORATION



By: _____


Heather Bailey
Co-Chief Operating Officer

CoJer Surveying, Inc.

Registered Professional Land Surveyors
1165 Lytle Way, Ste B
Abilene, Texas 79602
Telephone (915) 673-3704

Planning - Subdivisions - Locations - Lots
Farms - Ranches - Route Surveys
Global Positioning System (GPS)

Exhibit A
LL # TG-9c (B)

Being the description of an easement tract of land 160' in width, 80 feet each side of centerline and being out of the following Survey;

17.66 acres of land, more or less, being out of a 112.2 acre tract of land, out of Llano County School Land Survey 964, Abstract 1609, and being more particularly described in Volume 669, Page 152, of the Deed Records of Tom Green County, Texas.

and said centerline being more particularly described as follows:

Beginning at a 1/2" metal rebar set on the East line of said 17.66 acre tract whence a 4 1/2" Steel pipe fence corner post found for a corner of said 17.66 acre tract bears N26°38'20"W 1090.26' and a brass cap found for the Southeast corner of said 17.66 acre tract bears S26°38'20"E 144.27';

Thence N88°54'52"W a distance of 281.75' to a 1/2" metal rebar set on the West line of said 17.66 acre tract of land and the East line of U.S. Highway 87 recorded in Volume 423, Page 567, and Volume 440, Page 343, all in Deed Records, Tom Green County, Texas for the end of this easement, whence a found Brass Cap marked C-202-4 for the Northwest corner of said 17.66 acre tract of land bears N52°30'17"W 3441.64' and said easement being 281.75' in length and containing 1.04 acres of land.

Bearings and distances based on Lambert Grid, Texas Central Zone NAD83/93.
Note: See attached plat. (Exhibit 'B')

Surveyed on the ground May, 2001.



Ray A. Ussery
Registered Professional Land Surveyor
R.P.L.S. No. 5311

September 4, 2001

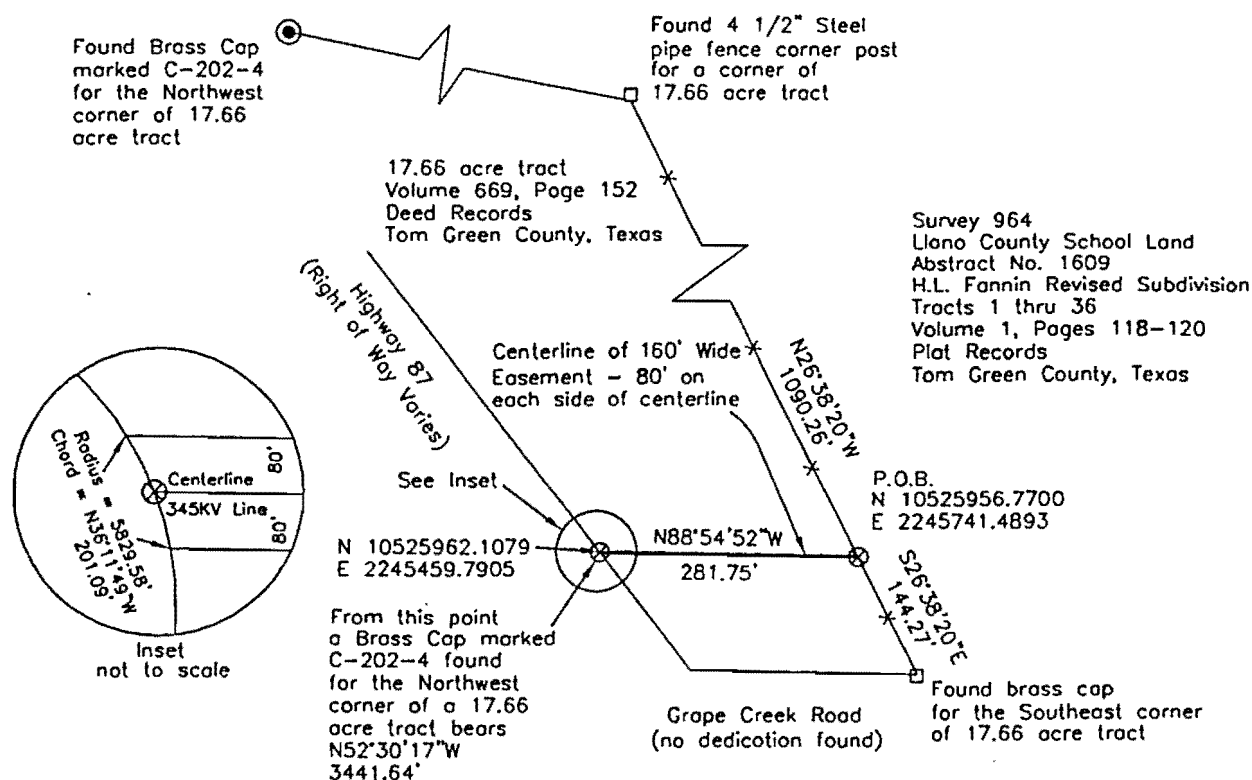
(915) 673-3704

EXHIBIT B

NOTE: RESEARCH PROVIDED BY:
RIGHT OF WAY SERVICE, INC.
P.O. BOX 69
ALICE, TX. 78333
361/664-8973

LEGEND

⊗ = 1/2" METAL REBAR SET
P.O.B. = POINT OF BEGINNING
N = NORTHING COORDINATE
E = EASTING COORDINATE



Note: Highway 87 recorded in Volume 423, Page 567,
Deed Records, Tom Green County, Texas, and
Volume 440, Page 343

Note: Centerline of 160' easement crosses Centerline of Highway 87 at approximate Highway Station 246+58

Easement:
Linear Feet of Centerline = 281.75'
Acreage = 1.04 Acres


LL# TG-9c (B)
1. Tom Green County, Texas

Being a plat showing the centerline of a 160' wide easement across a tract of land being 17.66 acres of land, more or less, being out of a 112.2 acre tract of land, out of Llano County School Land Survey 964, Abstract 1609, and being more particularly described in Volume 669, Page 152 of the Deed Records of Tom Green County, Texas and said centerline being more particularly described in Exhibit 'A' attached to this plat.

Note: See attached field notes.

Note: Bearings and distances based on Lambert Grid,
Texas Central Zone NAD83/93.
Combined Scale Factor = 0.999858

Surveyed on the ground May, 2001.


Ray A. Ussery
Registered Professional Land Surveyor
R.P.L.S. NO. 5311

Amendment 1

Cooperative Agreement
between
The Office of the Attorney General
of the State of Texas
and
Tom Green County, Texas

Contract No. 01-02506

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

1. PURPOSE

The Office of the Attorney General of Texas ("OAG") and Tom Green County Texas, ("County") do hereby agree to amend their original Agreement, as executed initially effective December 1, 2000 in order to conform the Contract to County's status as a non-subrecipient of federal pass-through funds.

2. AMENDMENT TO CONFORM THE CONTRACT TO COUNTY'S STATUS AS A NON-SUBRECIPIENT OF FEDERAL PASS-THROUGH FUNDS

Section 6.3 of the Contract ("Audit Provisions") is amended, retroactive to the commencement of the original Agreement, to read as follows:

6.3 Records Retention

County shall retain all financial records, supporting documents, statistical records, and any other records, logs, audit trails or books relating to the performances called for in this Contract. County shall retain all such records for a period of three (3) years after the expiration of the term of this Contract, or until the OAG or the United States are satisfied that all audit and litigation matters are resolved, whichever period is longer.

3. ORIGINAL AGREEMENT

By the signing of this amendment, the parties hereto understand and agree that this amendment is hereby made a part of the Agreement identified in Section 1 of this amendment as though the amendment were set forth word-for-word therein.

Office of the Attorney General

Tom Green County



Cynthia Bryant
Deputy Attorney General for Child Support



The Honorable Michael D. Brown
County Judge, Tom Green County

2/19/03

Date

February 11, 2003

Date

Task Force on Indigent Defense
Statement of Grant Award
Discretionary Grant

Grant Number: 212-03-D16
Grantee Name: Tom Green County
Program Title: Attorney / Client Video Teleconference System
Grant Period: 2/1/2003-1/31/2004
Grant Award Amount: \$42,480.00

The Task Force on Indigent Defense (Task Force) has awarded the above-referenced grant. The authorized official named on the grant application must sign this Statement of Grant Award and return it to the Task Force by February 16th. Funding is provided as listed in the categories in the table below:

Direct Costs	
1) Personnel (Total Number of FTEs: <u> </u>)	-
2) Fringe Benefits	-
3) Travel	-
4) Equipment	\$36,000
5) Supplies	-
6) Contract Services	-
7) Other	\$6,480
Total Direct Costs	\$42,480
Indirect Costs:	-
8) Indirect Costs	-
Total Indirect Costs	-
Total Proposed Costs	\$42,480
Less Cash from Other Sources	
Total Amount Funded by Task Force	\$42,480

Standard Grant Conditions:

- The authorized official for the grantee accepts the grant award.
- The authorized official, financial officer, and program director, referred to below as grant officials, agree to the terms of the grant, including the rules and documents adopted by reference in the Task Force on Indigent Defense's Grant Rules in Title 1, Part 8, Chapter 173, Texas Administrative Code.
- The grant officials agree to follow the grant terms contained in the "Required Conditions and Report" contained in Attachment A.
- The grant officials understand that a violation of any term of the grant may result in the Task Force placing a temporary hold on grant funds, permanently deobligating all or part of the grant funds, requiring reimbursement for funds already spent, or barring the organization from receiving future grants.
- The indigent defense plan(s) submitted on behalf of the county shall comply with the Indigent Defense Grant Program Acknowledgment contained in the discretionary grant application. The

Task Force will notify the authorized official if it determines that one or more of the plans submitted for a county does not comply with the Acknowledgment requirements. If a new plan or plan amendment addressing the deficient areas of the plan is not submitted to the Task Force within 45 days of the date the authorized official is notified of the deficiency, then the Task Force will place a hold on grant funds until the county complies with the Acknowledgment requirements. If a county fails to comply by the end of the grant period (January 31, 2004) any funds disbursed to the county under the FY 2003 discretionary grant must be returned to the Task Force.

The authorized official for this grant program had the read the preceding and indicates agreement by signing this Statement of Grant Award below:


Signature of Authorized Official

Michael D. Brown, Tom Green County Judge
Name & Title (must print or type)

February 11, 2003
Date

PROFESSIONAL SERVICES AGREEMENT

TOM GREEN COUNTY, TEXAS, as CLIENT engages GSWW, Inc. as ENGINEER to perform professional services for the assignment described as follows:

PREPARE PLANS AND SPECIFICATIONS FOR WATER FACILITY IMPROVEMENTS - as further described in the paragraph below, Christoval Water System, Tom Green County, Texas, 2003/2004 TCDP Contract No. _____.

WATER FACILITY IMPROVEMENTS: Construction of water facility improvements including approximately 3,265 L.F. of 6-inch PVC water line, 1,110 L.F. of 4-inch PVC water line, 540 L.F. of 2-inch PVC water line, 894 L.F. of ¾-inch polyethylene service line, 10 Ea. 6-inch gate valve and box, 4 Ea. 4-inch gate valve and box, 6 Ea. 2-inch gate valve and box, 2 Ea. 6-inch flushing valve, 2 Ea. 4-inch flushing valve, 3 Ea. 2-inch flushing valve, miscellaneous fittings and 36 Ea. residential meter and service re-connection.

I. SERVICES: ENGINEER agrees to perform Basic Services and Additional Services in conformance with the following descriptions, definitions, terms and conditions.

A. BASIC SERVICES: ENGINEER will perform these services in three phases:

1. Design Phase: ENGINEER will discuss the assignment with CLIENT, arrange for field surveys, as required; prepare final contract drawings and construction cost estimates; and prepare necessary bidding documents.
2. Bidding Phase: After completion of Design Phase and when authorized by CLIENT, ENGINEER will assist CLIENT in securing and analyzing bids, recommend award of construction contract and prepare construction contract.
3. Construction Phase: After completion of Bidding Phase and when authorized by CLIENT, ENGINEER will issue the notice to proceed to the contractor; consult with CLIENT during construction; transmit instructions of CLIENT to Contractor; visit construction site as appropriate to observe progress and quality of work; interpret drawings and specifications; review shop drawings, material and equipment test and Contractor's pay estimates; observe the completed construction for general conformity to contract documents; issue to Contractor a Certificate of Completion; prepare "Record Documents" of the completed project at which time Basic Services shall be deemed complete.

B. ADDITIONAL SERVICES: All work performed by ENGINEER which is either described in this paragraph or not included in the Basic Services defined above, shall constitute Additional Services. These shall include:

1. Travel and subsistence to points other than ENGINEER'S or CLIENT's offices and project site;
2. Copies of construction documents in excess of five (5) sets;
3. Revisions to substantially completed construction documents or approved preliminary documents occasioned by changes in scope of work;
4. Soil boring, soil, mill, shop and laboratory tests;
5. Expense of Field Surveys, construction staking and related office computations and drafting;
6. Construction observation;
7. Special reports or studies, property maps, plats, reparation of environmental statements, applications for permits or grants, appearances before regulatory agencies, and required filing fees;
8. Services as an expert witness including preparation of engineering data and reports on behalf of the CLIENT or in connection with litigation or other controversies, or in consultation with CLIENT or attorneys;
9. Renderings, exhibits or scale models;
10. Additional or extended services during construction made necessary by work damaged by fire or other cause during construction; defective or neglected work of Contractor; prolongation of construction contract time by more than 20%, acceleration of work schedule involving services beyond normal working hours; or default under construction contract due to delinquency or insolvency;
11. Services made necessary by the default of the contractor or CLIENT under the Contract for Construction or by deficiencies, defects or delays in the work by the contractor;
12. Services after issuance of Certificate of Completion;
13. Services to investigate existing conditions or facilities or to make measured drawings thereof, or to verify accuracy of drawings or other information furnished by CLIENT;
14. Other services not otherwise included in this Agreement or not customarily furnished in accordance with generally accepted engineering practice.

II. COMPENSATION: CLIENT agrees to pay ENGINEER for above described services in accordance with the following description, definitions, terms and conditions.

A. BASIC SERVICES: Compensation will be a lump sum for services in each phase as scheduled below:

PHASE	WATER FACILITY IMPROVEMENTS
DESIGN PHASE	\$10,500.00
BIDDING PHASE	\$1,700.00
CONSTRUCTION PHASE	\$5,400.00
TOTAL	\$17,600.00

- B. **ADDITIONAL SERVICES:** Compensation will be in accordance with the ENGINEER's most current Schedule of Fees for each listed category of engineer, draftsman, resident project representative or other employee. A copy of the most current schedule which is attached hereto as Appendix "A" and incorporated herein for all purposes. Surveying subcontract and resident project representative special services are estimated to total ELEVEN THOUSAND AND NO/100 DOLLARS (\$11,000.00). The ENGINEER will issue a new Schedule of Fees each January.

III. **PAYMENTS:**

- A. ENGINEER will invoice CLIENT monthly in amounts based on ENGINEER's estimate of the portion of the Basic Services completed, plus charges for Additional Services performed. CLIENT agrees to promptly pay ENGINEER at his office in MIDLAND, TEXAS, the full amount of each such invoice upon receipt.
- B. In the event legal action is necessary to enforce the payment terms of this Agreement, the ENGINEER shall be entitled to collect from the CLIENT any judgement or settlement sums due, plus reasonable attorneys' fees, court costs and other expenses incurred by the ENGINEER in connection therewith and, in addition, the reasonable value of the ENGINEER's time and expenses spent in connection with such collection action, computed according to the ENGINEER's prevailing fee schedule and expense policies.

- IV. **OWNERSHIP OF DOCUMENTS:** All documents, including original drawings, estimates, specifications, field notes and data prepared by the ENGINEER as instruments of service are and shall remain the property of the ENGINEER. The ENGINEER shall retain all common law, statutory and other reserved rights, including the copyright thereto. CLIENT may at his expense obtain a set of reproducible record copies of drawings and other documents, but agrees that he will use such copies solely in connection with the project covered by this Agreement and for no other purpose.

V. **ELECTRONIC FILES:**

- A. In accepting and utilizing any drawings, reports and data on any form of electronic media generated and furnished by the ENGINEER, the CLIENT agrees that all such electronic files are instruments of service of the ENGINEER, who shall be deemed the author, and shall retain common law, statutory law and other rights, including copyrights.
- B. The CLIENT agrees not to reuse these electronic files, in whole or in part, for any purpose other than for the Project. The CLIENT agrees not to transfer these electronic files to others without the prior written consent of the ENGINEER. The CLIENT further agrees to waive all claims against the ENGINEER resulting in any way from any unauthorized changes to or reuse of the electronic files for any other project by anyone other than the ENGINEER.

- C. The CLIENT and the ENGINEER agree that any electronic files furnished by either party shall conform to Adobe Acrobat format. Any changes to the electronic specifications by either the CLIENT or the ENGINEER are subject to review and acceptance by either party. Additional services by the ENGINEER made necessary by changes to the electronic files specifications shall be compensated for as additional services.
 - D. Electronic files furnished by either party shall be subject to an acceptance period of thirty (30) days during which the receiving party agrees to perform appropriate acceptance tests. The party furnishing the electronic file shall correct any discrepancies or errors detected and reported within the acceptance period. After the acceptance period, the electronic files shall be deemed to be accepted and neither party shall have any obligation to correct errors or maintain electronic files.
 - E. The CLIENT is aware that differences may exist between the electronic files delivered and the printed hard-copy construction documents. In the event of a conflict between the signed construction documents prepared by the ENGINEER and electronic files, the signed or sealed hard-copy construction documents shall govern.
 - F. In addition, the CLIENT agrees, to the fullest extent permitted by law, to indemnify and hold harmless to the ENGINEER, its officers, directors, employees, and subconsultants, (collectively ENGINEER) against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, arising from any changes made by anyone other than the ENGINEER or from any reuse of the electronic files without the prior written consent of the ENGINEER.
 - G. Under no circumstances shall delivery of electronic files for use by the CLIENT be deemed a sale by the ENGINEER, and the ENGINEER makes no warranties, either expressed or implied, of merchantability and fitness for any particular purpose. In no event shall the ENGINEER be liable for indirect or consequential damage as a result of the CLIENT's use or reuse of the electronic files.
- VI. OPINIONS OF PROBABLE CONSTRUCTION COST: Opinions of probable construction costs prepared by the ENGINEER represent his best judgement as a design professional familiar with the construction industry. It is recognized, however, that the ENGINEER has no control over the cost of and availability of labor, materials or equipment, over the Contractor's method of determining bid prices, or over competitive bidding or market conditions. Accordingly, the ENGINEER cannot and does not guarantee that bids will not vary from any opinions of probable construction cost prepared by him.
- VII. EXCLUDED SERVICES: Services not set forth above as Basic Services and not listed in Additional Services of this Agreement are specifically excluded from the scope of the ENGINEER'S services. The ENGINEER assumes no responsibility to perform any services not specifically listed in Basic Services or in Additional Services.
- VIII. STANDARD OF CARE: In providing services under this Agreement, the ENGINEER will endeavor to perform in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances.

- IX. INSURANCE: ENGINEER agrees to maintain workers' compensation insurance to cover all of its own personnel engaged in performing services for CLIENT under this Agreement. ENGINEER also agrees to maintain public liability insurance covering claims against ENGINEER for damages resulting from bodily injury, death or property damage from accidents arising in the course of services performed under this Agreement. ENGINEER agrees to attempt to maintain professional liability insurance covering professional acts, errors and omissions for the period of design and construction of the project and for a period of one (1) year following the substantial completion, if such coverage is reasonably available at commercially affordable premiums. For the purposes of this Agreement, "reasonably available" and "commercially affordable" shall mean that more than half the Engineers practicing the same professional discipline in the state where the project is located are able to obtain such coverage.
- X. CONSTRUCTION SITE VISITS:
- A. The ENGINEER shall visit the site at times intervals appropriate to the stage of construction, or as otherwise agreed to in writing by the CLIENT and the ENGINEER, in order to observe the progress and quality of the work completed by the contractor. Such visits and observation are not intended to be an exhaustive check or a detailed inspection of the contractor's work but rather to allow the ENGINEER, as an experienced, to become generally familiar with the work in progress and to determine, in general, if the work is proceeding in accordance with Contract Documents.
- B. Based on this general observation, the ENGINEER shall keep the CLIENT informed about the progress of the work and shall endeavor to guard the CLIENT against deficiencies in the work. If the CLIENT desires more extensive project observation or full time project representation, the CLIENT shall request that such services be provided by the ENGINEER as Additional Services in accordance with the terms of this agreement.
- C. The ENGINEER shall not supervise, direct or have control over the contractor's work nor have any responsibility for the construction means, methods, techniques, sequences or procedures selected by the contractor, subcontractor, any entity performing any portions of the work, or any agents or employees of any of them. The ENGINEER does not guarantee the performance of the contractor and shall not be responsible for the contractor's failure to perform its work in accordance with the Contract Documents or any applicable laws, codes, rules or regulations.
- XI. REQUEST FOR CLARIFICATION OR INTERPRETATION: The ENGINEER shall provide, with reasonable promptness, written responses to requests from the contractor for clarification and interpretation of the requirements of the Contract Documents. Such services shall be provided as part of the ENGINEER's Basic Services. However, if the contractor's requests for information, clarification, or interpretation are, in the ENGINEER's professional opinion, for information readily apparent from reasonable observation of field conditions or a review of Contract Documents, or reasonably inferable therefrom, the ENGINEER shall be entitled to compensation for Additional Services in accordance with Section II.B., COMPENSATION; for the ENGINEER's time spent responding to such request.

- XII. REJECTION OF WORK: The ENGINEER shall have the authority to reject any work that is not, in the judgement of the ENGINEER, in conformance with the Construction Documents or work plans. Neither this authority nor the ENGINEER's good-faith judgement to reject or not reject any work shall subject the ENGINEER to any liability or cause of action to the contractor, subcontractors or any other suppliers or persons performing work.
- XIII. RECORD DOCUMENTS: Upon completion of the work, the ENGINEER shall compile for and deliver to the CLIENT a reproducible set of Record Documents based upon the marked-up record drawings, addenda, change orders and other data furnished by the contractor. These Record Documents will show significant changes made during construction. Because these Record Documents are based on unverified information provided by other parties, which the ENGINEER shall assume will be reliable, the ENGINEER cannot and does not warrant their accuracy.
- XIV. LIABILITY LIMITATION: The CLIENT recognizes that the ENGINEER's fee includes allowance for funding a variety of risks which affect the ENGINEER's potential for human error. In order for the CLIENT to obtain the benefits of a fee which includes a lesser allowance for risk funding, the CLIENT agrees to limit the ENGINEER's liability to the CLIENT and all construction contractors arising from the ENGINEER's professional acts, error, or omissions, such that the total aggregate liability of the ENGINEER to all those named shall not exceed \$28,600.00 or the ENGINEER's total fee for the services rendered on this project, whichever is greater.
- XV. INDEMNIFICATION:
- A. The ENGINEER agrees, to the fullest extent permitted by law, to indemnify and hold harmless the CLIENT, its officers, directors and employees (collectively, CLIENT) against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, to the extent caused by the ENGINEER's negligent performance of professional services under this Agreement and that of its subconsultants or anyone for whom the ENGINEER is legally liable.
 - B. The CLIENT agrees; to the fullest extent permitted by law, to indemnify and hold harmless the ENGINEER, its officers, directors, employees and subconsultants (collectively, ENGINEER) against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, to the extent caused by the CLIENT's negligent acts in connection with the Project and the acts of its contractors, subcontractors or ENGINEERS or anyone for whom the CLIENT is legally liable.
 - C. Neither the CLIENT nor the ENGINEER shall be obligated to indemnify the other party in any manner whatsoever for the other party's own negligence.
- XVI. HAZARDOUS MATERIAL:
- A. As used in this Agreement, the term hazardous materials shall mean any substances, including but not limited to asbestos, toxic or hazardous waste, PCBs, combustible gases and materials, petroleum or radioactive materials (as each of these is defined in applicable federal statutes) or any other substances

under any conditions and in such quantities as would pose a substantial danger to persons or property exposed to such substances at or near the project site.

- B. The CLIENT agrees, notwithstanding any other provision of this Agreement, to the fullest extent permitted by law, to indemnify and hold harmless the ENGINEER, its officers, partners employees and consultants (collectively, ENGINEER) from and against any and all claims, suits, demands, liabilities, losses, damages, or costs, including reasonable attorneys' fees and defense cost arising out or or in any way connected with the detection, presence, handling, removal, or disposal of any asbestos or hazardous or toxic substances, products or materials that exist on, about or adjacent to the Project site, whether liability arises under breach of contract or warranty, tort, including negligence, strict liability or statutory liability or any other cause of action, except for the sole negligence or willful misconduct of the ENGINEER.

XVII. SUSPENSION OF SERVICES:

- A. If the project or the ENGINEER's services are suspended by the CLIENT for more than thirty (30) calendar days, consecutive or in the aggregate, over the term of this Agreement, the ENGINEER shall be compensated for all services performed and reimbursable expenses incurred prior to the receipt of notice of suspension. In addition, upon resumption of services, the CLIENT shall compensate the ENGINEER for expenses incurred as a result of the suspension and resumption of it's service, and the ENGINEER's schedule and fees for the remainder of the Project shall be equitably adjusted.
- B. If the ENGINEER's services are suspended for more than ninety (90) day, consecutive or in the aggregate, the ENGINEER may terminate this Agreement upon giving not less than five (5) calendar day's written notice to the CLIENT.
- C. If the CLIENT is in breach of the payment terms or otherwise is in material breach of this Agreement, the ENGINEER may suspend performance of services upon five (5) calendar days' notice to the CLIENT. The ENGINEER shall have no liability to the CLIENT, and the CLIENT agrees to make no such claim for any delay or damage as a result of such suspension caused by any breach of this Agreement by the CLIENT. Upon receipt of payment in full of all outstanding sums due from the CLIENT, or curing of such other breach which caused the ENGINEER to suspend services, the ENGINEER shall resume services and there shall be an equitable adjustment to the remaining project schedule and fees as a result of the suspension.
- D. Both parties acknowledge that the ENGINEER's scope of services does not include any services related to the presence of any hazardous or toxic materials. In the event the ENGINEER or any other party encounters any hazardous or toxic materials, or should it be known to the ENGINEER that such materials may be present on or about the jobsite or any adjacent areas that may affect the performance of the ENGINEER's services, the ENGINEER may, at it's option and without liability for consequential or any other damages, suspend performance of its services under this Agreement until the CLIENT retains appropriate consultants or contractors to identify and abate or remove the

hazardous or toxic materials and warrants that the jobsite is in full compliance with all applicable laws and regulations.

XVIII. TERMINATION:

- A. In the event of termination of this Agreement by either party, the CLIENT shall within fifteen (15) calendar days of termination pay the ENGINEER for all services rendered and all reimbursable cost incurred by the ENGINEER up to the date of termination, in accordance with the provisions of this Agreement.
- B. The CLIENT may terminate this Agreement for the CLIENT's convenience and without cause upon giving the ENGINEER not less than seven (7) calendar day's written notice.
- C. Either party may terminate this Agreement for cause upon giving the other party not less than seven (7) calendar days' written notice for any of the following reasons:
 - 1. Substantial failure by the other party to perform in accordance with the terms of this Agreement and through no fault of the terminating party;
 - 2. Assignment of this Agreement or transfer of the Project by either party to any other entity without the prior written consent of the other party;
 - 3. Suspension of the Project of the ENGINEER's services by the CLIENT for more than ninety (90) calendar days, consecutive or in the aggregate;
 - 4. Material changes in the conditions under which this Agreement was entered into, Scope of Services or the nature of the Project, and the failure of the parties to reach agreement on the compensation and schedule adjustments necessitated by such changes.
 - 5. In the event of any termination that is not the fault of the ENGINEER, the CLIENT shall pay the ENGINEER, in addition to payment for services rendered and reimbursable costs incurred, for all expenses reasonably incurred by the ENGINEER in connection with the orderly termination of this Agreement, including but not limited to demobilization, reassignment of personnel, associated overhead costs and all other expenses directly resulting from the termination.
- D. COMPENSATION PAYABLE ON TERMINATION: On termination, by either CLIENT or ENGINEER, CLIENT shall pay ENGINEER the full amount specified in paragraph II.A. with respect to any phase of Basic Engineering Services which has been completed plus an amount for all Basic Services performed to date of termination in accordance with the ENGINEER's most current Schedule of Fees for each listed category of employee (including all Reimbursable Expenses incurred).

- XIX. ATTORNEY FEES: In the event of any litigation arising from or related to this Agreement or the services provided under this Agreement, the prevailing party shall be entitled to recover from the nonprevailing party

all reasonable costs incurred, including staff time, court costs, attorneys' fees and all other related expenses in such litigation. In the event of a non-judicative settlement of litigation between parties or a resolution of a dispute by arbitration, the term "prevailing party" shall be determined by that process.

- XX. REPORTS AND INFORMATION: The ENGINEER, at such times and in such forms as the CLIENT may require, shall furnish the CLIENT such periodic reports as it may request pertaining to the work or services undertaken pursuant to this Agreement, the cost and obligations incurred or to be incurred in connection therewith, and any other matters covered by this Agreement.
- XXI. RECORDS AND AUDITS: The ENGINEER shall maintain accounts and records, including personnel, property and financial records, adequate to identify and account for all cost pertaining to the contract and such other records as may be deemed necessary by the CLIENT to assure proper accounting for all project funds, both Federal and non-Federal shares. These records will be made available for audit purposes to the CLIENT or any authorized representative, and will be retained for three (3) years after the expiration of this contract unless permission to destroy them is granted by the CLIENT.
- XXII. FINDINGS CONFIDENTIAL: All of the reports, information, data, etc. prepared or assembled by ENGINEER under this Agreement are confidential and ENGINEER agrees that they shall not be made available to any individual or organization without the prior written approval of CLIENT.
- XXIII. COPYRIGHT: No report, maps, or other documents produced in whole or in part under this Agreement shall be the subject of an application for copyright by or on behalf of the ENGINEER.
- XXIV. EFFECTIVE DATES OF CONTRACT: The effective starting date of this Contract shall be the contract start date for this project as established by the Office of Rural Community Affairs (ORCA). The effective ending date of this Contract is upon completion of the project and conditions outlined in this Contract. Termination of Contract also subject to condition of XVIII. - Termination. If this project is not funded under the Texas Community Development Program, then this contract will be considered null and void.
- XXV. INTERESTS OF MEMBERS OF THE COUNTY: No member of the governing body the of CLIENT, and no other officer, employee, or agent of the CLIENT who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this Contract; and ENGINEER shall take appropriate steps to assure compliance.
- XXVI. INTERESTS OF OTHER LOCAL PUBLIC OFFICIALS: No member of the governing body of the CLIENT and no other public official of such CLIENT, who exercised any function or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this Contract; and ENGINEER shall take appropriate steps to assure compliance.
- XXVII. INTEREST OF ENGINEER AND EMPLOYEES: ENGINEER covenants that it presently has no interest and shall not acquire interest, direct or indirect, in the project area or any parcels therein or any other interest which would conflict in any manner or degree with the performance of his services hereunder. ENGINEER

further covenants that in the performance of this Contract, no person having any such interest shall be employed.

XXVIII. EQUAL EMPLOYMENT OPPORTUNITY: During the performance of this contract, the ENGINEER agrees as follows:

- A. The ENGINEER will not discriminate against any employee or applicant for employment because of race, creed, sex, color, handicap or national origin. The ENGINEER will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, sex, color, handicap or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The ENGINEER agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the CLIENT setting forth the provisions of this non-discrimination clause.
- B. The ENGINEER will, in all solicitation or advertisements for employees placed by or on behalf of the ENGINEER, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex, handicap or national origin.
- C. The ENGINEER will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this contract so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.
- D. The ENGINEER will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.
- E. The ENGINEER will furnish all information and reports required by Executive Order 11246 of September 24, 1965 and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his/her books, records, and accounts by the CLIENTS's auditor and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- F. In the event of the ENGINEER's non-compliance with the non-compliance clauses of this Agreement or with any of such rules, regulations or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and the ENGINEER may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- G. The ENGINEER will include the provisions of the paragraphs (A) through (G) in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will

be binding upon each subcontractor or vendor. The ENGINEER will take such action with respect to any subcontract or purchase order as the CLIENT may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that in the event the ENGINEER becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the CLIENT request the United States to enter into such litigation to protect the interest of the United States.

- XXIX. CIVIL RIGHTS ACT OF 1964: Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
- XXX. SECTION 109 OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974: No person in the United States shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.
- XXXI. "SECTION 3" COMPLIANCE IN THE PROVISION OF TRAINING, EMPLOYMENT AND BUSINESS OPPORTUNITIES:
- A. The work to be performed under this contract is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given lower income residents of the project area concerns which are located in, or owned in substantial part by persons residing in the area of the project.
 - B. The parties to this contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 C.F.R. 235, and all applicable rules and orders of the Department issued thereunder prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.
 - C. The ENGINEER will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 C.F.R. Part 135. The ENGINEER will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 C.F.R. Part 135 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
 - D. Compliance with the provisions of Section 3, the regulations set forth in 24 C.F.R. Part 135, and all applicable rules and orders of the Department issued hereunder prior to the execution of the contract, shall be a condition of the federal financial assistance provided to the project, binding upon the applicant of recipient for such assistance, its successors and assigns. Failure to fulfill these

requirements shall subject the applicant or recipient, its contractors and subcontractors, its successors and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors and subcontractors, its successors and assigns to those sanctions specified by the grant, or loan agreement or contract through which federal assistance is provided, and to such sanctions as are specified by 24 C.F.R. Part 135.

XXXII. SECTION 503 HANDICAPPED (IF \$2,500 OR OVER) AFFIRMATIVE ACTION FOR HANDICAPPED WORKERS:

- A. The ENGINEER will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified.
- B. The ENGINEER agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: Employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- C. In the event of the contractor's non-compliance with the requirements of this clause, actions for non-compliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
- D. The ENGINEER agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director of the Office of Federal Contract Compliance Programs, provided by or through the contracting officer. Such notices shall state the ENGINEER's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.
- E. The ENGINEER will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the ENGINEER is bound by the terms of Section 503 of Rehabilitation Act of 1973, and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.
- F. The ENGINEER will include the provisions of this clause in every subcontract or purchase order of \$2,500 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to Section 503 of the Act, so that such provisions will be binding upon each subcontractor with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for non-compliance.

XXXIII. LOCAL CONTRACT LIAISON: The Honorable Michael D. Brown, County Judge, Tom Green County, shall be the primary contact person between CLIENT and ENGINEER during the term of this Contract.

- XXXIV. GOVERNING LAW AND JURISDICTION: The CLIENT and the ENGINEER agree that this Agreement and any legal action concerning its validity, interpretation and performance shall be governed by the laws of the State of Texas. It is further agreed that any legal action between the CLIENT and ENGINEER arising out of this Agreement or the performance of the services shall be brought in a court of complete jurisdiction in Midland, Texas.
- XXXV. AUTHORITY TO AWARD FUNDS: Funds awarded to ENGINEER by CLIENT under the terms of this Contract are authorized under the provisions of the State of Texas Professional Services Procurement Act, Vernon's Annotated Statutes, Article 664-4.
- XXXVI. SUCCESSORS AND ASSIGNS: CLIENT and ENGINEER each binds himself, and his partner, successors, executors, administrators and assigns to the other party of this Agreement and to partners, successors, executors, administrators and assigns of such other party in respect to all covenants of this Agreement. Neither CLIENT nor ENGINEER shall assign, sublet, or transfer his interest in this Agreement without written consent of the other. Nothing herein shall be construed as giving any rights or benefits hereunder to anyone other than CLIENT and ENGINEER.
- XXXVII. SPECIAL PROVISIONS: This instrument contains the entire Agreement between CLIENT and ENGINEER.
- XXXVIII. INVALIDATION: If this Agreement is not executed by CLIENT within 30 days of date tendered, it shall become invalid unless ENGINEER extends the time in writing.
- XXXIX. MODIFICATIONS: No one has authority to make variations in, or additions to the terms of this Agreement on behalf of ENGINEER other than one of its Officers or Managers, and then only in writing signed by him.

TOM GREEN COUNTY
112 W. BEAUREGARD
SAN ANGELO, TEXAS 76903

GSWW, INC.
1030 ANDREWS HWY, SUITE 211
MIDLAND, TEXAS 79701

By: Michael D. Brown
Michael D. Brown
County Judge

By: Steve A. Dennis
Steve A. Dennis
Vice President

Date: 2-11-03

Date: January 28, 2003



GSSW, Inc.
Civil/Environmental Engineers ■ Planners
Dallas ■ Fort Worth ■ Midland ■ Austin

Predecessor Firms: Gutierrez, Smouse, Wilmut & Assoc., Inc.

APPENDIX "A"

SCHEDULE OF RATES

Principal Engineer	\$132.00/hr
Project Manager	\$120.00/hr
Sr. Design Engineer	\$115.00/hr
Environmental Scientist	\$95.00/hr
Design Engineer	\$109.00/hr
Project Engineer	\$109.00/hr
Assistant Project Engineer	\$95.00/hr
Graduate Engineer	\$75.00/hr
Design Computer Technician	\$68.00/hr
Senior Draftsperson	\$58.00/hr
Draftsperson	\$48.00/hr
Engineer's Assistant	\$65.00/hr
Senior Technician	\$55.00/hr
Technician	\$45.00/hr
Assistant Technician	\$35.00/hr
Senior Resident Project Representative	\$112.00/hr
Resident Project Representative	\$75.00/hr
Clerical	\$45.00/hr
Computer Design	\$16.00/hr
Mileage	\$.325/mile

Reproductions: Copies of drawings and other related records will be furnished at cost x 1.00.

Per Diem Expenses: For assignments requiring overnight lodging away from Midland or Dallas per diem expenses will be charged at cost x 1.00.

Miscellaneous out of pocket expenses: at cost x 1.00.

Subcontractors: at cost x 1.00.

Commissioners' Court Tom Green County



Line-Item Transfers

Michael D. Brown
County Judge

February 10, 2003

Fund: General Fund

<u>Department</u>	<u>Account</u>	<u>Budget Increase</u>	<u>Budget Decrease</u>
036 County Treasurer	0514 Special Projects	6,303.00	
192 Contingency	0601 Reserves		6,303.00

Reason

Transfer fund to pay for the HIPPA compliance.

Date Approved by Commissioners' Court

2-11-03

County Judge

Auditor



Attest, County Clerk

Elizabeth McGill

Commissioners' Court Tom Green County



Line-Item Transfers

Michael D. Brown
County Judge

February 10, 2003

Fund: General Fund

<u>Department</u>	<u>Account</u>	<u>Budget Increase</u>	<u>Budget Decrease</u>
003 County Clerk	0403 Bond Premiums	6,212.50	
014 District Clerk	0403 Bond Premiums	1,065.00	
021 County Court 2	0403 Bond Premiums	177.50	
036 County Treasurer	0403 Bond Premiums	8,875.00	
192 Contingency	0601 Reserves		16,330.00

Reason

Transfer funds to cover costs of bond premiums for elected officials.


2-11-03

Date Approved by Commissioners' Court


Auditor


County Judge




Attest - County Clerk

Commissioners' Court Tom Green County



Line-Item Transfers

Michael D. Brown
County Judge

February 10, 2003

Fund: General Fund

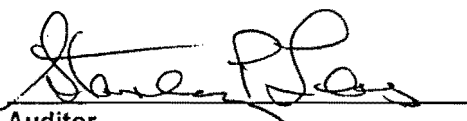
<u>Department</u>	<u>Account</u>	<u>Budget Increase</u>	<u>Budget Decrease</u>
008 Information Technology	0109 Salary/Supervisor	45,281.04	
008 Information Technology	0105 Salary/Employees		45,281.04

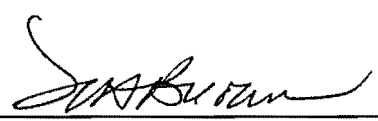
Reason

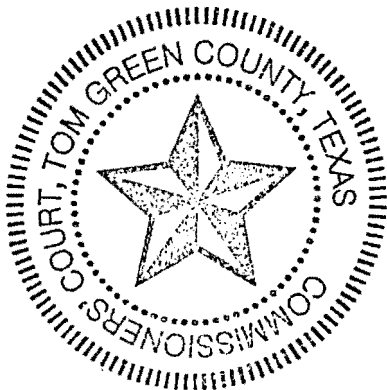
Correct Budget Line Item Salary Distribution

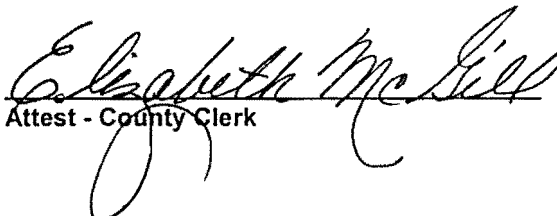
Date Approved by Commissioners' Court

2-11-03


Auditor


County Judge




Attest - County Clerk

SUDDUTH SURVEYING, INC.

223 S. Abe San Angelo, Texas 76903 (915) 949-2788

Myrl G Sudduth
Registered Professional Land Surveyor
Registered Professional Engineer

Grady Glyn Sudduth
Registered Professional Land Surveyor

Field Notes

A 30.56 feet wide road tract containing 1.39 acres of land out the Louis Williams Subdivision, Tom Green County, Texas, according to the plat of said Subdivision dated January 29, 1924, and recorded in Volume 109, Page 352, Deed Records, Tom Green County, Texas, said 1.39 acre of land being more particularly described by metes and bounds as follows:

BEGINNING at a ½" iron rod set for the southwest corner of this road tract from whence a set ½" iron rod at the northwest corner of Block 20, Louis Williams Subdivision bears N 90° 00' 00" W 19.90 feet;

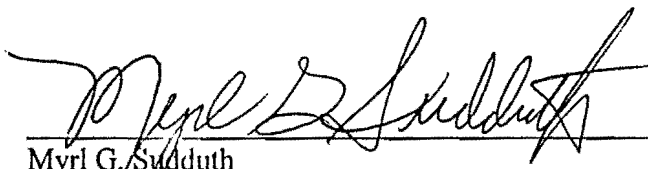
THENCE N 0° 00' 00" E 30.56 feet to a ½" iron rod set in the south line of Block 19, Louis Williams Subdivision for the northwest corner of this road tract from whence the original southwest corner of said Block 19 bears N 90° 00' 00" W 50.00 feet;

THENCE S 90° 00' 00" E at 582.07 feet along the north line of this road tract and the south line of said Block 19 pass a point for the southeast corner of said Block 19 and the southwest corner of Block 22, and continuing in all 1981.37 feet to a point for the southeast corner of said Block 22 and the northeast corner of this road tract all in the Louis Williams Subdivision;

THENCE S 0° 13' 00" E 30.56 feet to a point for the southeast corner of this road tract and the northeast corner of Block 21, Louis Williams Subdivision;

THENCE N 90° 00' 00" W along the south line of this road tract and the north line of said Block 21 at 1399.31 feet pass a point for the northwest corner of said Block 21 and the northeast corner of said Block 20, continuing in all 1981.49 feet to the place of beginning and containing 1.39 acres of land.

Surveyed on the ground under my supervision according to the Minimum Standards of the Professional Land Surveying Practices Act and General Rules of Procedures and Practices set forth by the Texas Board of Professional Land Surveying.



Myrl G. Sudduth
Registered Professional Land Surveyor No. 2928
January 29, 2003



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