

**Tom Green County Commissioners' Court**  
**November 10, 2003**

The Commissioners' Court of Tom Green County, Texas, met in Regular Session November 10, 2003, (Monday), in the Edd B. Keyes Building, with the following members present:

Clayton Friend, Commissioner of Precinct #1  
Karl Bookter, Commissioner of Precinct #2 (**Absent**)  
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 8:42 AM.**

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

**Reverend Ralph Dawkins, Pastor of the Christian House of Prayer**, offered the invocation.

**4. Commissioner Friend moved to approve the Consent Agenda as presented. Commissioner Easingwood seconded the motion. The following items were presented:**

- A. Approved the minutes from the last Regular meeting on October 28th, 2003.
- B. Approved the Minutes of the Accounts Allowable from October 29, 2003 – November 4, 2003 in the amount of \$1,350,162.83 and from November 5-10, 2003 in the amount of \$436,970.36 for a combined total of \$1,787,133.19. Purchase Orders from October 27-31, 2003 in the amount of \$111,868.30 and from November 3-7, 2003 in the amount of \$43,002.24 for a combined total of \$154,870.54.
- C. Accepted Personnel Actions as presented:

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

<b><u>NAME</u></b>	<b><u>DEPARTMENT</u></b>	<b><u>ACTION</u></b>	<b><u>EFF. DATE</u></b>	<b><u>GRADE /STEP</u></b>	<b><u>SALARY</u></b>
BROCK, Dick R.	Constable, Pct. #2	Appointed	11/03/03	N/A	\$1,125.00 S/M
SMITH, James Earl	Constable, Pct. #3	Salary Correction	10/06/03	N/A	\$1,175.96 S/M
GOODGION, Lori L.	District Court (391 <sup>st</sup> )	Prom/Salary Inc.	10/01/03	N/A	\$2,104.77 S/M
FERNANDEZ JR., Sergio	RKR	New Hire	11/03/03	13/1	\$ 735.52 S/M
CHERNICK, Michele D.	Jail	Demotion	11/01/03	16/2	\$ 874.44 S/M

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

<b><u>NAME</u></b>	<b><u>DEPARTMENT</u></b>	<b><u>ACTION</u></b>	<b><u>EFF. DATE</u></b>	<b><u>GRADE /STEP</u></b>	<b><u>SALARY</u></b>
GARCIA, Kristie B.	JP#2	New Hire	11/03/03	10/1	\$ 634.29 S/M
BOX, Roy F.	Constable, Pct. #2	Resignation	11/02/03	N/A	\$1,175.96 S/M
PANTANO, Mark R.	District Attorney	Resignation	11/30/03	N/A	\$1,925.19 S/M
HAWKINS, Maria I.	Housekeeping	Resignation	11/14/03	P/T	\$ 5.45 /HR
BROWN, James D.	Juvenile Detention	Resignation	11/14/03	N/A	\$ 895.75 S/M
GALLEGOS, Antonio C.	Juvenile Detention	Resignation	10/31/03	N/A	\$ 952.08 S/M
SPURLOCK, Stephanie L.	Library	Resignation	11/07/03	P/T	\$ 5.70 /HR
FLANDERS, Christian W.	Library	Job Abandonment	10/25/03	P/T	\$ 5.60 /HR
MARTINEZ, Elizabeth E.	CSCD (218)	Rehire	11/03/03	TEMP	\$ 8.41 /HR
CUSTER, Shawn J.	CSCD (218)	Salary Increase	10/01/03	N/A	\$ 796.29 S/M
FLANARY, Shelley B.	CSCD (218)	Salary Increase	10/01/03	N/A	\$1,337.46 S/M
SCHNITZER, Diane W.	CSCD (218)	Salary Increase	09/01/03	N/A	\$1,132.96 S/M
PATRICK, Arnold	CSCD (218)	Promotion/Sal Inc.	10/15/03	N/A	\$2,375.00 S/M
SANCHEZ, Guadalupe R.	CSCD (218)	Promotion/Sal Inc.	11/01/03	N/A	\$ 908.71 S/M

- D. Approved the Attorney General's Renewal Contracts for service reimbursement for State Reimbursement Unit and Contract for providing access to the County Imaging System for Contract # **04-C0164** as a matter of record. (Recorded with these minutes.)
- E. Approved the Attorney General's Renewal Contracts for service reimbursement for State Reimbursement Unit and Contract for providing access to the County Imaging System for Contract # **04-C0200** as a matter of record. (Recorded with these minutes.)
- F. Set December 5, 2003 as the opening date for RFB 04-008 "Motor Grader".
- G. Approved request for Verizon Southwest to construct a communication line within the County Right-of-Way and to bore under South Dove Creek Road

with a buried drop wire to be placed a minimum depth of 24 inches, located at 13915 S. Dove Creek Road.

- H. Accepted the Indigent Health Care Monthly Report for October 2003 as a matter of record. (Recorded with these minutes.)
- I. Accepted report by Justice of the Peace, Precinct #1, pursuant to Section 114.044 of the Local Government Code for the month of October 2003 as a matter of record. (Recorded with these minutes.)
- J. Accepted report by Justice of the Peace, Precinct #2, pursuant to Section 114.044 of the Local Government Code for the month of October 2003 as a matter of record. (Recorded with these minutes.)

There was some discussion concerning the MHMR salaries for the appropriate Constables who also provide services regarding the mental health unit.

**All voted in favor of the motion.**

- 5. Becky Harris, Director, reported that the current population at the Roy K. Robb Post Adjudication Center is 25. They are waiting on 2 referrals. Ms. Harris also copied a letter that had been received regarding the volunteerism of some of the clients. They are in the process of gathering up materials for the construction of an on campus greenhouse. **No action taken.** (Recorded with these minutes.)
- 6. Herb Hooker, S&K Engineering presented the proposed Replat to be considered for approval.  
Mr. Gary Dillon and Ms. Glenda Dawkins presented objections to the proposed Replat. They also presented pictures of the structures and the trash on the property. The objections were also based on past history and the depreciation of the land value that they felt was based on this property. Commissioner Easingwood explained that the Replat falls within the guidelines of the County regulations. Several of the Commissioners explained that this would fall within jurisdiction of the Homeowners Association and that as an individual or as an Association they would need to seek legal advise and possibly file a Civil suit to settle the disputes and that as long as they fall within the Subdivision guidelines, it should be approved. Judge Brown requested for the County Attorney to obtain an Attorney General's opinion regarding the Counties authority pertaining to Replats.  
**Commissioner Easingwood moved to approve the Replat of Tract 19, Block Five, Section One, of the Dove Creek Subdivision as presented. Judge Brown seconded the motion and all voted in favor of the motion.**
- 7. The acceptance of a Resolution to apply for a Victims of Crime Act Grant from the Criminal Justice Division was **tabled**.
- 8. The Information Technology report was **tabled** until the next meeting.
- 9. Molly Taylor, Election Administrator/Records Manager, requested funding for a part-time employee to handle the additional scanning for Records Management. The funding available is provided by the Secretary of State to primarily be used for the Election records. Commissioner Easingwood suggested that Ms. Taylor, Susan Counts, from the IT Department, the County Clerk (Liz Mc Gill), District Clerk (Sheri Woodfin) and Cal Tec consultant (Brent McCasland) should have a joint meeting to see if a more productive method can be formulated. Commissioner Friend would like to see a percentage of records for each department that needs records maintained.  
**Commissioner Easingwood moved to table funding for a Records Management employee until the December 9<sup>th</sup>, 2003 Commissioners' Court Meeting. Commissioner Weeks seconded the motion and all voted in favor.**
- 10. Commissioner Easingwood moved to table the request to purchase a new shredder for the Records Management until the next meeting.  
**Commissioner Easingwood seconded the motion and all voted in favor.**
- 11. Commissioner Easingwood moved to approve the Homeland Security Grant in the amount of \$50,863.00 with the Counties 25% match in the amount of \$16,954.00 to be taken from Contingency fund for a total amount of \$67,817.00. Commissioner Friend seconded the motion and all voted in favor.

12. Judge Brown moved to divide the County's 990 total votes equally between the five nominees (Dick Burnett, A.H. "Chico" Denis, Louis P. Gomez, Walter W. Pfluger and John D. Phillips) with each receiving 190 votes for the selection of members to the Board of Directors of the Tom Green County Appraisal District for the 2004-2005 term. Commissioner Friend seconded the motion. (Recorded with these minutes.)

**Commissioner Easingwood asked to be excused from Court to handle some other County business at another location.**

13. Judge Brown moved to adopt the changes in the Resolution to Authorize the District Attorney to Apply to the Office of the Governor, Criminal Justice Division for a Grant Funding Felony Family Violence Victim's Assistance Unit. Commissioner Friend seconded the motion and all voted in favor.
14. Judge Brown moved to enter into contract negotiations with Templeton Construction Company, pursuant to their proposal, for the Tom Green County Library expansion project. Commissioner Friend seconded the motion and all voted in favor.
15. Judge Brown moved to lease the N/2 of Section 7 and S/2 of Section 4, Block A-12, PSL Survey (5.78 net acres) in Gaines County, Texas to David Logan in the amount of \$150.00 an acre plus  $\frac{1}{4}$  of the royalty for a one year lease, subject to the oil and gas lease form and authorize the Judge to sign all necessary papers. Commissioner Friend seconded the motion and all voted in favor.
16. Judge Brown moved to adopt the amendment to the Tom Green County's Section 125 Cafeteria Plan with Flexible Spending Account with life insurance through Zesch and Pickett as agent, to be effective January 1, 2004. Commissioner Friend seconded the motion and all voted in favor.
17. Judge Brown moved to amend the Tom Green County Subdivision and Manufactured Home Rental Community Development Regulations to include 2 Mylar and 1 paper (additional Mylar optional) copy of plats for filing in the County Clerk's office. Commissioner Friend seconded the motion and all voted in favor.

18. There were no line item transfers.

**19. Future Agenda Items:**

1. Consider Approval of Bond for Constable Precinct #2.
2. Consider Homeland Security Volunteerism (CVCOG).
3. Consider accepting Information Technology Report as a matter of record.
4. Consider purchasing a shredder for the Records Management Department.
5. Consider funding for part time salary for Records Management employee.

**20. Announcements:**

1. The Tom Green County United Way Fund exceeded the set goal.
2. November 11, 2003 is a County Holiday in honor of Veterans' Day.
3. Friday, November 14, 2003 flu shots will be given to County Employees at no cost and a \$10.00 fee will be charged for dependents.

**Judge Brown adjourned the meeting at 10:37 AM.**

**I, Elizabeth McGill, County Clerk of Tom Green County, Texas do hereby attest that this is an accurate accounting of the proceedings of the Commissioners' Court Meeting that met in Regular Session on November 10<sup>th</sup>, 2003.**

**I hereby set my hand and seal to this record November \_\_\_\_\_, 2003.**



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT  
CHILD SUPPORT DIVISION

October 17, 2003

The Honorable Sheri Woodfin  
District Clerk, Tom Green County  
112 West Beauregard Avenue  
San Angelo, Texas 76903

Re: Agreement between Tom Green County and the Office of the Attorney General Contract No. 04-C0164

District Clerk:

Please find the enclosed original contract renewals for your continued participation in the support of the Texas Child Support Disbursement Unit (TxCSDU). As was the last contract, all three possible components are present and the activities specific to your county operations are the only requirements in effect. Since this is the first renewal of these two year agreements, some changes have been made to clarify areas that have been developed during the implementation and further operations of the TxCSDU. Some of what I believe to be the more notable changes are summarized below, however, this summary is not intended to replace your review and understanding of the specific contract language for the exact requirements. A copy of the prior contract with strike-throughs (deletions) and italics (additions) is available on the OAG portal @ <https://portal.oag.state.tx.us> if you would like to view each revision and addition made to the contract.

General Requirement Changes

Should your county desire to maintain your legacy case management system(s) and transfer new and updated information by file transfer from your automated system to the TxCSDU, you also need to incorporate manual changes made to records present at the TxCSDU to keep both systems synchronized with the most current information. (Sections 3.1.1, 4.1.1, and 5.1.1)

The newly established Child Support Portal will be used to provide updated information and specific procedures that relate to this contract. (Section 1.5)

Additional language to comply with state and federal requirements regarding Inspections, Monitoring and Audits. (Section 6.2)

A new section has been added relating to failure to perform the functions agreed to in the contract. (Section 6.5)

Training on the OAG automated systems will now be available through the OAG Regional Training centers. (Section 6.6)

Additional language regarding Security and Confidentiality of information, including a general survivability of terms provision. (Section 7.17)

Language has been revised to conform the provision to present federal requirements regarding Civil Rights. (Section 7.4)

Additional language to reflect that a change in OAG policy, processes, or procedures shall not entitle a county to any increased cost reimbursement. (Section 7.7)

#### Local Disbursement Activities

Timeframes have been added for the different reporting requirements for all amounts transferred to your county to disburse. (3.1.4.12, 3.1.4.13, 3.1.6.3, 3.1.6.5)

Additional language clarifying information required concerning unclaimed property. (Section 3.1.3)

It was the intention of the original contract that all direct deposit to Custodial Parent accounts activities would be performed by the TxCSUDU. Due to various reasons, that has not been the practice, thus it is being clarified that we will not reimburse your county for county initiated direct deposits to Custodial Parents. Rather, it is hoped that your county will provide us with the needed information to initiate direct deposit to those accounts from the TxCSUDU directly. (3.2.3.5)

#### Local Customer Service Activities

In order to ensure appropriate reimbursement occurs, language has been added to clarify the types of customer service activities that should be reported. (4.1.2.1)

Additional language includes clarifying the need for on-site documentation regarding inquiries (if the information is not added directly into the TxCSUDU automated system) as well as a quality assurance monitoring component with periodic reporting. (4.1.3.1, 4.1.3.6)

From recent TxCSUDU automated system (State of Texas Receipt and Disbursement Unit System - STRADUS) changes an additional interface has been added to assist county legacy systems in remaining updated with new/changed case information. (4.1.3.7)

Clarification to the processes available to ensure your county is providing complete payment records by either incorporating TxCSUDU payment records into your legacy system or by providing an OAG payment record in addition to your historical records. (4.1.3.9)

Reimbursement for County Interactive Voice Response (IVR) system costs has been incorporated. There are standards that your county must demonstrate can be met before reimbursement can be approved. (4.2.3.1, 4.2.3.3)

Additional language clarifying which activities are not eligible for cost reimbursement under the contract. (Section 4.2.4)

Clarification regarding the need to ensure that your county forwards payments to the TxCSDU when they are received on cases that are supposed to pay to the TxCSDU. (Section 4.1.2.1.3)

State Case Registry Activities

A field has been added to STRADUS to capture modification dates, which is an additional data element needed to ensure adequate SCR reporting occurs. (5.2.3)

Should you have questions regarding this memorandum or the contract itself, please contact Vicki Green at 512-460-6837, email [vicki.green@cs.oag.state.tx.us](mailto:vicki.green@cs.oag.state.tx.us)

Please return the signed copies of the contract to the attention of Sue Myers:

Office of the Attorney General  
Child Support Division, Mail Code 058-3  
P.O. Box 12017  
Austin, TX 78711-2017

Sincerely,



Judy Anderson  
County Operations Manager  
P.O. Box 12017  
Austin, TX 78711-2017

## **Explanation of Attachments**

**Attachment A:** "OAG Information Security Policy Manual" which all personnel obtaining access to the OAG system must read.

**Attachment B:** Represents the Security Statement which all personnel requesting access to the OAG system must complete and sign.

**Attachment C:** "IRS Information Disclosure Limitations" shall be read and signed by all personnel requesting access to the OAG system.

**Attachment D:** "Warning: Disclosure Limitations" shall be posted by the County in all County work areas affected by this Agreement.

**Attachment E:** "Certification Regarding Lobbying" shall be signed by the County Judge.

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

**CONTRACT NO. 04-C0164**

**1 INTRODUCTION & PURPOSE**

- 1.1 This document encompasses local disbursement of non-IV-D child support remitted to the Texas Child Support State Disbursement Unit (SDU) ("Local Disbursement"), local handling of inquiries on (including any necessary research) and receiving information about non-IV-D child support cases where child support payments are remitted to the SDU ("Local Customer Service"), and furnishing non-IV-D court order information relating to Suits Affecting the Parent-Child Relationship for use in the State and Federal Case Registries ("State Case Registry"). A County may contract to provide State Case Registry services only. However a County contracting to provide Local Disbursement must also contract to provide Local Customer Service and State Case Registry, and a County contracting to provide Local Customer Service must also contract to provide State Case Registry.
- 1.2 **Tom Green County**("County") is contracting with the Office of the Attorney General ("OAG") to handle inquiries on (including any necessary research) and receive information about non-IV-D child support cases where child support payments are remitted to the Texas Child Support State Disbursement Unit and furnish non-IV-D court order information relating to Suits Affecting the Parent-Child Relationship for use in the State and Federal Case Registries.
- 1.3 This Contract and its attachments (all of which are made a part hereof and expressly included herein) is entered into under the authority of Texas Family Code Section 231.002.
- 1.4 The term "OAG Systems" when used in this Contract encompasses the OAG Child Support Case Management System (commonly referred to as TXCSES ) and the Texas Child Support State Disbursement Unit System (commonly referred to as STRADUS) including all of their subsystems, functions, processes, and security requirements.



- 1.5 Unless specified otherwise in this Contract, all procedures required to be followed by the County will be made available to the County on the OAG portal at <http://portal.oag.state.tx.us>.

## **2 CONTRACT PERIOD**

This Contract shall commence on September 1, 2003, and shall terminate on August 31, 2005, unless terminated earlier by provisions of this Contract.

## **3 LOCAL DISBURSEMENT**

### **3.1 County Responsibilities**

#### **3.1.1 Accessing STRADUS and TXCSES**

- 3.1.1.1 Work with the OAG or its designated agent to acquire, when needed, (at no cost to the County) from the OAG or its designated agent one personal computer, including the necessary software, to access the OAG Systems. The STRADUS web server is currently the designated OAG database to house data files. TXCSES is the OAG database to house the Title IV-D case and payment related files. County will work with the OAG or its designated agent to obtain the database access required. County is responsible for connecting the hardware to its own county network and for the cost associated therewith.
- 3.1.1.2 County must make necessary programming changes to its own automated child support system to accomplish the local disbursement activities in this contract. If the County employs a Vendor for maintenance and changes to its automated child support system, County must coordinate efforts between the County Vendor and the OAG or its designated agent.
- 3.1.1.3 Should the County desire to retain their legacy case management system, whether in-house or vendor based, the County is required to maintain strict data synchronization with the OAG Systems. To accomplish this the County must demonstrate sufficient resources and ability to:

- 3.1.1.3.1 receive and process into the County legacy system daily data updates from the OAG in ICD050 format and
- 3.1.1.3.2 generate and transmit daily from the County legacy system to the OAG data updates from the County legacy system in ICD021 format.
- 3.1.1.4 County will be authorized to implement the data synchronization process upon completion of demonstrated ability and a documented system test.
- 3.1.1.5 Should the County not desire to retain their legacy case management system or if data synchronization with the OAG Systems is not feasible the County shall enter all case/member information directly onto the designated OAG System.
- 3.1.1.6 The ICD021 and ICD050 computer file specifications and format will be made available to the County on the OAG portal. If these specifications change during the term of the Contract, the changes will be made available on the OAG portal and an e-mail notice of such availability will be sent to the County liaison. The County shall be responsible for implementing the changes to the electronic file specifications when and as required for OAG Systems processing.
- 3.1.1.7 To the extent necessary to fulfill its obligations under this Contract, County shall maintain, at no cost to the OAG, County hardware and software compatibility with the OAG Computer Systems and OAG file format needs, to include OAG software and OAG computer hardware and related equipment upgrades. OAG will provide County with as much notice as possible of intended OAG Computer Systems upgrades.
- 3.1.1.8 County is responsible for all the necessary phone lines. For those counties that do not have internet access, the OAG will ensure that internet service is established for at least one personal computer. However, if the County is not covered by a local Internet Service Provider local telephone coverage area, then the County is

responsible for any unavoidable long distance telephone charges that occur.

### 3.1.2 Loss of Funds and Unfunded Disbursements

County is responsible for all funds transferred to and received by County from the OAG or its designated agent, whether such funds are lost, destroyed or taken, or misdirected by County through an Electronic Funds Transfer or direct deposit transactions. County is also responsible for any fees and/or penalties assessed by the County's financial institution and any unfunded disbursements due to County error. For the purpose of this subsection, unfunded disbursement means a disbursement:

- 3.1.2.1 that cannot be linked to a payment received.
- 3.1.2.2 where the payment that the disbursement is linked to was not intended for the entity to whom the disbursement was made.
- 3.1.2.3 where the amount of money disbursed, in one disbursement (overpayment) or multiple disbursements (duplicate payments), was greater than the amount of the payment on which it was based.

### 3.1.3 Not-Disbursed, Returned and/or Uncashed Disbursements

County is responsible for complying with Chapters 72 through 75 and Chapter 76 of the Texas Property Code and the Unclaimed Property procedures published by the Texas Comptroller of Public Accounts. County must also provide OAG with all information from the TCPA "Unclaimed Property Reporting Instructions" necessary for OAG to fulfill its responsibilities to the federal Office of Child Support Enforcement in the completion of OCSE Form 34 relating to not-disbursed, returned and/or uncashed disbursements. The "Unclaimed Property Reporting Instructions" can be found at <http://www.window.state.tx.us/up/forms/96-478.pdf>.

### 3.1.4 Daily Recording

- 3.1.4.1 County shall follow OAG procedures for reporting and transmitting case and payment information and payment status on all relevant non-IV-D disbursements.

- 3.1.4.2 County shall record on its automated system all data required to support the local disbursement activities contemplated by this Contract.
- 3.1.4.3 County shall develop and establish its own format for recording on the County's automated system.
- 3.1.4.4 County shall record and disburse all identifiable and deliverable non-IV-D child support payments on the first County work day that the SDU local disbursement file is available to the County; provided that the file was available by 10:00 a.m. that day. If the local disbursement file was not available by 10:00 a.m., the County shall record and disburse the payments no later than the next County work day.
- 3.1.4.5 County shall not allow any person who, as a part of his or her employment, receives, disburses, handles, or has access to funds collected pursuant to this contract, to participate in accounting or operating functions that would permit him or her to conceal in the accounting records the misuse of said funds. Upon request, County shall provide a copy of County's organizational structure to confirm appropriate separation of duties.
- 3.1.4.6 County shall track all of the payments received in the SDU local disbursement file. County shall attempt to obtain new addresses and maintain them for any undeliverable payments contained in the file. New addresses shall be entered on OAG Systems in accordance with OAG procedures. Payments for which a new address cannot be obtained within five (5) County work days shall be handled in accordance with Chapters 72 through 75 and Chapter 76 of the Texas Property Code and the Unclaimed Property procedures published by the Texas Comptroller of Public Accounts.
- 3.1.4.7 County shall, in accordance with OAG procedures, research and resolve unidentified items, i.e., items that cannot be identified to a case, as well as instances of payment files not matching funds received.
- 3.1.4.8 County shall employ procedures to ensure security of funds. Upon request, County shall provide to OAG a copy of the security procedures.

- 3.1.4.9 County shall employ OAG processes and procedures to resolve payment related inquiries between the County and the OAG where necessary.
- 3.1.4.10 County employees handling disbursements shall be bonded.
- 3.1.4.11 County shall generate a daily check register which shall list the individual accounts and amounts in which non-IV-D payments were applied. The total number of non-IV-D payments disbursed and the total dollar amount shall also be reflected on the register.
- 3.1.4.12 County shall electronically report by close of business the next business day the status of each payment received from the OAG for disbursement by the County using the file format and codes as specified by the OAG. This includes all paper and electronic transactions.
- 3.1.4.13 County shall electronically report by the 15<sup>th</sup> of each calendar month the status of each payment disbursed by the County for the OAG during the prior calendar month using the file format and codes as specified by the OAG. This includes all paper and electronic transactions.

### 3.1.5 Deposit Procedures

- 3.1.5.1 County shall maintain an account with a financial institution that has the ability to receive electronic funds transfers (EFT).
- 3.1.5.2 County shall be responsible for ensuring that a process is in place with its financial institution that allows the County to daily reconcile the funds received from the OAG with the electronic disbursement file the County downloads from the OAG. The OAG must be notified immediately after the County determines that it did not receive funds equal to the amount contained in the disbursement file. In no event shall notification to the OAG of a discrepancy between funds received and the disbursement file exceed three (3) County work days.

### 3.1.6 Electronic Transmittal Procedures

- 3.1.6.1 The electronic files that County must receive and transmit for Local Disbursement are listed below. The computer file specifications and format to enable the County to process from or

provide this information in the manner required by the OAG will be made available to the County on the OAG portal at <http://portal.oag.state.tx.us>. If these specifications change during the term of the contract, the changes will be made available on the OAG portal and an e-mail notice of such availability will be sent to the County liaison. The County shall be responsible for implementing the changes to the electronic file specifications when and as required for Local Disbursement processing.

3.1.6.1.1 Non-IV-D Disbursement Advice, technical document name: Interface Control Document 014 (ICD014).

3.1.6.1.2 Non-IV-D Check Status, technical document name: Interface Control document 020 (ICD020).

3.1.6.2 County shall generate the non-IV-D disbursements and, if desired, record the IV-D payments on its automated system.

3.1.6.3 County shall produce an electronic file (ICD020) containing the status of all payments received from the OAG and disbursed by the county. For payments disbursed by the County, the file shall include check number, and ACH routing transit number or other defined electronic payment identifier. The file shall be transmitted daily to the OAG.

3.1.6.4 County shall track disbursements issued by the County, including electronic disbursements and record the status of each in a non-IV-D Check Status File (ICD020). Status as used in this subsection means: cashed, cancelled, re-issued, voided, stop payment, or unidentified or undeliverable and, in the context of electronic disbursements, not returned to the County by their financial institution. This file shall be transmitted each calendar month to the OAG no later than the 15<sup>th</sup> day of the month for disbursements issued by the County during the immediately preceding calendar month.

3.1.6.5 County shall track, log, and report monthly to the OAG all payments:

3.1.6.5.1 returned to the OAG due to mis-posting or mis-applied errors in payment processing and

3.1.6.5.2 returned to the County on disbursement file cases due to County mis-posting or mis-applied errors in payment processing.

3.1.6.6 In the event of a failed transmission or if an unprocessable electronic file is produced, County shall correct the problem and retransmit within one (1) working day of notification by the OAG.

3.1.6.7 County shall maintain back-up electronic files according to the retention requirements established by the Texas State Library in the event that a file needs to be re-transmitted.

## 3.2 OAG Responsibilities

### 3.2.1 Access to STRADUS and TXCSES

OAG will work with the County to make sure the County has one personal computer, including the necessary software, to access the OAG Systems. For those counties that do not have internet access, the OAG will ensure that internet service is established for at least one personal computer. However, if the County is not covered by a local Internet Service Provider local telephone coverage area, then the County is responsible for any unavoidable long distance telephone charges that occur.

### 3.2.2 Reimbursement

3.2.2.1 OAG shall monitor the non-IV-D Disbursement Advice Files forwarded from the County to STRADUS and summarize for monthly reimbursement amounts. The summary will include capturing information on reissued payments for inclusion in the reimbursement amounts.

3.2.2.2 OAG shall forward a Summary and Reimbursement Voucher to the County for review and approval.

3.2.2.3 If the County approves the Summary and Reimbursement Voucher, the County signs the voucher and returns it to OAG for payment within ten (10) County work days. County's signature constitutes approval of the voucher and certification that all services provided during the period covered by the voucher are included on the voucher. The OAG shall reimburse the County in the amount of One Dollar and 34/100 Dollars (\$1.34) per

disbursement. The OAG shall process the invoice for payment in accordance with the state procedures for issuing state payments and the Texas Prompt Payment Act.

County shall submit the invoice to:

Contract Manager for Local Disbursement, Local Customer  
Service and State Case Registry Mail Code: 062  
Office of the Attorney General  
P.O. Box 12017  
Austin, Texas 78711-2017

3.2.2.4 If County does not approve the Summary and Reimbursement Voucher, it shall return the voucher to the OAG within ten (10) County working days of receipt, detailing the basis of any disputed item along with supporting documentation. The OAG shall review the returned voucher. If the dispute is resolved in the County's favor, the OAG shall make payment as set forth in the immediately preceding subsection. If the dispute is not resolved in the County's favor, the OAG shall make payment in accordance with the voucher originally sent to the County and forward a letter of explanation to the County.

3.2.2.5 Any funds shortage revealed by the County's daily reconciliation of funds received by the County's financial institution with the disbursement file received by the County from the OAG or its designated agent will be made up by the OAG; provided that the shortage was due to OAG, OAG designated agent, or Texas State Treasury error and the shortage was reported to the OAG in accordance with the requirements of the Deposit Procedures Section above. The OAG will also reimburse the County for County payment of any fees/and or penalties assessed by the County's financial institution due to such shortage. Any funds shortage make up and reimbursement for fees/and or penalties will be made to the County within two (2) OAG work days after OAG determination that County is due same. In no event will such determination exceed two (2) OAG work days.

### 3.2.3 Limitation of OAG Liability

3.2.3.1 The OAG shall be liable only for contract associated costs incurred after commencement of this Contract and before termination of this Contract.



- 3.2.3.2 The OAG may decline to reimburse any Allowable Costs, which are submitted for reimbursement more than sixty (60) calendar days after the State Fiscal Year calendar quarter in which such costs are incurred.
- 3.2.3.3 County shall refund to the OAG within thirty (30) calendar days any sum of money which has been paid to County which the OAG and County agree has resulted in an overpayment to County, provided that such sums may be offset and deducted from any amount owing but unpaid to County.
- 3.2.3.4 The OAG shall not be liable to reimburse the County if the County fails to comply with the Daily Recording, Deposit Procedures, and/or Electronic Transmittal Procedures Sections above in accordance with the requirements of those sections.
- 3.2.3.5 Direct deposit disbursements by the County are not reimbursable under this Contract. The OAG shall not be liable to the County for reimbursement of direct deposit transactions initiated by the County. County shall notify the OAG of direct deposit recipients in order for the OAG to obtain authorization for the OAG to disburse funds to the recipient by means of direct deposit.

#### **4 LOCAL CUSTOMER SERVICE**

##### **4.1 County Responsibilities**

###### **4.1.1 Accessing STRADUS and TXCSES**

- 4.1.1.1 Work with the OAG or its designated agent to acquire, when needed, (at no cost to the County) from the OAG or its designated agent one personal computer, including the necessary software, to access the OAG Systems. The STRADUS web server is currently the designated OAG database to house data files. TXCSES is the OAG database to house the Title IV-D case and payment related files. County will work with the OAG or its designated agent to obtain the database access required. County is responsible for connecting the hardware to its own county network and for the cost associated therewith.
- 4.1.1.2 County must make necessary programming changes to its own automated child support system to accomplish the local customer service activities in this contract. If the County employs a Vendor

for maintenance and changes to its automated child support system, County must coordinate efforts between the County Vendor and the OAG or its designated agent.

- 4.1.1.3 Should the County desire to retain their legacy case management system, whether in-house or vendor based, the County is required to maintain strict data synchronization with the OAG Systems. To accomplish this the County must demonstrate sufficient resources and ability to:
  - 4.1.1.3.1 receive and process into the County legacy system daily data updates from the OAG in ICD050 format and
  - 4.1.1.3.2 generate and transmit daily from the County legacy system to the OAG data updates from the County legacy system in ICD021 format.
- 4.1.1.4 County will be authorized to implement the data synchronization process upon completion of demonstrated ability and a documented system test.
- 4.1.1.5 Should the County not desire to retain their legacy case management system or if data synchronization with the OAG Systems is not feasible the County shall enter all case/member information directly onto the designated OAG System.
- 4.1.1.6 The ICD021 and ICD050 computer file specifications and format will be made available to the County on the OAG portal. If these specifications change during the term of the Contract, the changes will be made available on the OAG portal and an e-mail notice of such availability will be sent to the County liaison. The County shall be responsible for implementing the changes to the electronic file specifications when and as required for OAG Systems processing.
- 4.1.1.7 To the extent necessary to fulfill its obligations under this Contract, County shall maintain, at no cost to the OAG, County hardware and software compatibility with the OAG Computer Systems and OAG file format needs, to include OAG software and OAG computer hardware and related equipment upgrades.

OAG will provide County with as much notice as possible of intended OAG Computer Systems upgrades.

- 4.1.1.8 County is responsible for all the necessary phone lines. For those counties that do not have internet access the OAG will ensure that internet service is established for at least one personal computer. However, if the County is not covered by a local Internet Service Provider local telephone coverage area, then the County is responsible for any unavoidable long distance telephone charges that occur.

#### 4.1.2 County Customer Service Unit Resources and Services

- 4.1.2.1 County shall provide the resources necessary to accomplish the following allowable categories of customer service activity: updates, payment information, reports of domestic violence, payment records request. These activities include, but are not limited to,:
  - 4.1.2.1.1 Researching non-IV-D payments that should have been but were not received by the OAG.
  - 4.1.2.1.2 Researching non-IV-D disbursements that should have been but were not received by the custodial parent.
  - 4.1.2.1.3 Ensuring that payments on cases that have been redirected from the County registry to the OAG are no longer paid to the County but are paid to the OAG and that disbursements on such cases are no longer made by the County.
  - 4.1.2.1.4 Entering updates on OAG Systems for new case and /or member information provided by the custodial parent, non-custodial parent, employer, court or attorney of record to the County. This includes but is not limited to address information, changes in custody, court order terminations of all types, child emancipation, multiple payees or payors, case deactivation and order transfers.
  - 4.1.2.1.5 providing payment records to the court, the guardian ad litem for the child, the custodial and non-custodial

parent and their attorneys, a person authorized by the custodial or non-custodial parent to have the payment history information, and a District or County attorney for purposes of pursuing prosecution for criminal non-support of a child.

4.1.2.2 The County Customer Service unit shall take inquiries and receive information by, but not limited to, e-mail, letters, phone calls, facsimiles and walk-ins.

4.1.2.3 Resources as used in this Customer Services Unit Resources and Services section include, but are not limited to, personnel, office space, equipment, phones and phone lines, and any County-specific IVR system.

#### 4.1.3 Customer Service Unit Documentation

4.1.3.1 County shall track and make available, upon request of OAG, documentation regarding the inquiries received.

4.1.3.1.1 For inquiries handled by County personnel (as opposed to inquiries handled by a County-specific IVR system) County shall document, at a minimum, the following information: the name of the person handling the inquiry, the name of the person making the inquiry, OAG case number and/or court cause number, County ID Number, NCP name, CP name, date of inquiry, and, as applicable, the following allowable categories of customer service activity performed: updates, payment information, reports of domestic violence, payment records request. County may, at County option, track and document inquiries received on OAG Systems using direct data entry. In any case County shall report to OAG Systems (by direct data entry or electronic file) that it received and has worked/is working a request for assistance and the OAG case number and/or court cause number.

4.1.3.1.2 For inquiries handled by a County-specific IVR system, the county-specific IVR system must be able to document an allowable category of customer service activity. The allowable categories of customer service activity are: updates, payment information,

reports of domestic violence, payment records request. For inquiries handled by a County-specific IVR system, County shall document, at a minimum, the following information: OAG case number and/or court cause number, County ID Number, NCP name, CP name, and date of inquiry. County shall also document the applicable allowable category of customer service activity that the County-specific IVR system is capable of performing. A county report to OAG Systems is not required.

- 4.1.3.2 County shall follow OAG procedures relating to data integrity when accepting changes to case information *i.e.*, procedures to properly identify the caller.

- 4.1.3.3 County shall perform the Customer Service Unit services using the following guidelines:

Respond to written inquiries within five (5) County work days, take action on information received within three (3) County work days, document case record of action or information received at time of receipt, follow up to a telephone inquiry within three (3) County work days, return phone calls within three (3) County work days, see a customer the same day or schedule appointment within three (3) County work days of request.

- 4.1.3.4 County shall use OAG processes and procedures for forwarding inquiries between the County, and the OAG and the OAG's designated agent where necessary, e.g., misdirected inquiries. The County and the OAG will also work to develop customer outreach information regarding the provision of customer service by the OAG, and County.

- 4.1.3.5 County shall maintain a log of customer service complaint calls. The log shall identify the complainant, the nature of the customer service complaint, the name of the person taking the customer service complaint, action taken on the customer service complaint, OAG case number and/or court cause number, NCP name, CP name, and date and time of the customer service complaint. County shall provide the log to the OAG by the 15<sup>th</sup> day of the month following the reporting month.

- 4.1.3.6 County shall establish quality assurance monitoring procedures and a system that will provide to the OAG sufficient information for evaluating the local customer service performance. The County quality assurance monitoring procedures and system shall be established within the first state fiscal year quarter after contract execution. Thereafter, the county shall perform quality assurance monitoring monthly and report the results to the OAG quarterly. Quarterly quality assurance monitoring reports shall be submitted to the OAG by the 15th day following the end of each state fiscal year quarter.
- 4.1.3.7 The electronic files associated with customer service activity that the County may receive and process are:
  - 4.1.3.7.1 IV-D and Non-IV-D Collections, technical document name: Interface Control Document 012 (ICD012).
  - 4.1.3.7.2 Non-IV-D Disbursement Data, technical document name: Interface Control Document 013 (ICD013).
  - 4.1.3.7.3 IV-D and Non-IV-D Collection Adjustments, technical document name Interface Control Document 015 (ICD015).
  - 4.1.3.7.4 Non-IV-D Case Data from Local Registries, technical document name: Interface Control document 050 (ICD050).
  - 4.1.3.7.5 STRADUS and Local Registries Customer Service Activities, technical document name: Interface Control Document 035 (ICD035).
- 4.1.3.8 In the event of a failed transmission, or if an unprocessable electronic file is produced, county shall correct the problem and retransmit within one (1) working day of notification by the OAG.
- 4.1.3.9 County shall record on its automated system all financial data available from the OAG required to support the accurate dissemination of payment record information contemplated by this Contract or the County shall access, as needed, an

OAG/TXCSES payment history record, as available, from the OAG "Consolidated Payment Record" application.

## 4.2 OAG Responsibilities

### 4.2.1 Access to STRADUS and TXCSES

OAG will work with the County to make sure the County has one personal computer, including the necessary software, to access the OAG Systems. For those counties that do not have internet access, the OAG will ensure that internet service is established for at least one personal computer. However, if the County is not covered by a local Internet Service Provider local telephone coverage area, then the County is responsible for any unavoidable long distance telephone charges that occur.

### 4.2.2 Reimbursement For Inquiries Handled by County Personnel

- 4.2.2.1 OAG shall monitor County STRADUS Local Customer Service activities (direct data entry or electronic file) and summarize for monthly reimbursement amounts.
- 4.2.2.2 OAG shall forward a Summary and Reimbursement Voucher to the County for review and approval.
- 4.2.2.3 If the County approves the Summary and Reimbursement Voucher, the County signs the voucher and returns it to OAG for payment within ten (10) County work days. County's signature constitutes approval of the voucher and certification that all services provided during the period covered by the voucher are included on the voucher. The OAG shall process the invoice for payment in accordance with the state procedures for issuing state payments and the Texas Prompt Payment Act.

County shall submit the invoice to:

Contract Manager for Local Disbursement, Local Customer  
Service and State Case Registry  
Mail Code: 062  
Office of the Attorney General  
P.O. Box 12017  
Austin, Texas 78711-2017

4.2.2.4 The OAG shall be financially liable to the County for the federal share of the County's contract associated cost. Federal share means the portion of the County's contract associated cost that the federal Office of Child Support Enforcement reimburses the state as federal financial participation under Title IV-D; for purpose of reference only the federal share on the effective date of this contract is 66%. The County agrees that for the purposes of this contract all of the County's contract associated costs for any given calendar month is equal to the number of inquiries handled by County personnel during the calendar month multiplied by a per inquiry fee of \$2.995 per inquiry. Thus: (Calendar Month Inquiries Handled by County Personnel) (\$2.995) (Federal Share) = OAG Liability. For the purpose of this subsection inquiry means one incoming request for assistance (as described in the County Customer Service Unit Resources and Services section above) not the number of out-going calls or efforts needed to resolve the inquiry nor does it mean multiple data entry to complete the update of multiple items of information which were reported at the same time.

4.2.2.5 If County does not approve the Summary and Reimbursement Voucher, it shall return the voucher to the OAG within ten (10) County work days of receipt, detailing the basis of any disputed item, and include supporting documentation. The OAG shall review the returned voucher. If the dispute is resolved in the County's favor the OAG shall make payment as set forth in the preceding subsection. If the dispute is not resolved in the County's favor, the OAG shall make payment in accordance with the voucher originally sent to the County and forward a letter of explanation to the County.

#### 4.2.3 Reimbursement for Inquiries Handled by a County-Specific IVR

4.2.3.1 In order to be reimbursed for handling customer inquiries received and answered through a County-specific IVR the County must first demonstrate to the OAG that the County IVR has sufficient controls to satisfy the requirements of Section 7.17 below and to assure that information is provided only to persons authorized to have access to the information. The County must also demonstrate that the County has successfully integrated SDU collections into their IVR to include adequate documentation confirming the daily integration of collections/disbursements (ICD 12, ICD 13 and ICD 15 are available for County use each day) received by STRADUS is



present on the County-specific IVR for each month that County is requesting reimbursement for. Upon OAG agreement that sufficient controls are in place and that successful integration has occurred, county may invoice OAG for handling customer inquiries received and answered through a County-specific IVR.

- 4.2.3.2 County shall bill OAG monthly, on a form provided by OAG, for the customer inquiries received and answered through the County-specific IVR during the preceding month. County shall submit invoices each month to:

Contract Manager for Local Disbursement, Local  
Customer Service and State Case Registry  
Mail Code 062  
Office of the Attorney General  
P.O. Box 12017  
Austin, Texas 78711-2017

- 4.2.3.3 The invoice shall contain the OAG Contract Number, identification of the services provided, the calendar month the services were provided, the location of the County-specific IVR, the number of inquiries handled by the County-specific IVR during the particular calendar month and a request for payment of the federal share of the County's contract associated cost for the particular month that the services were provided.

The County shall also deliver, simultaneous with the mailing of its monthly invoice, to the OAG child support customer service portal an electronic listing of cases served. This electronic listing is deemed to be an attachment to and supporting documentation for the invoice. The electronic listing shall be structured in the same manner as ICD 35. The electronic listing shall include, at a minimum, OAG case number and/or court cause number, County ID Number, NCP name, CP name, date of inquiry, and the nature of the inquiry i.e. updates, payment information, reports of domestic violence, payment records request.

County shall provide additional information and/or documentation as the OAG reasonably may require; provided that such information and/or documentation is available without having to program the County Specific IVR beyond the programming required by Section 4.1.3.1 above. County shall respond to any OAG request for additional information and/or

documentation to support payment within seven (7) calendar days of receipt. The OAG shall process a properly prepared invoice (which invoice must also include a properly prepared, properly structured, timely delivered and readable electronic listing) for payment in accordance with the State procedures for issuing State payments and the Texas Prompt Payment Act. The County agrees that payment for any services not properly billed to the OAG within the next three billing cycles immediately following the month in which the services were provided is solely within the discretion of the OAG and that OAG may decline to pay for any such services.

- 4.2.3.4 The OAG shall be financially liable to the County for the federal share of the County's contract associated cost. Federal share means the portion of the County's contract associated cost that the federal Office of Child Support Enforcement reimburses the state as federal financial participation under Title IV-D; for purpose of reference only the federal share on the effective date of this contract is 66%. The County agrees that for the purposes of this contract all of the County's contract associated costs for any given calendar month is equal to the number of inquiries handled by a County-specific IVR during the calendar month multiplied by a per inquiry fee of \$0.137 per inquiry. Thus: (Calendar Month Inquiries Handled by a County-specific IVR) (\$0.137) (Federal Share) = OAG Liability. For the purpose of this subsection inquiry means one incoming request for assistance not the number of out-going calls or efforts needed to resolve the inquiry.

#### 4.2.4 Limitation of OAG Liability

- 4.2.4.1 The OAG shall be liable only for contract associated costs incurred after commencement of this Contract and before termination of this Contract.
- 4.2.4.2 The OAG may decline to reimburse Allowable Costs which are submitted for reimbursement more than sixty (60) calendar days after the State Fiscal Year calendar quarter in which such costs are incurred.
- 4.2.4.3 County shall refund to the OAG within thirty (30) calendar days any sum of money which has been paid to County which the OAG and County agree has resulted in an overpayment to

County, provided that such sums may be offset and deducted from any amount owing but unpaid to County.

4.2.4.4 The OAG shall not be liable for reimbursing the County if the County fails to comply with the County Customer Service Unit Resources and Services and/or the Customer Service Unit Documentation Sections above in accordance with the requirements of those sections.

4.2.4.5 The OAG shall not be liable for reimbursing the County for any activity currently eligible for reimbursement as of right without the necessity for a prior existing contract e.g. sheriff/processor fees. Nor shall the OAG be liable for reimbursing the County for any activities eligible for reimbursement under another Contract or Cooperative Agreement with the OAG e.g. research activities related to completion of State Case Registry eligible cases.

## **5 STATE CASE REGISTRY**

### **5.1 County Responsibilities**

#### **5.1.1 Accessing STRADUS and TXCSES**

5.1.1.1 Work with the OAG or its designated agent to acquire, when needed, (at no cost to the County) from the OAG or its designated agent one personal computer, including the necessary software, to access the OAG Systems. The STRADUS web server is currently the designated OAG database to house data files. TXCSES is the OAG database to house the Title IV-D case and payment related files. County will work with the OAG or its designated agent to obtain the database access required. County is responsible for connecting the hardware to its own county network and for the cost associated therewith.

5.1.1.2 County must make necessary programming changes to its own automated child support system to accomplish the state case registry service activities in this contract. If the County employs a Vendor for maintenance and changes to its automated child support system, County must coordinate efforts between the County Vendor and the OAG or its designated agent.

5.1.1.3 Should the County desire to retain their legacy case management system, whether in-house or vendor based, the County is required

to maintain strict data synchronization with the OAG Systems. To accomplish this the County must demonstrate sufficient resources and ability to:

- 5.1.1.3.1 receive and process into the County legacy system daily data updates from the OAG in ICD050 format and
- 5.1.1.3.2 generate and transmit daily from the County legacy system to the OAG data updates from the County legacy system in ICD021 format.
- 5.1.1.4 County will be authorized to implement the data synchronization process upon completion of demonstrated ability and a documented system test.
- 5.1.1.5 Should the County not desire to retain their legacy case management system or if data synchronization with the OAG Systems is not feasible the County shall enter all case/member information directly onto the designated OAG System.
- 5.1.1.6 The ICD021 and ICD050 computer file specifications and format will be made available to the County on the OAG portal. If these specifications change during the term of the Contract, the changes will be made available on the OAG portal and an e-mail notice of such availability will be sent to the County liaison. The County shall be responsible for implementing the changes to the electronic file specifications when and as required for OAG Systems processing.
- 5.1.1.7 To the extent necessary to fulfill its obligations under this Contract, County shall maintain, at no cost to the OAG, County hardware and software compatibility with the OAG Computer Systems and OAG file format needs, to include OAG software and OAG computer hardware and related equipment upgrades. OAG will provide County with as much notice as possible of intended OAG Computer Systems upgrades.
- 5.1.1.8 County is responsible for all the necessary phone lines. For those counties that do not have internet access, the OAG will ensure that internet service is established for at least one personal computer. However, if the County is not covered by a local Internet Service Provider local telephone coverage area, then the County is

responsible for any unavoidable long distance telephone charges that occur.

5.2 State Case Registry Activities

5.2.1 County shall provide to OAG new and modified court orders entered after the effective date of the Contract for Non-IV-D court order information relating to Suits Affecting the Parent-Child Relationship.

5.2.2 County shall use the original court ordered documents to obtain the relevant information for entry to the OAG Systems or may use a form completed by the District Clerk or local Registry's office that summarizes the relevant court ordered child support information. The OAG, at the County's option, shall work with the County to develop and implement this form.

5.2.3 County must provide the following data elements:

5.2.3.1 participant type (dependent, custodial parent , non-custodial parent)

5.2.3.2 family violence indicator

5.2.3.3 name of each participant (last and first)

5.2.3.4 sex code for each participant

5.2.3.5 social security number for each custodial parent and non-custodial parent

5.2.3.6 date of birth for each participant

5.2.3.7 cause number

5.2.3.8 cause county code

5.2.3.9 start date of cause

5.2.3.10 order modification date

5.2.3.11 address lines 1, 2, and 3, City, State, Zip (custodial parent only)

- 5.2.4 Additional data elements defined in Interface Control Document Number 021 (ICD021) may be provided at County option. A copy of ICD021 is available on the OAG portal.
- 5.2.5 County shall provide data elements and/or information updates to the OAG Systems for non-IV-D court orders signed on or after October 1, 1998.
- 5.2.6 County shall provide new order information within five (5) working days of completion of the hearing.
- 5.2.7 County shall provide update order information within three (3) working days of receipt.
- 5.2.8 County shall provide new and updated order information via electronic file in ICD021 format from the county automated system or perform the data entry directly onto OAG Systems.
- 5.2.9 In the event of a failed transmission, or if an unprocessable electronic file is produced, County shall correct the problem and retransmit within one (1) working day of notification by the OAG.
- 5.2.10 County shall maintain back-up electronic files according to the retention requirements established by the Texas State Library in the event that a file needs to be retransmitted.

### 5.3 OAG Responsibilities

#### 5.3.1 Access to STRADUS and TXCSES

OAG will work with the County to make sure the County has one personal computer, including the necessary software, to access the OAG Systems. For those counties that do not have internet access, the OAG will ensure that internet service is established for at least one personal computer. However, if the County is not covered by a local Internet Service Provider local telephone coverage area, then the County is responsible for any unavoidable long distance telephone charges that occur.

#### 5.3.2 Reimbursement

- 5.3.2.1 OAG shall monitor County OAG Systems State Case Registry activities (direct data entry or electronic file) and summarize for monthly reimbursement amounts.
- 5.3.2.2 OAG shall forward a Summary and Reimbursement Voucher to the County for review and approval.
- 5.3.2.3 If the County approves the Summary and Reimbursement Voucher, the County signs the voucher and returns it to OAG for payment within ten (10) County work days. County's signature constitutes approval of the voucher and certification that all services provided during the period covered by the voucher are included on the voucher. The OAG shall process the invoice for payment in accordance with the state procedures for issuing state payments and the Texas Prompt Payment Act.

County shall submit the invoice to:

Contract Manager for Local Disbursement, Local Customer  
Service and State Case Registry  
Mail Code: 062  
Office of the Attorney General  
P.O. Box 12017  
Austin, Texas 78711-2017

- 5.3.2.4 The OAG shall be financially liable to the County for the federal share of the County's contract associated cost. Federal share means the portion of the County's contract associated cost that the federal Office of Child Support Enforcement reimburses the state as federal financial participation under Title IV-D; for purpose of reference only the federal share on the effective date of this contract is 66%. The County agrees that for the purposes of this contract all of the County's contract associated costs for any given calendar month is equal to the number of new and modified Non-IV-D Court Orders (together with all required data elements) provided to the OAG during the calendar month multiplied by a per new and modified Non-IV-D Court Order fee of \$11.83 per new and modified Non-IV-D Court Order plus the number of Non-IV-D Court Orders updated during the calendar month multiplied by a per Non-IV-D Court Order updated fee of \$2.995 per Non-IV-D Court Order updated. Thus: [(Calendar Month new and modified Non-IV-D Court Orders provided x \$11.83) +

(Calender Month Non-IV-D Court Orders updated x \$2.995)] x  
Federal Share = OAG Liability.

5.3.2.5 If County does not approve the Summary and Reimbursement Voucher, it shall return the voucher to the OAG within ten (10) County work days of receipt, detailing the basis of any disputed item, and include supporting documentation. The OAG shall review the returned voucher. If the dispute is resolved in the County's favor the OAG shall make payment as set forth in the preceding subsection. If the dispute is not resolved in the County's favor, the OAG shall make payment in accordance with the voucher originally sent to the County and forward a letter of explanation to the County.

### 5.3.3 Limitation of OAG Liability

5.3.3.1 The OAG shall be liable only for contract associated costs incurred after commencement of this Contract and before termination of this Contract.

5.3.3.2 The OAG may decline to reimburse Allowable Costs which are submitted for reimbursement more than sixty (60) calendar days after the State Fiscal Year calendar quarter in which such costs are incurred.

5.3.3.3 County shall refund to the OAG within thirty (30) calendar days any sum of money which has been paid to the County which the OAG and County agree has resulted in an overpayment to County, provided that such sums may be offset and deducted from any amount owing but unpaid to County.

5.3.3.4 The OAG shall not be liable to reimburse the County if the County fails to comply with the State Case Registry Activities Section above in accordance with the requirements of that section.

5.3.3.5 The OAG shall not be liable to reimburse the County for information correcting erroneous information previously provided by the County.



## 6 GENERAL REQUIREMENTS

### 6.1 Written Notice Delivery

Any notice required or permitted to be given under this Contract by one party to the other party shall be in writing and shall be addressed to the receiving party at the address hereinafter specified. The notice shall be deemed to have been given immediately if delivered in person to the recipient's address hereinafter specified. It shall be deemed to have been given on the date of certified receipt if placed in the United States mail, postage prepaid, by registered or certified mail with return receipt requested, addressed to the receiving party at the address hereinafter specified.

#### 6.1.1 County

The address of the County for all purposes under this Contract and for all notices hereunder shall be:

The Honorable Sheri Woodfin (or his/her successor in office)  
District Clerk, Tom Green County  
112 West Beauregard Avenue  
San Angelo, Texas 76903

#### 6.1.2 OAG

The address of the OAG for all purposes under this Contract and for all notices hereunder shall be:

Cynthia Bryant (or her successor in office)  
Deputy Attorney General for Child Support  
Office of the Attorney General  
P.O. Box 12017  
Austin, Texas 78711-2017

With copies to:

Kathy Shafer (or her successor in office)  
Deputy General Counsel, Child Support Division  
Office of the Attorney General  
P. O. Box 12017  
Austin, Texas 78711-2017

## 6.2 Inspections, Monitoring and Audits

The OAG may monitor and/or conduct fiscal and/or program audits and/or investigations of the County's program performance at reasonable times. County shall provide physical access without prior notice to all sites used for performance of service under this contract to the OAG, United States Department of Health and Human Services, Comptroller General of the United States, and State Auditor of Texas. The OAG may at its option or at the request of County provide technical assistance to assist County in the operation of this program. County shall grant to the OAG, the United States Department of Health and Human Services, Comptroller General of the United States, and State Auditor of Texas access, without prior notice, to all books, documents, and records of the County pertinent to this Contract. The County books, documents, and records may be inspected, monitored, evaluated, audited and copied. County shall cooperate fully with the OAG, United States Department of Health and Human Services, Comptroller General of the United States, and State Auditor of Texas in the conduct of any audit and/or investigation including the providing of any requested books, documents, and records. 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. Reports or other information relating to this program prepared by the County or at the request of the County shall be furnished to the OAG within ninety (90) days of availability. The requirements of this Subsection shall be included in all subcontracts.

## 6.3 Reimbursement of Audit Penalty

If funds are disallowed as a result of an audit finding contained in an audit (by County or County's independent auditor, the OAG, the State Auditor, the U.S. Department of Health and Human Services, the Comptroller General of the United States, or any of their duly authorized representatives) that County has failed to follow federal requirements for the IV-D program, then County agrees that the OAG may recoup its loss by withholding funds payable under this contract to the extent of the loss incurred by the OAG.

## 6.4 Remedies for Non-Performance

6.4.1 Failure of the County to perform the contracted for services as required by this Contract shall be considered unsatisfactory performance. Any finding of unsatisfactory performance shall be communicated to the County in writing by the OAG Contract Manager. If the County wants to dispute the

finding, a written dispute must be received by the OAG Contract Manager no later than fifteen (15) calendar days from the date the County received the written finding of unsatisfactory performance. The written dispute must detail why the County believes the finding is erroneous and must contain all supporting documentation. The OAG Contract Manager will review the dispute submission to determine the validity of the original finding of unsatisfactory performance. The determination of the OAG Contract Manager shall be final and shall conclude the review process. The OAG Contract Manager's determination shall be communicated to the County in writing. If a written dispute of the original finding of unsatisfactory performance is not received by the OAG Contract Manager by the time set forth above, the finding of unsatisfactory performance shall be deemed validated and the County shall have waived its right to dispute the finding.

6.4.2 If the finding of unsatisfactory performance is validated, the County shall be requested to provide the OAG Contract Manager with a corrective action plan. A corrective action plan, acceptable to the OAG Contract Manager, must be provided within a reasonable time period as specified by the OAG Contract Manager. Failure to provide an acceptable corrective action plan within the specified time period shall result in a withholding of payments due to County under this Contract until such time that an acceptable corrective action plan is provided.

6.4.3 If the County does not return to satisfactory status within four months of receiving notice that an unsatisfactory performance finding has been validated, OAG may withhold payments due to County under this Contract until the County is once again performing satisfactorily. If the unsatisfactory status persists for a total of six months after receiving notice of the validated unsatisfactory performance finding, OAG may terminate this Contract (in accordance with the Termination Section below) without payment to County for any costs incurred by County from the time that OAG commenced withholding payments due to County being in an unsatisfactory status. Where payments are to resume due to County having provided an acceptable corrective action plan or having attained satisfactory performance status the first payment after resumption shall include all costs accrued during the period when payments to the County were withheld.

#### 6.5 Training on OAG Systems

Training on OAG Systems will be provided upon request from the County, by the end of the quarter following such request, by OAG Regional Trainers at each of

the OAG Regional Training Centers. Any County staff performing functions under this Contract must attend this training. County shall be responsible for any and all costs associated with this training, including, but not limited to, costs for travel, lodging, meals and per diem; provided, however that the OAG shall be responsible for the cost of training materials and equipment required to complete the training class. OAG will publish training schedules on the OAG portal. County is responsible for scheduling the training with the OAG and shall direct training requests to:

Larry Acevedo  
Office of the Attorney General  
Mail Code 053  
P.O. Box 12017  
Austin, Texas 78711-2017  
email address: Larry.Acevedo@cs.oag.state.tx.us

## **7 TERMS AND CONDITIONS**

### **7.1 Assignment**

County will not assign its rights under this contract or delegate the performance of its duties under this contract without prior written approval from the OAG.

### **7.2 Liaison**

County and OAG each agree to maintain specifically identified liaison personnel for their mutual benefit during the term of the Contract. The liaison(s) named by County shall serve as the initial point(s) of contact for any inquiries made pursuant to this Contract by OAG and respond to any such inquiries by OAG. The liaison(s) named by OAG shall serve as the initial point(s) of contact for any inquiries made pursuant to this Contract by County and respond to any such inquiries by County. The liaison(s) shall be named in writing at the time of the execution of this Contract. Subsequent changes in liaison personnel shall be communicated by the respective parties in writing.

### **7.3 Subcontracting**

It is contemplated by the parties hereto that County shall conduct the performances provided by this contract substantially with its own resources and through the services of its own staff. In the event that County should determine that it is necessary or expedient to subcontract for any of the performances specified herein, County shall subcontract for such performances only after County has transmitted to the OAG a true copy of the subcontract County

proposes to execute with a subcontractor and has obtained the OAG's written approval for subcontracting the subject performances in advance of executing a subcontract. County, in subcontracting for any performances specified herein, expressly understands and acknowledges that in entering into such subcontract(s), the OAG is in no manner liable to any subcontractor(s) of County. In no event shall this provision relieve County of the responsibility for ensuring that the performances rendered under all subcontracts comply with all terms of this contract.

#### 7.4 Civil Rights

County agrees that no person shall, on the ground of race, color, religion, sex, national origin, age, disability, political affiliation, or religious belief, be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in the administration of, or in connection with, any program or activity funded in whole or in part with funds provided by this Contract. County shall comply with Executive Order 11246, "Equal Employment Opportunity" as amended by Executive Order 11375, "Amending Executive Order 11246 relating to Equal Employment Opportunity" and as supplemented by regulations at 41 C.F.R. Part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor." County shall ensure that all subcontracts comply with the above referenced provisions.

#### 7.5 Environmental Protection

County shall be in compliance with all applicable standards, orders, or requirements issued pursuant to the mandates of the Clean Air Act (42 U.S.C. Section 7401 *et seq.*) and the Federal Water Pollution Control Act, as amended, (33 U.S.C. Section 1251 *et seq.*).

#### 7.6 Certain Disclosures Concerning Lobbying

County shall comply with the provisions of a federal law known generally as the Lobbying Disclosure Acts of 1989, and the regulations of the United States Department of Health and Human Services promulgated pursuant to said law, and shall make all disclosures and certifications as required by law. County must submit the Certification Regarding Lobbying included with this Contract (Attachment E). This certification certifies that the County will not and has not used federally appropriated funds to pay any person or organization for influencing or attempting to influence any officer or employee of any federal agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant or any other award covered by 31 U.S.C. Section 1352. It also certifies that the

County will disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award by completing and submitting standard Form LLL.

7.7 Compliance With Law, Policy and Procedure

County shall perform its obligations hereunder in such a manner that ensures its compliance with OAG, policy, processes and procedure and all state and federal laws, rules and regulations. County shall assure, with respect to County's performances, that the OAG is able to meet the OAG's obligations in carrying out the program of child support enforcement pursuant to Title IV, Part D, of the federal Social Security Act of 1935, as amended. County understands and agrees that from time to time OAG may need to change its policy, processes or procedures and that such change shall not entitle County to any increased cost reimbursement under this contract; provided, however, that County may exercise its right to terminate the Contract in accordance with the Termination Section below. OAG shall provide County e-mail notice of any change in OAG policy, processes or procedures.

7.8 Legislative Appropriations

All obligations of the OAG are subject to the availability of legislative appropriations and, for federally funded procurements, to the availability of federal funds applicable to this procurement (as further described below). OAG will not be in default for nonpayment under this contract if such appropriated funds or federal funds are not available to OAG for payment of OAG's obligations under this contract. In such event OAG will promptly notify the County, and the contract shall terminate simultaneous with the termination of either appropriated funds or federal funds. Upon termination of the contract the OAG will discontinue payment hereunder.

It is expressly understood that any and all of the OAG's obligations and liabilities hereunder are contingent upon the existence of a state plan for child support enforcement approved by the United States Department of Health and Human Services providing for the statewide program of child support enforcement, pursuant to the Social Security Act, and on the availability of Federal Financial Participation for the activities described herein. In the event that such approval of the state plan or the availability of Federal Financial Participation should lapse or otherwise terminate, the OAG shall promptly notify county of such fact in writing. Upon such occurrence the OAG shall discontinue payment hereunder.

#### 7.9 Termination

Either party to this Contract shall have the right to either terminate this Contract in its entirety or in part. However, a County continuing to contract to provide Local Disbursement services must also continue to contract to provide Local Customer Service services and a County continuing to contract to provide Local Customer Service services must also continue to contract to provide State Case Registry services. The Contract, or portion of the Contract, may be terminated by the terminating party notifying the other party in writing of such termination and the proposed date of the termination no later than thirty (30) calendar days prior to the effective date of such termination.

In the event of termination, said termination occurring for any reason, the County shall work with the OAG for a period of one hundred eighty (180) calendar days following the effective date of such termination to ensure that there will be no interruption of services to families.

#### 7.10 News Releases or Pronouncements

News releases, advertisements, publications, declarations, and any other pronouncements pertaining to this Contract by County using any means or media mentioning this Contract must be approved in writing by the OAG prior to public dissemination.

#### 7.11 Date Standard

Four-digit year elements will be used for the purposes of electronic data interchange in any recorded form. The year shall encompass a two digit century that precedes, and is contiguous with, a two digit year of century (e.g. 1999, 2000, etc.). Applications that require day and Month information will be coded in the following format: CCYYMMDD. Additional representations for week, hour, minute, and second, if required, will comply with the international standard ISO 8601: 1988, "Data elements and interchange formats--Information interchange--Representation of dates and times."

#### 7.12 Changes in the Law

Any alterations, additions or deletions to the terms of this Contract which are required by changes in federal or state law are automatically incorporated into this Contract without written amendment to this Contract and shall be effective on the date designated by said federal or state law.

7.13 Amendments

Any changes to this Contract, except those changes so designated in this Contract, shall be in writing and executed by both parties to this Contract.

7.14 Headings

The headings for each section of this Contract are stated for convenience only and are not to be construed as limiting.

7.15 Dispute Resolution Process for County Breach of Contract Claim

7.15.1 The dispute resolution process provided for in Chapter 2260 of the Government Code shall be used, as further described herein, by the OAG and County to attempt to resolve any claim for breach of contract made by County.

7.15.2 County's claim for breach of this contract that the parties cannot resolve in the ordinary course of business shall be submitted to the negotiation process provided in Chapter 2260, subchapter B, of the Government Code. To initiate the process, the County shall submit written notice, as required by subchapter B, to the Deputy Attorney General For Child Support, Office of the Attorney General, P.O. Box 12017 (Mail Code 033), Austin, Texas 78711-2017. Said notice shall specifically state that the provisions of Chapter 2260, subchapter B, are being invoked. A copy of the notice shall also be given to all other representatives of the OAG and the County otherwise entitled to notice under this contract. Compliance by the County with subchapter B is a condition precedent to the filing of a contested case proceeding under Chapter 2260, subchapter C, of the Government Code.

7.15.3 The contested case process provided in Chapter 2260, subchapter C, of the Government Code is the County's sole and exclusive process for seeking a remedy for any and all alleged breaches of contract by the OAG if the parties are unable to resolve their disputes under the immediate preceding subsection.

7.15.4 Compliance with the contested case process provided in subchapter C is a condition precedent to seeking consent to sue from the Legislature under Chapter 107 of the Civil Practices and Remedies Code. Neither the execution of this contract by the OAG nor any other conduct of any



representative of the OAG relating to the contract shall be considered a waiver of sovereign immunity to suit.

7.15.5 The submission, processing and resolution of the County's claim is governed by the published rules adopted by the OAG pursuant to Chapter 2260, as currently effective, hereafter enacted or subsequently amended.

7.15.6 Neither the occurrence of an event nor the pendency of a claim constitutes grounds for the suspension of performance by the County, in whole or in part.

#### 7.16 Security and Confidentiality

##### 7.16.1 Security and Confidentiality

###### General

County shall comply with all applicable statutory and regulatory provisions requiring that information be safeguarded and kept confidential. These statutes and regulatory provisions include but are not limited to 42 U.S.C. §§ 653 and 654; 45 CFR §§ 307.10, 307.11 and 307.13; 26 U.S.C. 6103 (IRC 6103); IRS Publication 1075 (Rev. 6-2000) and §231.108 of the Texas Family Code, each as currently written or as may be amended, revised or enacted. County shall also comply with OAG policy and procedures concerning the safeguarding and confidentiality of information, and computer security. **OAG, in its sole discretion and without consulting County, may immediately terminate any County employee's or contractor's access to the OAG computer system. County shall immediately notify OAG when any person authorized by County to access the OAG computer system is no longer authorized to have such access including, but not limited to, reassignment, or termination.** Should County, its officials or one of its employees or contractors make any unauthorized inspection(s) or disclosure(s) of Title IV-D information, or violate OAG policy or procedure concerning the safeguarding and confidentiality of information, and/or computer security (including, but not limited to, the safeguarding and use of passwords) this Contract may be immediately terminated by the OAG. The County shall immediately notify the OAG Contract Manager upon the discovery of any breach of physical, information or computer security, including, but not limited to, unauthorized access to information or computer systems and unauthorized use of passwords. The County shall provide a written report of all information available to the County relating to the security breach to

the OAG Contract Manager within twenty-four (24) hours of the discovery.

County will take care not to disclose information provided by OAG including particularly to any legislative body (local, state or federal) which could tend to identify such applicants or recipients of financial or other assistance or support enforcement services pursuant to the Federal Social Security Act of 1935, as amended. No electronic list or mailing list of recipients of services shall be created, distributed, or used. Payment history information may not be disclosed or provided to anyone other than the court, the guardian ad litem for the child, the custodial and non-custodial parent and their attorneys, or a person authorized by the custodial or non-custodial parent to have the payment history information. Payment history information may be disclosed and/or provided to a District or County attorney for purposes of pursuing prosecution for criminal non-support of a child. The payment history screen and any other screen that contains Internal Revenue Service information (FTI) shall only be printed in order to provide payment history information to the court, the guardian ad litem for the child, the custodial and non-custodial parent and their attorneys, a person authorized by the custodial or non-custodial parent to have the payment history information, and a District or County attorney for purposes of pursuing prosecution for criminal non-support of a child. County stipulates that all non IV-D and/or IV-D information is confidential and County agrees that it shall use and/or release non IV-D and/or IV-D case information under the circumstances limited to this Contract.

#### 7.16.2 IRS Information

County shall have limited access to certain information that is from the Internal Revenue Service. Under the Internal Revenue Code, this information is considered Federal tax return information, for which unauthorized access or disclosure carries civil and criminal penalties, more specifically described later in this Contract and the attachments hereto. Therefore in performance of this Contract, County agrees to comply and assume responsibility for compliance by its officials, employees, and subcontractors with the following requirements:

7.16.2.1 All work shall be performed under the supervision of County officials or County's responsible employees.

7.16.2.2 Any return or return information made available shall be used only for the purposes of carrying out the provisions of this

Contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of the Contract. Inspection by or disclosure to anyone other than an official or employee of County (or as provided above for payment history information) shall require prior written approval by the OAG and the Internal Revenue Service. Requests to make such inspections or disclosures should be made in writing to both the OAG liaison and the IRS Disclosure Officer, Department of the Treasury, 300 E. Eighth Street, Austin, TX 78701.

- 7.16.2.3 Should a person (County or subcontractor) or one of his/her officials/officers or employees make any unauthorized inspection(s) or disclosure(s) of confidential tax information, this Contract may be immediately terminated by the OAG.
- 7.16.2.4 Each official or employee of any person at any tier to whom return information is or may be disclosed shall be notified in writing by the person that returns or return information disclosed to such official or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any such returns or return information for a purpose or to an extent unauthorized herein constitutes a felony punishable upon conviction by a fine of as much as \$5,000 or imprisonment for as long as five years, or both, together with the costs of prosecution. Such person shall also notify each such official or employee that any such unauthorized future disclosure of returns or return information may also result in an award of civil damages against the official or employee in an amount not less than \$1,000 with respect to each instance or unauthorized disclosure plus in the case of willful disclosure or a disclosure which is the result of gross negligence, punitive damages plus the cost of the action. These penalties are prescribed by IRC Sections 7213 and 7431 and set forth at 26 CFR §301.6103(n).
- 7.16.2.5 Each official or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing by such person that any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this Contract and that inspection of any such returns or return information for a purpose or to an extent not authorized herein constitutes a criminal misdemeanor

punishable upon conviction by a fine of as much as \$1,000.00 or imprisonment for as long as 1 year, or both, together with costs of prosecution. Such person shall also notify each such official and employee that any such inspection of returns or returns information may also result in an award of civil damages against the official or employees in an amount equal to the sum of the greater of \$1,000.00 for each act of unauthorized inspection with respect to which such defendant is found liable or the sum of the actual damages sustained by the plaintiff as a result of such unauthorized inspection plus in the case of a willful inspection or an inspection which is the result of gross negligence, punitive damages, plus the costs of the action. The penalties are prescribed by IRC Sections 7213A and 7431.

7.16.2.6 Additionally, it is incumbent upon County to inform its officers subcontractors and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. §552a. Specifically, 5 U.S.C. §552a(i)(1), which is made applicable to contractors by 5 U.S.C. §552(m)(1), provides that any officer or employee of a contractor, who by virtue of his/her employment or official position, has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.

7.16.2.7 The IRS and/or the OAG shall have the right to send its officers and employees, unannounced, into the offices and places of business of County and its subcontractors for inspection of the facilities and operations provided for the performance of any work under this Contract. On the basis of such inspection, specific measures may be required in cases where County or its subcontractors are found to be noncompliant with security information safeguards.

#### 7.16.3 Limited Use Or Release Of Information

Information provided by the OAG to County through access to STRADUS and/or TXCSES shall be used only for the purposes of carrying out the provisions of this Contract. Inspection by or disclosure of any non IV-D

and/or IV-D case information to anyone other than an official or employee of County or the OAG, other than for the purposes of carrying out, and in accordance with, the provisions of this Contract, shall require prior written approval of the OAG and, where appropriate, the IRS.

#### 7.16.4 Protection Of Information

7.16.4.1 Information accessed shall always be maintained in a secure environment (with limited access by authorized personnel both during work and non-work hours) using devices and methods such as, but not limited to: alarm systems, locked containers of various types, restricted areas, locked rooms, locked buildings, identification systems and control measures, guards, or other devices reasonably expected to prevent loss or unauthorized removal of manually held data. County shall also protect against unauthorized use of passwords, access logs, and badges.

7.16.4.2 Whenever possible, computer operations must be in a secure area with restricted access. In situations such as remote terminals, or office work sites where all of the requirements of a secure area with restricted access cannot be maintained, the equipment shall receive the highest level of protection that is practical. The following security requirements shall be met for FTI. All FTI shall be locked up when not in use. Tape reels, disks or other magnetic media shall be labeled as FTI data when they contain such information. Such labeled magnetic media shall be kept in a secured area under the immediate protection and control of an authorized employee or locked up. When not in use, they shall be promptly returned to a proper storage area/container.

#### 7.16.5 Security Agreements And Training

7.16.5.1 County shall ensure that all persons having access to information obtained from STRADUS and/or TXCSES are thoroughly briefed on related security procedures, restricted usage, and instructions requiring their awareness and compliance. Annual reorientation sessions shall be conducted to ensure that all appropriate employees and subcontractors remain alert to all security requirements.

7.16.5.2 County agrees that it will annually provide its employees, and when applicable its subcontractors, with such security statements or revised security statements and forms as deemed appropriate

by the OAG. County shall promptly return said form with original signatures to OAG Information Resources (IR) Division. County personnel, and when applicable its subcontractors, shall only be granted access to STRADUS and/or TXCSES after they have received all required security training, read the OAG Information Security Policy Manual (Attachment A), signed the acknowledgment and read and signed the OAG Statement of Responsibility (Attachment B) and County has given the signed original Statement of Responsibility form to OAG IR Division.

7.16.5.3 County agrees that it will annually provide its employees, and when applicable its subcontractors, with the IRS notification form and return said form with original signatures to OAG IR Division. The current version of the form is provided at Attachment C. Should the form be revised the OAG shall provide County with a copy of the revised form. The IRS notification form for an employee, and when applicable its subcontractors, must be on file with the OAG IR Division prior to the employee or subcontractor accessing STRADUS and/or TXCSES. Additionally County agrees to post promptly in all work areas the IRS notice contained in Attachment D.

#### 7.16.6 Survival Of Provision

The obligations of County under this Security and Confidentiality provision shall survive this Contract.

#### 7.16.7 Inclusion in all Subcontracts

The requirements of this Security and Confidentiality provision shall be included in all subcontracts.

#### 7.17 Survival of Terms

Termination of this Contract for any reason shall not release the parties from any liability or obligation set forth in this Contract that is expressly stated to survive any such termination or by its nature would be intended to be applicable following any such termination

#### 7.18 Applicable Law and Venue

County agrees that this Contract in all respects shall be governed by and construed in accordance with the laws of the State of Texas, except for its provisions

regarding conflicts of laws. County also agrees that the exclusive venue and jurisdiction of any legal action or suit brought by County concerning this Contract is, and that any such legal action or suit shall be brought, in a court of competent jurisdiction in Travis County, Texas. OAG agrees that any legal action or suit brought by OAG concerning this Contract shall be brought in a court of competent jurisdiction in **Tom Green County**. All payments under this Contract shall be due and payable in Travis County, Texas.

7.19 Entire Contract

This instrument constitutes the entire Contract between the parties hereto, and all oral or written contract between the parties relating to the subject matter of this contract that were made prior to the execution of this contract have been reduced to writing and are contained herein

7.20 Attachments

7.20.1 Attachment A: OAG Information Security Policy Manual

7.20.2 Attachment B: OAG Statement of Responsibility

7.20.3 Attachment C: IRS Notification Form

7.20.4 Attachment D: IRS Notice

7.20.5 Attachment E: Certification Regarding Lobbying

**THIS CONTRACT IS HEREBY ACCEPTED**

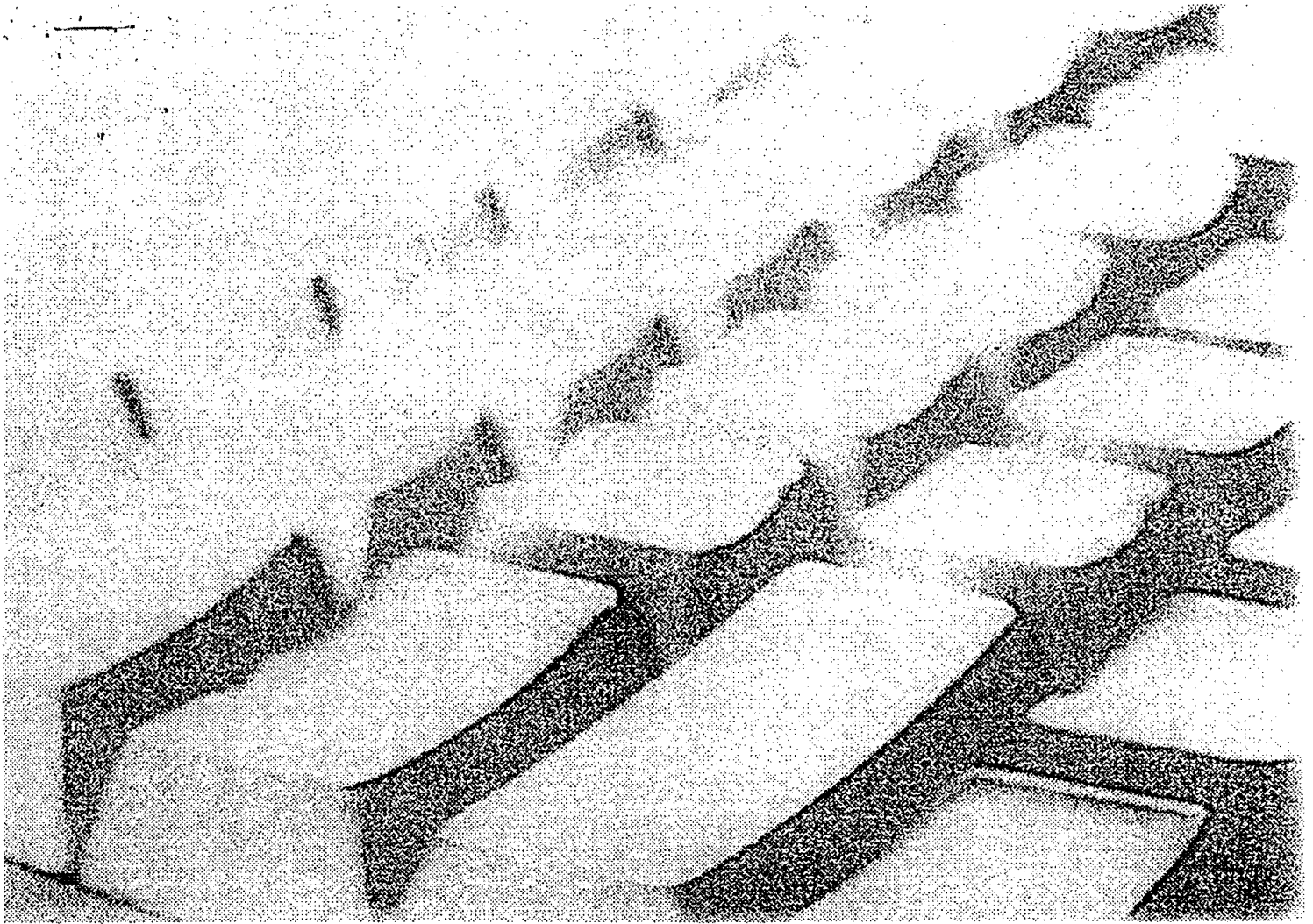
**Office of the Attorney General**

**Tom Green County**

\_\_\_\_\_  
Cynthia Bryant  
Deputy Attorney General for Child Support



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



Attachment A

# Information Security **Policy Manual**

*Not Recorded*



Attachment B

**TxCSDU STRADUS WEB-AUTOMATED COMPUTER SYSTEM ACCESS  
STATEMENT OF RESPONSIBILITY**

Name	Agency, County or Company Employed By
Position	
Work Location (City)	Work Location (County)

General Information: All information maintained in the files and records of the Child Support Division are privileged and confidential. The unauthorized use or release of the information can result in criminal prosecution and civil liability. Only authorized personnel may add, modify and/or delete information.

Statements: I understand that the information concerning any person, customer or client that may come to my knowledge while using the computer system of the TxCSDU or TXCSES or any other OAG computer shall be held in strictest confidence and may not be disclosed except as used exclusively for purposes directly connected with the TxCSDU IV-D program and the OAG Confidentiality Policy and Procedures.

Notwithstanding the above, I understand that I may not disclose to any individual or agency any federal tax return or return information. I further understand that it is unlawful to offer or receive anything of value in exchange for federal tax return or return information. Such unauthorized disclosure or exchange is punishable by fine up to \$5,000, or imprisonment up to 5 years, or both, under Internal Revenue Code 7213 and 7213 A. Accessing federal tax information without a "need to know" is a federal misdemeanor punishable by not more than one year imprisonment, or a \$1000 fine or both, plus costs of prosecution, under 7213 A, Internal Revenue Code. I also understand that I may be civilly liable for damages of not less than \$1000 per violation, together with costs of prosecution under Section 7431 of the Internal Revenue Code.

I also understand that I may not release information to any committee or legislative body (federal, state, or local) that identifies by name or address any such applicant or recipient of services. Use of such information by a local government or component thereof for any other purpose, including but not limited to, collecting a fee is prohibited.

I understand that I may not perform any work, review, update or otherwise act to obtain information upon my own, or any relative's, friend's, or business associate's child support case, regardless if the case is open or closed. My failure to comply with the OAG Confidentiality Policy will result in immediate termination of my computer access. I also understand that a violation will be reported to my supervisor or other appropriate personnel in my agency for disciplinary action, which may include termination and/or referral for prosecution.

In addition, if applicable, I understand that the computer password(s) I receive or devise is confidential, and must not be disclosed to anyone. I understand that it is my responsibility to safeguard such password(s) by not allowing it to be viewed by anyone. I understand that I am responsible for computer transactions performed through misuse of my password(s).

I agree I will not load unauthorized software, personal computer programs, shareware or freeware of any kind onto the OAG computer equipment without the express written approval of the OAG Contract Manager or the Contract Manager designee. I understand that use of a password not issued or devised specifically for me is expressly prohibited and is a violation of state and federal law.

I also understand that failure to observe the above conditions may constitute a "breach of computer security" as defined in the TEXAS PENAL CODE, CHAPTER 33, Section 33.02 (b), and that such an offense may be classified as a felony. Similar federal statutes may also be applicable.

I certify that I understand that any copyrighted material, including but not limited to commercial computer software, which may be made available to me for use by the OAG is protected by copyright laws and is not to be copied for any reason without written permission from the owner of the copyright and the OAG.

By signing this statement I certify that I:

- agree to abide by all written conditions imposed by the OAG regarding information security;
- understand my responsibilities as described above;
- have received, read and understand the OAG security information policy manual; and
- if applicable, I have read all applicable software licenses and agree to abide by all restrictions.

SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT  
CHILD SUPPORT DIVISION

Attachment C

IRS INFORMATION DISCLOSURE LIMITATIONS


It is unlawful for any person willfully to disclose, print, or publish, except as authorized, any Federal return or return information, or any information therefrom. Such action is punishable by fine up to \$5,000 or imprisonment up to 5 years, or both, together with costs of prosecution. See section 7213 of the Internal Revenue Code. In addition Internal Revenue Code section 7431 provides for civil damages of not less than \$1000 per violation for knowing or negligent disclosure of such information plus in the case of a willful disclosure or a disclosure which is the result of gross negligence, punitive damages, plus the costs of the action.

It is unlawful for any person willfully to offer any item of material value in exchange for any return or return information and to receive as a result of such solicitation any such return or return information. Such action is punishable by fine up to \$5000 or imprisonment up to 5 years, or both, together with costs of prosecution. See section 7213 of the Internal Revenue Code.

It is unlawful for any person willfully to inspect, except as authorized, any Federal return or return information. Such action is punishable by a fine up to \$1000 or imprisonment up to 1 year, or both, together with the costs of prosecution. See section 7213A of the Internal Revenue Code. In addition Internal Revenue Code section 7431 provides for civil damages of not less than \$1000 per violation for knowing or negligent inspection of such information plus in the case of a willful inspection or an inspection which is the result of gross negligence, punitive damages, plus the costs of the action.

I acknowledge that I am aware of the above civil and criminal liabilities.

Michael D. Brown  
Printed name

  
Signature

11-10-03  
Date



**ATTORNEY GENERAL OF TEXAS**  
GREG ABBOTT  
CHILD SUPPORT DIVISION

**Attachment D**

**WARNING**

**DISCLOSURE LIMITATIONS**

It is unlawful for any person willfully to disclose, print, or publish, except as authorized, any Federal return or return information, or any information therefrom. Such action is punishable by fine up to \$5,000 or imprisonment up to 5 years, or both, together with costs of prosecution. See section 7213 of the Internal Revenue Code. In addition Internal Revenue Code section 7431 provides for civil damages of not less than \$1000 per violation for knowing or negligent disclosure of such information plus in the case of a willful disclosure or a disclosure which is the result of gross negligence, punitive damages, plus the costs of the action.

It is unlawful for any person willfully to offer any item of material value in exchange for any return or return information and to receive as a result of such solicitation any such return or return information. Such action is punishable by fine up to \$5000 or imprisonment up to 5 years, or both, together with costs of prosecution. See section 7213 of the Internal Revenue Code.

It is unlawful for any person willfully to inspect, except as authorized, any Federal return or return information. Such action is punishable by a fine up to \$1000 or imprisonment up to 1 year, or both, together with the costs of prosecution. See section 7213A of the Internal Revenue Code. In addition Internal Revenue Code section 7431 provides for civil damages of not less than \$1000 per violation for knowing or negligent inspection of such information plus in the case of a willful inspection or an inspection which is the result of gross negligence, punitive damages, plus the costs of the action.

CERTIFICATION REGARDING LOBBYING  
DEPARTMENT OF HEALTH AND HUMAN SERVICES  
ADMINISTRATION FOR CHILDREN AND FAMILIES

PROGRAM: CHILD SUPPORT ENFORCEMENT PROGRAM PURSUANT TO TITLE IV-D  
OF THE SOCIAL SECURITY ACT OF 1935 AS ADMINISTERED BY THE OFFICE OF THE  
ATTORNEY GENERAL OF TEXAS


PERIOD: September 1, 2003 to August 31, 2005

Certification for Contracts, Grants, Loans and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an office or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

  
Signature

11-10-03  
Date

Tom Green County  
Agency/Organization



**ATTORNEY GENERAL OF TEXAS**  
GREG ABBOTT  
CHILD SUPPORT DIVISION

October 6, 2003

The Honorable Sheri Woodfin  
District Clerk, Tom Green County  
112 West Beauregard  
San Angelo, Texas 76903

**RE: Contract between the Attorney General of Texas and Tom Green County,  
Contract No. 04-C0200**

Dear Ms. Woodfin:

Attached are three original copies of the above referenced contract. Please have these signed where indicated and return to my attention:

Attorney General of Texas  
Child Support Division, Mail Code 058-3  
P. O. Box 12017  
Austin, TX 78711-2017

After the documents have been signed by all parties, one original copy will be returned to you.

If you have any questions regarding this contract, please contact me at (512) 460-6392.

Sincerely,

Iris Vanover  
Government Contracts



**State of Texas  
CONTRACT FOR SERVICES**

**CONTRACT NO. 04-C0200**

**1 INTRODUCTION**

The Office of the Attorney General (hereinafter referred to as OAG) and Tom Green County, Texas (hereinafter referred to as County) hereby enter into a contract to access certain databases for the purpose of locating non-custodial parents, a Title IV-D function. This Contract is authorized by § 231.002(c) of the Texas Family Code.

**2 SPECIFICATIONS**

**2.1 CONTRACT TERM**

This Contract is effective on September 1, 2003 and shall terminate on August 31, 2005, unless terminated earlier pursuant to the Termination of Contract section below.

**2.2 COUNTY OBLIGATIONS**

- 2.2.1 County shall provide OAG Child Support Unit 108 located in San Angelo, Texas inquiry access for one user to its Imaged Documents system and to information available on its Child Support and Case Subsystem menu options. County shall assign one User ID and password to Unit 108.
- 2.2.2 County shall provide maintenance and support of the Informix/Ardent database access software (uniVerse) residing on the County system.
- 2.2.3 County shall provide training for up to three (3) OAG personnel on how to access and use the Imaged Documents system and the information available on its Child Support and Case Subsystem menu options.

## 2.3 OAG OBLIGATIONS

- 2.3.1 OAG staff granted access to the County provided databases through the user ID/password assigned by the County shall ensure that the user ID/password is kept secure and not provided to any other person in accordance with OAG policy regarding system access and safeguarding of passwords.
- 2.3.2 OAG in order to access the County provided databases shall obtain an OAG dedicated phone line and pay for its installation and recurring charges.
- 2.3.3 OAG shall provide County with a CISCO 802 router for use in establishing connectivity to the County Imaged Document System. OAG shall be responsible for the installation and maintenance of the router.
- 2.3.4 OAG shall purchase appropriate Windows NT Terminal Server Client Access software to be installed on OAG equipment located at Child Support Unit 108. OAG is responsible for all costs associated with the purchase and installation of such software.
- 2.3.5 OAG has previously paid County a one-time fee for the right of one user to use the Informix/Ardent database access software (uniVerse), the Windows NT Server Client Access software and the able Term in Ableview mode software installed on the County's automated system. Should OAG request, and County allow, OAG concurrent inquiry access to County's Imaged Documents system and to information available on County's Child Support and Case Subsystem menu options, OAG shall pay County an additional one-time fee for each additional concurrent user. During the term of this Contract the one-time fee amounts due County for each additional concurrent user shall be as follows:
  - for Informix/ardent Database Access Software the amount shall be Four Hundred Forty Five Dollars and No Cents (\$445.00);
  - for Windows NT Server Client Access Software the amount shall be Twenty Three Dollars and No Cents (\$23.00);
  - for able Term in Ableview mode Software the amount shall be One Thousand Five Hundred Dollars and No Cents (\$1,500.00).

This Subsection 2.3.4 shall survive the termination of this Contract; said termination occurring for any reason.

- 2.3.6 OAG shall pay County an annual fee for County provided maintenance and support of the Informix/Ardent database access software (uniVerse) residing on the County system. The payment shall be as set forth in the Payment Section below.

### **3 GENERAL REQUIREMENTS**

#### **3.1 WRITTEN NOTICE DELIVERY**

- 3.1.1 Any notice required or permitted to be given under this Contract by one party to the other party shall be in writing and shall be addressed to the receiving party at the address hereinafter specified. The notice shall be deemed to have been given immediately if delivered in person to the recipient's address hereinafter specified. It shall be deemed to have been given on the date of certified receipt if placed in the United States Mail, postage prepaid, by registered or certified mail with return receipt requested, addressed to the receiving party at the address hereinafter specified.

##### **3.1.2 County**

The address of the County for all purposes under this Contract and for all notices hereunder shall be:

The Honorable Sheri Woodfin (or her successor in office)  
District Clerk  
112 West Beauregard  
San Angelo, Texas 76903

##### **3.1.3 OAG**

The address of the OAG for all purposes under this Contract and for all notices hereunder shall be:

Cynthia Bryant (or her successor in office)  
Deputy Attorney General for Child Support  
Office of the Attorney General  
P.O. Box 12017 ( Mail Code 033)  
Austin, Texas 78711-2017

with copies to (registered or certified mail with return receipt is not required for copies):



Kathy Shafer (or her successor in office)  
Deputy General Counsel  
Child Support Division  
Office of the Attorney General  
P. O. Box 12017  
Austin, Texas 78711-2017

### 3.2 LIAISON

County and OAG each agree to maintain specifically identified liaison personnel for their mutual benefit during the term of the Contract. The liaison(s) named by County shall serve as the initial point(s) of contact for any inquiries made pursuant to this Contract by OAG and respond to any such inquiries by OAG. The liaison(s) named by OAG shall serve as the initial point(s) of contact for any inquiries made pursuant to this Contract by County and respond to any such inquiries by County. Subsequent changes in liaison personnel shall be communicated by the respective parties in writing.

#### 3.2.1 The OAG liaison for this agreement is:

David Carter, Contract Manager  
Child Support Division  
Office of the Attorney General  
P.O. Box 12017 - Mail Code 062  
Austin, Texas 78711-2017  
Phone Number: (512) 460-6241

#### 3.2.2 County liaison for this agreement is:

The Honorable Sheri Woodfin  
District Clerk  
112 West Beauregard  
San Angelo, Texas 76903  
Phone Number: (915) 659-6578

### 3.3 Payment

#### 3.3.1 County, except as may be provided otherwise in this Section 3.3, shall bill OAG monthly for the services provided by County under this Contract during the preceding month. County shall submit invoices during the first week of each month to:

Jess Gonzalez, mail code 058-4  
Office of the Attorney General  
P.O. Box 12017  
Austin, Texas 78711-2017

The invoice shall contain reasonable information explaining the services provided and shall be submitted in the manner and/or form reasonably specified by the OAG. The OAG shall process a properly prepared invoice for payment in accordance with the State procedures for issuing State payments and the Texas Prompt Payment Act.

- 3.3.2 OAG shall pay County an annual fee for County provided maintenance and support of the Informix/Ardent database access software (uniVerse) residing on the County system. The fee is equal to Seventy-Five Dollars and No Cents (\$75.00) (or a proportionate amount for any partial twelve (12) month period) per concurrent user authorized to access the County provided databases. The first invoice submitted by County under this Contract shall bill for the total contract amount (One Hundred Fifty Dollars and No Cents (\$150.00)) due the County under this Subsection. Should this Contract terminate sooner than the termination date set forth in the Contract Term section above, County shall pay OAG a pro rata refund of the maintenance and support fee for the unexpired portion of the contract term. County shall make this payment within thirty (30) calendar days of the date the Contract was terminated.
- 3.3.3 Notwithstanding any other provision of this Contract, the cumulative liability of the OAG to County hereunder shall not exceed the sum of Two Thousand One Hundred Eighteen Dollars and No Cents (\$2,118.00).

#### **4 TERMS AND CONDITIONS**

##### **4.1 NEWS RELEASES OR PRONOUNCEMENTS**

News releases, advertisements, publications, declarations and any other pronouncements by the County pertaining to this transaction and using any means or media mentioning this transaction must be approved in writing by OAG prior to public dissemination.

##### **4.2 ASSIGNMENT OF CLAIMS**

The County hereby assigns to the OAG any claims for overcharges associated with this Contract under the anti-trust laws of the United States 15 USCA, Section 1, et

seq. (1973), and the antitrust laws of the State of Texas, Tx Bus & Com, Code Ann. Sec. 15.01, et seq. (1957)

#### 4.3 PROPERTY MANAGEMENT, ACCOUNTABILITY AND MAINTENANCE

4.3.1 All equipment provided by OAG under this Contract (including but not limited to hardware and software) shall remain the property of the OAG and all titles and rights remain with the OAG. Prior to installation of OAG equipment, County shall verify the asset information listed on the OAG Interdepartmental Equipment Transfer (IDET) form (Attachment One; incorporated herein and made a part hereof), provide the OAG with the physical address and actual location of each piece of OAG provided equipment, and acknowledge County's receipt, as well as, fiduciary and pecuniary responsibility with its signature. Forms shall be returned, with original signature, to OAG Property Manager. OAG shall provide through the OAG Property Manager on a quarterly basis a listing of all OAG inventoried equipment provided to County. County shall verify these quarterly inventory reports and return them to the OAG Property Manager. County shall designate a custodian for the equipment and respond to all OAG inventory and custodian verification requests within five (5) working days of receipt of the request. In the event that the physical address or actual location of any piece of equipment changes, County agrees to provide the new physical address or new actual location to the OAG within five (5) working days.

4.3.2 County shall maintain a control system to insure adequate safeguards to prevent loss, damage, or theft of the equipment. In the case of equipment with an OAG inventory tag, County shall have each person provided with such equipment complete an Acknowledgment of Custodianship of Office of the Attorney General Equipment form (Attachment Two; incorporated herein and made a part hereof). Forms shall be returned to OAG Property Manager. County shall report any loss, damage or theft of the equipment to OAG within one (1) workday of discovery of same. County shall be liable for any loss, damage or theft of the equipment due to the negligent or intentional wrongful acts of or the failure to exercise reasonable care for the equipment's safekeeping on the part of County, its agents or its contractors. In the event of missing property, the County property management liaison shall make every attempt to locate the item. If the missing item is not found within one (1) work day, a Lost or Stolen Property Report (Attachment Three; incorporated herein and made a part hereof) shall be submitted to the OAG Property Manager. If there is a suspicion of theft, County shall notify the local police department immediately and a copy of the police incident report shall also be submitted to the OAG Property Manager.

- 4.3.3 Equipment provided to County by OAG under this Contract may only be used for Title IV-D Child Support functions
- 4.3.4 County shall comply with all license agreements associated with OAG-provided software and shall not install any software upgrades or programs on any hardware provided by OAG
- 4.3.5 County shall assist OAG in complying with the federal uniform standards governing management and disposition of property furnished by or whose cost was charged directly to a project supported by funding administered by the U.S. Department of Health and Human Services. The requirements of these standards include the regulations found in Subpart C of 45 C.F.R. Part 74, which provide for the identification of all property procured using federal funds by marking such property, maintenance of detailed inventory records, and completion of a physical inventory. Property subject to this requirement includes any and all fixed assets or other property procured with the aid of federal funds. County shall further comply with all applicable state requirements governing the procurement, management, and disposition of property. All disposition of OAG provided equipment shall be performed by OAG.
- 4.3.6 County shall maintain and administer in accordance with good business practices a program for the protection and preservation of property provided to County in the performance of this Agreement. Repairs and maintenance of the OAG provided equipment shall be the responsibility of OAG.

#### 4.4 TERMINATION OF THE CONTRACT

##### 4.4.1 Termination

Either party shall have the right in each party's sole discretion and at its sole option to terminate this Contract by giving the other party thirty (30) days written notice of its intention to terminate. Exercise by either party of its right to terminate the Contract does not relieve any party of its obligations under this Contract prior to the termination.

##### 4.4.2 Change in Federal or State Requirements

If federal or state laws or regulations or other federal or state requirements are amended or judicially interpreted so that either party cannot reasonably fulfill this Contract and if the parties can not agree to an amendment that would enable substantial continuation of the Contract, the parties shall be discharged from any further obligations under this Contract.

4.5 DISPUTE RESOLUTION PROCESS FOR COUNTY BREACH OF CONTRACT CLAIM

- 4.5.1 The dispute resolution process provided for in Chapter 2260 of the Government Code shall be used, as further described herein, by the OAG and the County to attempt to resolve any claim for breach of contract made by the County.
- 4.5.2 A County claim for breach of this Contract that the parties cannot resolve in the ordinary course of business shall be submitted to the negotiation process provided in Chapter 2260, subchapter B, of the Government Code. To initiate the process, County shall submit written notice, as required by subchapter B, to the Deputy Attorney General for Child Support, Office of the Attorney General, P.O. Box 12017 (Mail Code 033), Austin, Texas 78711-2017. Said notice shall specifically state that the provisions of Chapter 2260, subchapter B, are being invoked. A copy of the notice shall also be given to all other representatives of the OAG and the County otherwise entitled to notice under this Contract. Compliance by the County with subchapter B is a condition precedent to the filing of a contested case proceeding under Chapter 2260, subchapter C, of the Government Code.
- 4.5.3 The contested case process provided in Chapter 2260, subchapter C, of the Government Code is the County's sole and exclusive process for seeking a remedy for any and all alleged breaches of contract by the OAG if the parties are unable to resolve their disputes under the immediately preceding subsection.
- 4.5.4 Compliance with the contested case process provided in subchapter C is a condition precedent to seeking consent to sue from the Legislature under Chapter 107 of the Civil Practices and Remedies Code. Neither the execution of this Contract by the OAG nor any other conduct of any representative of the OAG relating to the Contract shall be considered a waiver of sovereign immunity to suit.
- 4.5.5 The submission, processing and resolution of the County's claim is governed by the published rules adopted by the OAG pursuant to Chapter 2260, as currently effective, hereafter enacted or subsequently amended.
- 4.5.6 Neither the occurrence of an event nor the pendency of a claim constitutes grounds for the suspension of performance by the County, in whole or in part.

4.6 AUDIT AND INVESTIGATION

County understands that acceptance of funds under this Agreement acts as acceptance of the authority of the State Auditor's Office, or any successor agency, to conduct an audit or investigation in connection with those funds. County further agrees to cooperate fully with the State Auditor's office or its successor in the conduct of the audit or investigation, including providing all records requested. County will ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through County and the requirement to cooperate is included in any subcontract it awards. County will reimburse the State of Texas for all costs associated with enforcing this provision.

4.7 APPLICABLE LAW AND VENUE

County agrees that this Agreement in all respects shall be governed by and construed in accordance with the laws of the State of Texas, except for its provisions regarding conflicts of laws. County also agrees that the exclusive venue and jurisdiction of any legal action or suit brought by County concerning this Agreement is, and that any such legal action or suit shall be brought, in a court of competent jurisdiction in Travis County, Texas. OAG agrees that any legal action or suit brought by OAG concerning this Agreement shall be brought in a court of competent jurisdiction in Tom Green County.

4.8 HEADINGS

The headings for each section of this Agreement are stated for convenience only and are not to be construed as limiting.

4.9 SURVIVAL OF TERMS

Termination of this Agreement for any reason shall not release the parties from any liability or obligation set forth in this Agreement that is expressly stated to survive any such termination or by its nature would be intended to be applicable following any such termination.

4.10 AMENDMENT

This Agreement shall not be amended or modified except by written agreement executed by duly authorized representatives of the OAG and the County.

4.11 ENTIRE AGREEMENT

This instrument constitutes the entire agreement between the parties hereto, and all oral or written agreements between the parties hereto relating to the subject matter of this Agreement that were made prior to the execution of this Agreement have been reduced to writing and are contained herein.

4.12 LEGISLATIVE APPROPRIATIONS

All obligations of the OAG are subject to the availability of legislative appropriations and, for federally funded procurements, to the availability of federal funds applicable to this procurement (see Provision of Funding by United States below). OAG will not be in default for nonpayment under this Agreement if such appropriated funds or federal funds are not available to OAG for payment of OAG's obligations under this Agreement. In such event OAG will promptly notify the County, and the Agreement shall terminate simultaneous with the termination of either appropriated funds or federal funds. Upon termination of the Agreement the OAG will discontinue payment hereunder.

4.13 PROVISION OF FUNDING BY THE UNITED STATES

It is expressly understood that any and all of the OAG's obligations and liabilities hereunder are contingent upon the existence of a state plan for child support enforcement approved by the United States Department of Health and Human Services providing for the statewide program of child support enforcement, pursuant to the Social Security Act, and on the availability of Federal Financial Participation for the activities described herein. In the event that such approval of the state plan or the availability of Federal Financial Participation should lapse or otherwise terminate, the OAG shall promptly notify the County of such fact in writing. Upon such occurrence the OAG shall discontinue payment hereunder.

4.14 COMPLIANCE WITH STATE AND FEDERAL LAW

County and OAG agree to comply with all state and federal laws, rules, regulations, requirements and guidelines including, but not limited to, those relating to civil rights and the administration and performance of their duties under this Agreement.

4.15 SECURITY OF INFORMATION

The OAG and the County agree to strictly safeguard the confidentiality of any information about individuals furnished to it by the other party in the course of meeting any of the performances required of it. The OAG and the County shall take care not to disclose such information, including particularly to any legislative body

(local, state, or federal), which could tend to identify such applicants or recipients of financial or other assistance pursuant to the federal Social Security Act of 1935, as amended. Additionally, the OAG may possess confidential information and material that require protection under state law. Information furnished to the County in the course of this Agreement may not be discussed, communicated, copied, extracted, or used in any manner. Upon termination of this Agreement, the County shall return any and all copies of the information provided to the County within twenty-four (24) hours of notice of termination.

4.16 COUNTERPARTS

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

5 **ATTACHMENTS**

- 5.1 Attachment One: Interdepartmental Equipment Transfer Form
- 5.2 Attachment Two: Acknowledgment of Custodianship of the Attorney General of Texas Equipment
- 5.3 Attachment Three: Lost or Stolen Property Report

AGREED AND ACCEPTED.

**OFFICE OF THE ATTORNEY  
GENERAL**

---

Cynthia Bryant  
Deputy Attorney General for Child Support

**TOM GREEN COUNTY**



---

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



Attachment One

Document Number: \_\_\_\_\_

INTER-DEPARTMENTAL EQUIPMENT TRANSFER

Inventory Number	Description	Serial Number	Receiving Employee Location

Transferred VIA ☐ ISSS ☐ Mail ☐ UPS ☐ Freight Line ☐ SSD Movers ☐ Contract movers ☐ Other

Interim Signature: \_\_\_\_\_ Remarks: \_\_\_\_\_

Transferring Division Code \_\_\_\_\_ Division Name \_\_\_\_\_  
Receiving Division Code \_\_\_\_\_ Division Name \_\_\_\_\_

Approved for Transferring Office by: \_\_\_\_\_ Date: \_\_\_\_\_

Approved for Receiving Office by: \_\_\_\_\_ Date: \_\_\_\_\_

Property Manager's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Attachment Two

*ACKNOWLEDGMENT OF CUSTODIANSHIP  
ATTORNEY GENERAL OF TEXAS*

I, \_\_\_\_\_, personally acknowledge that I have custody of a  
Computer (Inventory number \_\_\_\_\_, serial # \_\_\_\_\_),  
printer (Inventory number \_\_\_\_\_, serial # \_\_\_\_\_),  
fax machine (Inventory number \_\_\_\_\_, serial # \_\_\_\_\_),  
and/or other equipment (modem, tape drive, router, etc.)  
(Inventory number \_\_\_\_\_ serial # \_\_\_\_\_), on this  
\_\_\_\_ day \_\_\_\_\_ 19\_\_\_\_.

I acknowledge that the above-described equipment has been installed at \_\_\_\_\_  
\_\_\_\_\_.

I agree to accept responsibility for the security and protection of the above-described  
equipment. If any of the equipment is lost, damaged, or stolen or if any of the equipment must  
be  
moved from the location of installation, I will contact Property Management of the Office of  
the Attorney General. I agree to restrict the use of the above-described equipment to the  
processing of Title IV-D child support cases. I recognize that the Office of the Attorney  
General shall retain legal title to the above-described equipment. I agree to follow the  
requirements set out in 45 CFR Part 74, for the Property Management policies  
and procedures, as well as any other applicable state or federal laws or regulations.

\_\_\_\_\_  
Custodian Name (Print or Type)

\_\_\_\_\_  
Custodian Signature

Attachment Three

Attorney General of Texas

LOST OR STOLEN PROPERTY REPORT  
(TO BE COMPLETED WITHIN 24 HOURS OF DISCOVERY)

OAG SECURITY FILE NO. _____ FOR SECURITY USE ONLY
---

Date of Report: \_\_\_\_\_

Division Name: \_\_\_\_\_ Room #: \_\_\_\_\_

Street Name: \_\_\_\_\_ City/State: \_\_\_\_\_

Location of Property: \_\_\_\_\_ Date and Time Missed: \_\_\_\_\_

Property last used or observed: \_\_\_\_\_

Person Property assigned to: \_\_\_\_\_

Description of lost/stolen property: \_\_\_\_\_

Name of Police Agency notified: \_\_\_\_\_ Offense Report #: \_\_\_\_\_

	Description of Property	Personal or State	OAG Inventory #	Serial Number	Cost at Time of Purchase
1					
2					
3					
4					
5					
6					

REPORT IN DETAIL: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Reported By: \_\_\_\_\_ Title/Dept.: \_\_\_\_\_  
Address: \_\_\_\_\_ Phone #: \_\_\_\_\_

MAKE IN TRIPLICATE AND SEND ORIGINAL TO PROPERTY MANAGEMENT IN THE SUPPORT  
SERVICES DIVISION, ONE COPY TO THE INTERNAL SECURITY AND INVESTIGATIONS DIVISION,  
THEN KEEP ONE COPY FOR YOUR FILES.

FORM 16-041 February 1994

## CIHCP MONTHLY FINANCIAL/ACTIVITY REPORT

County Name TOM GREEN COUNTYReport for (Month/Year) Oct. 2003

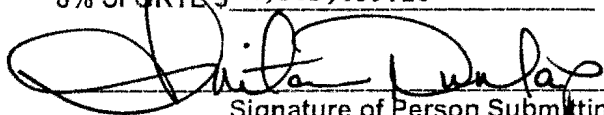
Amendment of the Report for (Month/Year) \_\_\_\_\_

## I. Caseload Data

Number of eligible individuals at the end of the report month	196
Number of SSI appellants within caseload at the end of report month	51

## II. Creditable Expenditures During Report Month

Physicians Services	1. 17,363.30	
Prescription Drugs	2. 5,021.71	
Hospital, Inpatient Services	3. 53,105.00	
Hospital, Outpatient Services	4. 60,752.39	
Laboratory/X-Ray Services	5. 7,126.70	
Skilled Nursing Facility Services	6. 0	
Family Planning Services	7. 0	
Rural Health Clinic Services	8. 0	
State Hospital Contracts	9. 0	
Optional Services	10. 9,822.06	
Total Expenditures (Add #1 through #10.)		11. 153,911.16
Reimbursements Received (Do not include State Assistance.)	12. ( 925.02 )	
6% Case Review Findings (\$ in error)	13. ( 0 )	
Total to be deducted (Add #12 + #13.)		14. ( 925.02 )
Credit to State Assistance Eligibility/Reimbursement (#11 minus #14)		15. 152,266.14

STATE FISCAL YEAR (September 1 - August 31) TOTAL \$ 113,776.04General Revenue Tax Levy (GRTL) \$ 18,812,990.008% of GRTL \$ 1,505,039.20 6% of GRTL \$ 1,128,779.40


Signature of Person Submitting Report

11-05-03

Date

Print Name and Title Anita I. Dunlap, TGC Indigent Health Care Administrator

# 5

**Roy K. Robb Post-Adjudication Facility  
Report  
November 10, 2003**

- ◆ Population--25
- ◆ Intakes to date for November--1
- ◆ Discharges for November--2
- ◆ Referrals--2
  - ◆ Dawson County
  - ◆ Wilbarger County
- ◆ JJAT Conference
- ◆ Letter from Meals on Wheels



## MEALS FOR THE ELDERLY

*Delivering to the Homebound*

310 E. Houston Harte San Angelo, Texas 76903 (325) 655-9200  
mealsfortheelderly.org sameals@wcc.net



*File Copy*

November 5, 2003

To: Roy K Robb Post-Adjudication Facility  
Subject: Title IV Grant

The students in this program selected Meals For The Elderly for their service project for the grant from Region 14 Texas Education Service Agency, and I must say that the service provided by the students has been valuable beyond its expectations. We knew that we needed the assistance, but we did not realize what a tremendous asset these young men would be to our organization.

On October 7<sup>th</sup> we began service to the Wall Community, and these young volunteers have delivered the meals to the Community of Wall every Tuesday and Thursday. When they were not able to make the delivery, their sponsors Jerry Johnson and Tina Gesch, made sure that those hungry folks received their meals.

We truly appreciate the young volunteers and also appreciate Jerry and Tina for the work they do to make this project successful.

Gratefully,

Charlyn Ocker  
Executive Director

BALLOT  
FOR THE SELECTION OF MEMBERS  
TO THE BOARD OF DIRECTORS  
OF THE TOM GREEN COUNTY APPRAISAL DISTRICT  
FOR THE 2004-2005 TERM

NAME OF THE TAXING UNIT: Tom Green County

NUMBER OF VOTES TO WHICH THIS UNIT IS ENTITLED: 990

<u>NOMINEE NAME:</u>	<u>NUMBER OF VOTES CAST</u>
Burnett, Dick .....	<u>198</u>
Denis, A. H. "Chico" .....	<u>198</u>
Gomez, Louis P. ....	<u>198</u>
Pflugger, Walter W. ....	<u>198</u>
Phillips, John D. ....	<u>198</u>
 TOTAL.....	<u>990</u>

DATE OF VOTING ACTION: Nov 10, 2003.

PRESIDING OFFICER SIGNATURE: 

**RESOLUTION TO AUTHORIZE  
DISTRICT ATTORNEY TO APPLY TO  
THE OFFICE OF THE GOVERNOR, CRIMINAL JUSTICE DIVISION  
FOR A GRANT FUNDING  
FELONY FAMILY VIOLENCE VICTIM'S ASSISTANCE UNIT**

**WHEREAS**, The Tom Green County Commissioners finds it in the best interest of the citizens of Tom Green County that the Felony Family Violence Victim's Assistance Unit be operated for the Year 2004; and


**WHEREAS**, The Tom Green County Commissioners agrees to provide applicable matching funds for the said project as required by the VOCA grant application; and

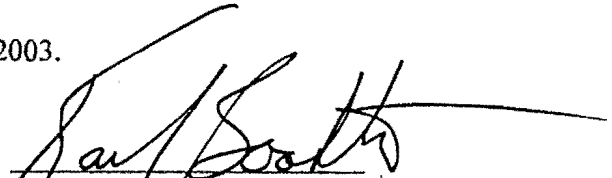
**WHEREAS**, The Tom Green County Commissioners agrees that in the event of loss or misuse of the Criminal Justice Division funds, the Tom Green County Commissioners assures that the funds will be returned to the Criminal Justice Division in full.

**WHEREAS**, The Tom Green County Commissioners designate Michael D. Brown as the grantee's authorized official. The authorized official is given the power to apply for, accept, reject, alter or terminate the grant on behalf of the applicant agency.

**NOW THEREFORE, BE IT RESOLVED** that the Tom Green County Commissioners approves submission of the grant application for the Felony Family Violence Victim's Assistance Unit to the Office of the Governor, Criminal Justice Division.

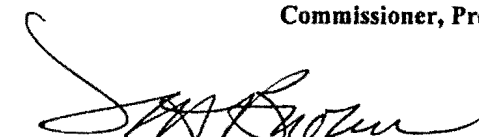
Passed and Approved this 10 day of November, 2003.

  
**CLAYTON FRIEND**  
Commissioner, Precinct One

  
**KARL BOOKER**  
Commissioner, Precinct Two

  
**JODIE WEEKS**  
Commissioner, Precinct Three

Absent  
**RICHARD EASINGWOOD**  
Commissioner, Precinct Four

  
**MICHAEL D. BROWN**  
Tom Green County Judge



#16



BOBBY ZESCH, CLU

MARGUERITE PICKETT

Post Office Box 431  
San Angelo, Texas 76902  
(915) 653-1448  
(915) 655-7245 Fax

**Amendment to Tom Green County's Section 125 Cafeteria Plan Document Effective  
January 1, 2004**

1). The Amendment will allow for the change in eligibility from 90 days to read: the same as the Group Medical Plan. Article II 2.1 Page 3

2). Additional changes include updating the language in the Plan Document with legislative updates and HIPAA requirements.

**Article V 5.4 Change of Elections**

Adds Allowing employees to make election changes during the plan year for special enrollment events such as loss of coverage and open enrollment events. The HIPAA law requires special enrollments provisions be included in all HIPAA contracts.

**Article VIII 8.1(E) Benefits and Rights**

Legislative updates to claims processing. Specific timetable on processing claims for Health Care Reimbursement claims with procedures if claims are denied.

**3) Employee's Voluntary Life Insurance:**

Current document allows the option to pretax the premium for the employee's portion of their life insurance. IRS limits \$50,000 including the portion that the employer is providing for the employee to be taken on a pretaxed basis. If the employee elects this option, they are not able to change this deduction for twelve months. As a new benefit, we might want to leave the option after tax until the employees have had time to adjust to the new deductions.

ADOPTING RESOLUTION

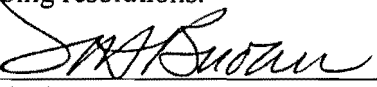
The undersigned Principal of TOM GREEN COUNTY (the Employer) hereby certifies that the following resolutions were duly adopted by the Employer on Nov 10, 2003, and that such resolutions have not been modified or rescinded as of the date hereof:

RESOLVED, that the form of amended Cafeteria Plan including a Dependent Care Assistance Program and Health Care Reimbursement Plan effective JANUARY 1, 2004, presented to this meeting is hereby approved and adopted and that the duly authorized agents of the Employer are hereby authorized and directed to execute and deliver to the Administrator of the Plan one or more counterparts of the Plan.

RESOLVED, that the Administrator shall be instructed to take such actions that are deemed necessary and proper in order to implement the Plan, and to set up adequate accounting and administrative procedures to provide benefits under the Plan.

RESOLVED, that the duly authorized agents of the Employer shall act as soon as possible to notify the employees of the Employer of the adoption of the Cafeteria Plan by delivering to each employee a copy of the summary description of the Plan in the form of the Summary Plan Description presented to this meeting, which form is hereby approved.

The undersigned further certifies that attached hereto as Exhibits A and B, respectively, are true copies of TOM GREEN COUNTY'S SECTION 125 CAFETERIA PLAN WITH FLEXIBLE SPENDING ACCOUNT as amended and restated and the Summary Plan Description approved and adopted in the foregoing resolutions.

  
Principal

Date: Nov 10, 2003

TOM GREEN COUNTY'S SECTION 125 CAFETERIA PLAN WITH FLEXIBLE SPENDING  
ACCOUNT

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## TOM GREEN COUNTY'S SECTION 125 CAFETERIA PLAN WITH FLEXIBLE SPENDING ACCOUNT

### INTRODUCTION

The Employer has amended this Plan effective JANUARY 1, 2004, to recognize the contribution made to the Employer by its Employees. Its purpose is to reward them by providing benefits for those Employees who shall qualify hereunder and their dependents and beneficiaries. The concept of this Plan is to allow Employees to choose among different types of benefits based on their own particular goals, desires and needs. This Plan is a restatement of a Plan which was originally effective on APRIL 1, 1990. The Plan shall be known as TOM GREEN COUNTY'S SECTION 125 CAFETERIA PLAN WITH FLEXIBLE SPENDING ACCOUNT (the "Plan").

The intention of the Employer is that the Plan qualify as a "Cafeteria Plan" within the meaning of Section 125 of the Internal Revenue Code of 1986, as amended, and that the benefits which an Employee elects to receive under the Plan be includible or excludable from the Employee's income under Section 125(a) and other applicable sections of the Internal Revenue Code of 1986, as amended.

### ARTICLE I DEFINITIONS

1.1 "Administrator" means the individual(s) or corporation appointed by the Employer to carry out the administration of the Plan. The Employer shall be empowered to appoint and remove the Administrator from time to time as it deems necessary for the proper administration of the Plan. In the event the Administrator has not been appointed, or resigns from a prior appointment, the Employer shall be deemed to be the Administrator.

1.2 "Affiliated Employer" means the Employer and any corporation which is a member of a controlled group of corporations (as defined in Code Section 414(b)) which includes the Employer; any trade or business (whether or not incorporated) which is under common control (as defined in Code Section 414(c)) with the Employer; any organization (whether or not incorporated) which is a member of an affiliated service group (as defined in Code Section 414(m)) which includes the Employer; and any other entity required to be aggregated with the Employer pursuant to Treasury regulations under Code Section 414(o).

1.3 "Benefit" means any of the optional benefit choices available to a Participant as outlined in Section 4.1.

1.4 "Cafeteria Plan Benefit Dollars" means the amount available to Participants, pursuant to Article III, to purchase Benefits. Each dollar contributed to this Plan shall be converted into one Cafeteria Plan Benefit Dollar.

1.5 "Code" means the Internal Revenue Code of 1986, as amended or replaced from time to time.

1.6 "Compensation" means the amounts received by the Participant from the Employer during a Plan Year.

1.7 "Dependent" means any individual who qualifies as a dependent under an Insurance Contract or under Code Section 152 (as modified by Code Section 105(b)).

1.8 "Effective Date" means APRIL 1, 1990.

1.9 "Election Period" means the period immediately preceding the beginning of each Plan Year established by the Administrator, such period to be applied on a uniform and nondiscriminatory basis for all Employees and Participants. However, an Employee's initial Election Period shall be determined pursuant to Section 5.1.

1.10 "Eligible Employee" means any Employee who has satisfied the provisions of Section 2.1.

An individual shall not be an "Eligible Employee" if such individual is not reported on the payroll records of the Employer as a common law employee. In particular, it is expressly intended that individuals not treated as common law employees by the Employer on its payroll records are not "Eligible Employees" and are excluded from Plan participation even if a court or administrative agency determines that such individuals are common law employees and not independent contractors.

Also, any Employee or former Employee shall not be eligible to participate in this Plan unless he is eligible to receive medical benefits pursuant to a group medical plan sponsored by the Employer.

1.11 "Employee" means any person who is employed by the Employer. The term Employee shall include leased employees within the meaning of Code Section 414(n)(2).

1.12 "Employer" means TOM GREEN COUNTY and any successor which shall maintain this Plan; and any predecessor which has maintained this Plan.

1.13 "Insurance Contract" means any contract issued by an Insurer underwriting a Benefit.

1.14 "Insurance Premium Payment Plan" means the plan of benefits contained in Section 4.1 of this Plan, which provides for the payment of Premium Expenses.

1.15 "Insurer" means any insurance company that underwrites a Benefit under this Plan.

1.16 "Key Employee" means an Employee described in Code Section 416(i)(1) and the Treasury regulations thereunder.

1.17 "Participant" means any Eligible Employee who elects to become a Participant pursuant to Section 2.3 and has not for any reason become ineligible to participate further in the Plan.

1.18 "Plan" means this instrument, including all amendments thereto.



1.19 "Plan Year" means the 12-month period beginning JANUARY 1 and ending DECEMBER 31. The Plan Year shall be the coverage period for the Benefits provided for under this Plan. In the event a Participant commences participation during a Plan Year, then the initial coverage period shall be that portion of the Plan Year commencing on such Participant's date of entry and ending on the last day of such Plan Year.

1.20 "Premium Expenses" or "Premiums" mean the Participant's cost for the Benefits described in Section 4.1.

1.21 "Premium Reimbursement Account" means the account established for a Participant pursuant to this Plan to which part of his Cafeteria Plan Benefit Dollars may be allocated and from which Premiums of the Participant may be paid or reimbursed. If more than one type of insured Benefit is elected, sub-accounts shall be established for each type of insured Benefit.

1.22 "Salary Redirection" means the contributions made by the Employer on behalf of Participants pursuant to Section 3.1. These contributions shall be converted to Cafeteria Plan Benefit Dollars and allocated to the funds or accounts established under the Plan pursuant to the Participants' elections made under Article V.

1.23 "Salary Redirection Agreement" means an agreement between the Participant and the Employer under which the Participant agrees to reduce his Compensation or to forego all or part of the increases in such Compensation and to have such amounts contributed by the Employer to the Plan on the Participant's behalf. The Salary Redirection Agreement shall apply only to Compensation that has not been actually or constructively received by the Participant as of the date of the agreement (after taking this Plan and Code Section 125 into account) and, subsequently does not become currently available to the Participant.

1.24 "Spouse" means the legally married husband or wife of a Participant, unless legally separated by court decree.

## ARTICLE II PARTICIPATION

### 2.1 ELIGIBILITY

Any Eligible Employee shall be eligible to participate hereunder as of the date he satisfies the eligibility conditions for the Employer's group medical plan, the provisions of which are specifically incorporated herein by reference. Regardless of the preceding, an Eligible Employee shall be eligible to participate hereunder with respect to the Health Care Reimbursement Plan and the Dependent Care Assistance Program at the first of the plan year after his initial date of employment with the Employer. However, any Eligible Employee who was a Participant in the Plan on the effective date of this amendment shall continue to be eligible to participate in the Plan.

## 2.2 EFFECTIVE DATE OF PARTICIPATION

An Eligible Employee shall become a Participant effective as of the entry date under the Employer's group medical plan, the provisions of which are specifically incorporated herein by reference.

## 2.3 APPLICATION TO PARTICIPATE

An Employee who is eligible to participate in this Plan shall, during the applicable Election Period, complete an application to participate and election of benefits form which the Administrator shall furnish to the Employee. The election made on such form shall be irrevocable until the end of the applicable Plan Year unless the Participant is entitled to change his Benefit elections pursuant to Section 5.4 hereof.

An Eligible Employee shall also be required to execute a Salary Redirection Agreement during the Election Period for the Plan Year during which he wishes to participate in this Plan. Any such Salary Redirection Agreement shall be effective for the first pay period beginning on or after the Employee's effective date of participation pursuant to Section 2.2.

## 2.4 TERMINATION OF PARTICIPATION

A Participant shall no longer participate in this Plan upon the occurrence of any of the following events:

- (a) His termination of employment, subject to the provisions of Section 2.6;
- (b) The end of the Plan Year during which he became a limited Participant because of a change in employment status pursuant to Section 2.5;
- (c) His death, subject to the provisions of Section 2.7; or
- (d) The termination of this Plan, subject to the provisions of Section 10.2.

## 2.5 CHANGE OF EMPLOYMENT STATUS

If a Participant ceases to be eligible to participate because of a change in employment status or classification (other than through termination of employment), the Participant shall become a limited Participant in this Plan for the remainder of the Plan Year in which such change of employment status occurs. As a limited Participant, no further Salary Redirection may be made on behalf of the Participant, and, except as otherwise provided herein, all further Benefit elections shall cease, subject to the limited Participant's right to continue coverage under any Insurance Contracts. However, any balances in the limited Participant's Dependent Care Assistance Account may be used during such Plan Year to reimburse the limited Participant for any allowable Employment-Related Dependent Care incurred during the Plan Year. Subject to the provisions of Section 2.6, if the limited Participant later becomes an Eligible Employee, then the limited Participant may again become a full Participant in this Plan, provided he otherwise satisfies the participation requirements set forth in this Article II as if he were a new Employee and made an election in accordance with Section 5.1.

## 2.6 TERMINATION OF EMPLOYMENT

If a Participant's employment with the Employer is terminated for any reason other than death, his participation in the Plan shall be governed in accordance with the following:

(a) With regard to Benefits which are insured, the Participant's participation in the Plan shall cease, subject to the Participant's right to continue coverage under any Insurance Contract for which premiums have already been paid.

(b) With regard to the Dependent Care Assistance Program, the Participant's participation in the Plan shall cease and no further Salary Redirection contributions shall be made. However, such Participant may submit claims for employment related Dependent Care Expense reimbursements for 60 days after termination, based on the level of his Dependent Care Assistance Account as of his date of termination.

(c) With regard to the Health Care Reimbursement Plan, the Participant may elect to continue his participation in the Plan.

(1) If the Participant elects to continue participation in the Health Care Reimbursement Plan for the remainder of the Plan Year in which such termination occurs, the Participant may continue to seek reimbursement from the Health Care Reimbursement Fund. The Participant shall be required to make contributions to the fund based on the elections made prior to the beginning of the Plan Year.

(2) If the Participant does not elect to continue participation in the Health Care Reimbursement Plan for the remainder of the Plan Year in which such termination occurs, the Participant's participation in the Plan shall cease and no further Salary Redirection contributions shall be made. However, such Participant may submit claims for expenses incurred during the portion of the Plan Year preceding his date of termination, up to 60 days after his termination.

(d) In the event a Participant terminates his participation in the Health Care Reimbursement Plan during the Plan Year, if Salary Redirections are made other than on a pro rata basis, upon termination the Participant shall be entitled to a reimbursement for any Salary Redirection previously paid for coverage or benefits relating to the period after the date of the Participant's separation from service regardless of the Participant's claims or reimbursements as of such date.

(e) This Section shall be applied and administered consistent with such further rights a Participant and his Dependents may be entitled to pursuant to Code Section 4980B and Section 11.14 of the Plan.

## 2.7 DEATH

If a Participant dies, his participation in the Plan shall cease. However, such Participant's beneficiaries, or the representative of his estate, may submit claims for expenses or benefits for the remainder of the Plan Year or until the Cafeteria Plan Benefit Dollars allocated to each specific benefit are exhausted. A Participant may designate a specific beneficiary for this purpose. If no such beneficiary is specified, the Administrator may designate the Participant's Spouse, one of his Dependents or a representative of his estate.

## ARTICLE III CONTRIBUTIONS TO THE PLAN

### 3.1 SALARY REDIRECTION

Benefits under the Plan shall be financed by Salary Redirections sufficient to support Benefits that a Participant has elected hereunder and to pay the Participant's Premium Expenses. The salary administration program of the Employer shall be revised to allow each Participant to agree to reduce his pay during a Plan Year by an amount determined necessary to purchase the elected Benefit. The amount of such Salary Redirection shall be specified in the Salary Redirection Agreement and shall be applicable for a Plan Year. Notwithstanding the above, for new Participants, the Salary Redirection Agreement shall only be applicable from the first day of the pay period following the Employee's entry date up to and including the last day of the Plan Year. These contributions shall be converted to Cafeteria Plan Benefit Dollars and allocated to the funds or accounts established under the Plan pursuant to the Participants' elections made under Article V.

Any Salary Redirection shall be determined prior to the beginning of a Plan Year (subject to initial elections pursuant to Section 5.1) and prior to the end of the Election Period and shall be irrevocable for such Plan Year. However, a Participant may revoke a Benefit election or a Salary Redirection Agreement after the Plan Year has commenced and make a new election with respect to the remainder of the Plan Year, if both the revocation and the new election are on account of and consistent with a change in status and such other permitted events as determined under Article V of the Plan and consistent with the rules and regulations of the Department of the Treasury. Salary Redirection amounts shall be contributed on a pro rata basis for each pay period during the Plan Year. All individual Salary Redirection Agreements are deemed to be part of this Plan and incorporated by reference hereunder.

### 3.2 APPLICATION OF CONTRIBUTIONS

As soon as reasonably practical after each payroll period, the Employer shall apply the Salary Redirection to provide the Benefits elected by the affected Participants. Any contribution made or withheld for the Health Care Reimbursement Fund or Dependent Care Assistance Account shall be credited to such fund or account. Amounts designated for the Participant's Premium Expense Reimbursement Account shall likewise be credited to such account for the purpose of paying Premium Expenses.

### 3.3 PERIODIC CONTRIBUTIONS

Notwithstanding the requirement provided above and in other Articles of this Plan that Salary Redirections be contributed to the Plan by the Employer on behalf of an Employee on a level and pro rata basis for each payroll period, the Employer and Administrator may implement a procedure in which Salary Redirections are contributed throughout the Plan Year on a periodic basis that is not pro rata for each payroll period. However, with regard to the Health Care Reimbursement Plan, the payment schedule for the required contributions may not be based on the rate or amount of reimbursements during the Plan Year. In the event Salary Redirections are not made on a pro rata basis, upon termination of participation, a Participant may be entitled to a refund of such Salary Redirections pursuant to Section 2.6.

## ARTICLE IV BENEFITS

### 4.1 BENEFIT OPTIONS

Each Participant may elect to have the amount of his Cafeteria Plan Benefit Dollars applied to any one or more of the following optional Benefits:

- (1) Health Care Reimbursement Plan
- (2) Dependent Care Assistance Program
- (3) Insurance Premium Payment Plan
  - (i) Health Insurance Benefit
  - (ii) Dental Insurance Benefit
  - (iii) Group-Term Life Insurance Benefit
  - (iv) Cancer, Intensive Care, Accident and Heart Insurance Benefit

### 4.2 HEALTH CARE REIMBURSEMENT PLAN BENEFIT

Each Participant may elect coverage under the Health Care Reimbursement Plan option, in which case Article VI shall apply.

### 4.3 DEPENDENT CARE ASSISTANCE PROGRAM BENEFIT

Each Participant may elect coverage under the Dependent Care Assistance Program option, in which case Article VII shall apply.

#### 4.4 HEALTH INSURANCE BENEFIT

(a) Each Participant may elect to be covered under a health and hospitalization Insurance Contract for the Participant, his or her spouse, and his or her Dependents.

(b) The Employer may select suitable health and hospitalization Insurance Contracts for use in providing this health insurance benefit, which policies will provide uniform benefits for all Participants electing this Benefit.

(c) The rights and conditions with respect to the benefits payable from such health and hospitalization Insurance Contract shall be determined therefrom, and such Insurance Contract shall be incorporated herein by reference.

#### 4.5 DENTAL INSURANCE BENEFIT

(a) Each Participant may elect to be covered under the Employer's dental Insurance Contract. In addition, the Participant may elect either individual or family coverage under such Insurance Contract.

(b) The Employer may select suitable dental Insurance Contracts for use in providing this dental insurance benefit, which policies will provide uniform benefits for all Participants electing this Benefit.

(c) The rights and conditions with respect to the benefits payable from such dental Insurance Contract shall be determined therefrom, and such dental Insurance Contract shall be incorporated herein by reference.

#### 4.6 GROUP-TERM LIFE INSURANCE BENEFIT

(a) Each Participant may elect to be covered under the Employer's group-term life Insurance Contract. However, the amount of coverage hereunder on behalf of any Participant may not exceed \$50,000.

(b) The Employer may select suitable group-term life Insurance Contracts for use in providing this group-term life insurance benefit, which policies will provide benefits for all Participants electing this Benefit on a uniform basis.

(c) The rights and conditions with respect to the benefits payable from such group-term life Insurance Contract shall be determined therefrom, and such group-term life Insurance Contract shall be incorporated herein by reference.

#### 4.7 CANCER, INTENSIVE CARE, ACCIDENT AND HEART INSURANCE BENEFIT

(a) Each Participant may elect to be covered under the Employer's cancer, intensive care, accident and heart Insurance Contract. In addition, the Participant may elect either individual or family coverage.

(b) The Employer may select suitable cancer, intensive care, accident and heart Insurance Contracts for use in providing this cancer, intensive care, accident and heart insurance benefit, which policies will provide uniform benefits for all Participants electing this Benefit.

(c) The rights and conditions with respect to the benefits payable from such cancer, intensive care, accident and heart Insurance Contract shall be determined therefrom, and such cancer, intensive care, accident and heart Insurance Contract shall be incorporated herein by reference.

#### 4.8 NONDISCRIMINATION REQUIREMENTS

(a) It is the intent of this Plan to provide benefits to a classification of employees which the Secretary of the Treasury finds not to be discriminatory in favor of the group in whose favor discrimination may not occur under Code Section 125.

(b) It is the intent of this Plan not to provide qualified benefits as defined under Code Section 125 to Key Employees in amounts that exceed 25% of the aggregate of such Benefits provided for all Eligible Employees under the Plan. For purposes of the preceding sentence, qualified benefits shall not include benefits which (without regard to this paragraph) are includible in gross income.

(c) If the Administrator deems it necessary to avoid discrimination or possible taxation to Key Employees or a group of employees in whose favor discrimination may not occur in violation of Code Section 125, it may, but shall not be required to, reject any election or reduce contributions or non-taxable Benefits in order to assure compliance with this Section. Any act taken by the Administrator under this Section shall be carried out in a uniform and nondiscriminatory manner. If the Administrator decides to reject any election or reduce contributions or non-taxable Benefits, it shall be done in the following manner. First, the non-taxable Benefits of the affected Participant (either an employee who is highly compensated or a Key Employee, whichever is applicable) who has the highest amount of non-taxable Benefits for the Plan Year shall have his non-taxable benefits reduced until the discrimination tests set forth in this Section are satisfied or until the amount of his non-taxable Benefits equals the non-taxable Benefits of the affected Participant who has the second highest amount of non-taxable Benefits. This process shall continue until the nondiscrimination tests set forth in this Section are satisfied. With respect to any affected Participant who has had Benefits reduced pursuant to this Section, the reduction shall be made proportionately among Health Care Reimbursement Plan Benefits and Dependent Care Assistance Program Benefits, and once all these Benefits are expended, proportionately among insured Benefits. Contributions which are not utilized to provide Benefits to any Participant by virtue of any administrative act under this paragraph shall be forfeited and deposited into the benefit plan surplus.

## ARTICLE V PARTICIPANT ELECTIONS

### 5.1 INITIAL ELECTIONS

An Employee who meets the eligibility requirements of Section 2.1 on the first day of, or during, a Plan Year may elect to participate in this Plan for all or the remainder of such Plan Year, provided he elects to do so before his effective date of participation pursuant to Section 2.2. However, if such Employee does not complete an application to participate and benefit election form and deliver it to the Administrator before such date, his Election Period shall extend 30 calendar days after such date, or for such further period as the Administrator shall determine and apply on a uniform and nondiscriminatory basis. However, any election during the extended 30-day election period pursuant to this Section 5.1 shall not be effective until the first pay period following the later of such Participant's effective date of participation pursuant to Section 2.2 or the date of the receipt of the election form by the Administrator, and shall be limited to the Benefit expenses incurred for the balance of the Plan Year for which the election is made.

### 5.2 SUBSEQUENT ANNUAL ELECTIONS

During the Election Period prior to each subsequent Plan Year, each Participant shall be given the opportunity to elect, on an election of benefits form to be provided by the Administrator, which Benefit options he wishes to select and purchase with his Cafeteria Plan Benefit Dollars. Any such election shall be effective for any Benefit expenses incurred during the Plan Year which follows the end of the Election Period. With regard to subsequent annual elections, the following options shall apply:

- (a) A Participant or Employee who failed to initially elect to participate may elect different or new Benefits under the Plan during the Election Period;
- (b) A Participant may terminate his participation in the Plan by notifying the Administrator in writing during the Election Period that he does not want to participate in the Plan for the next Plan Year, or by not electing any Benefit options;
- (c) An Employee who elects not to participate for the Plan Year following the Election Period will have to wait until the next Election Period before again electing to participate in the Plan, except as provided for in Section 5.4.

### 5.3 FAILURE TO ELECT

Any Participant failing to complete an election of benefits form pursuant to Section 5.2 by the end of the applicable Election Period shall be deemed to have elected not to participate in the Plan for the upcoming Plan Year. No further Salary Redirections shall therefore be authorized for such subsequent Plan Year.



#### 5.4 CHANGE OF ELECTIONS

(a) Any Participant may change a Benefit election after the Plan Year (to which such election relates) has commenced and make new elections with respect to the remainder of such Plan Year if, under the facts and circumstances, the changes are necessitated by and are consistent with a change in status which is acceptable under rules and regulations adopted by the Department of the Treasury, the provisions of which are incorporated by reference. Notwithstanding anything herein to the contrary, if the rules and regulations conflict, then such rules and regulations shall control.

In general, a change in election is not consistent if the change in status is the Participant's divorce, annulment or legal separation from a spouse, the death of a spouse or dependent, or a dependent ceasing to satisfy the eligibility requirements for coverage, and the Participant's election under the Plan is to cancel accident or health insurance coverage for any individual other than the one involved in such event. In addition, if the Participant, spouse or dependent gains or loses eligibility for coverage, then a Participant's election under the Plan to cease or decrease coverage for that individual under the Plan corresponds with that change in status only if coverage for that individual becomes applicable or is increased under the family member plan.

Regardless of the consistency requirement, if the individual, the individual's spouse, or dependent becomes eligible for continuation coverage under the Employer's group health plan as provided in Code Section 4980B or any similar state law, then the individual may elect to increase payments under this Plan in order to pay for the continuation coverage. However, this does not apply for COBRA eligibility due to divorce, annulment or legal separation.

Any new election shall be effective at such time as the Administrator shall prescribe, but not earlier than the first pay period beginning after the election form is completed and returned to the Administrator. For the purposes of this subsection, a change in status shall only include the following events or other events permitted by Treasury regulations:

- (1) Legal Marital Status: events that change a Participant's legal marital status, including marriage, divorce, death of a spouse, legal separation or annulment;
- (2) Number of Dependents: Events that change a Participant's number of dependents, including birth, adoption, placement for adoption, or death of a dependent;
- (3) Employment Status: Any of the following events that change the employment status of the Participant, spouse, or dependent: termination or commencement of employment, a strike or lockout, commencement or return from an unpaid leave of absence, or a change in worksite. In addition, if the eligibility conditions of this Plan or other employee benefit plan of the Employer of the Participant, spouse, or dependent depend on the

employment status of that individual and there is a change in that individual's employment status with the consequence that the individual becomes (or ceases to be) eligible under the plan, then that change constitutes a change in employment under this subsection;

(4) Dependent satisfies or ceases to satisfy the eligibility requirements: An event that causes the Participant's dependent to satisfy or cease to satisfy the requirements for coverage due to attainment of age, student status, or any similar circumstance; and

(5) Residency: A change in the place of residence of the Participant, spouse or dependent.

For the Dependent Care Assistance Program, a dependent becoming or ceasing to be a "Qualifying Dependent" as defined under Code Section 21(b) shall also qualify as a change in status.

(b) Notwithstanding subsection (a), the Participants may change an election for accident or health coverage during a Plan Year and make a new election that corresponds with the special enrollment rights provided in Code Section 9801(f). Such change shall take place on a prospective basis.

(c) Notwithstanding subsection (a), in the event of a judgment, decree, or order ("order") resulting from a divorce, legal separation, annulment, or change in legal custody (including a qualified medical child support order defined in ERISA Section 609) which requires accident or health coverage for a Participant's child (including a foster child who is a dependent of the Participant):

(1) The Plan may change an election to provide coverage for the child if the order requires coverage under the Participant's plan; or

(2) The Participant shall be permitted to change an election to cancel coverage for the child if the order requires the former spouse to provide coverage for such child, under that individual's plan and such coverage is actually provided.

(d) Notwithstanding subsection (a), a Participant may change elections to cancel accident or health coverage for the Participant or the Participant's spouse or dependent if the Participant or the Participant's spouse or dependent is enrolled in the accident or health coverage of the Employer and becomes entitled to coverage (i.e., enrolled) under Part A or Part B of the Title XVIII of the Social Security Act (Medicare) or Title XIX of the Social Security Act (Medicaid), other than coverage consisting solely of benefits under Section 1928 of the Social Security Act (the program for distribution of pediatric vaccines). If the Participant or the Participant's spouse or dependent who has been entitled to Medicaid or Medicare coverage loses eligibility, that individual may prospectively elect coverage under the Plan if a benefit package option under the Plan provides similar coverage.

(e) If the cost of a Benefit provided under the Plan increases or decreases during a Plan Year, then the Plan shall automatically increase or

decrease, as the case may be, the Salary Redirections of all affected Participants for such Benefit. Alternatively, if the cost of a benefit package option increases significantly, the Administrator shall permit the affected Participants to either make corresponding changes in their payments or revoke their elections and, in lieu thereof, receive on a prospective basis coverage under another benefit package option with similar coverage, or drop coverage prospectively if there is no benefit package option with similar coverage.

A cost increase or decrease refers to an increase or decrease in the amount of elective contributions under the Plan, whether resulting from an action taken by the Participants or an action taken by the Employer.

If the coverage under a Benefit is significantly curtailed or ceases during a Plan Year, affected Participants may revoke their elections of such Benefit and, in lieu thereof, elect to receive on a prospective basis coverage under another plan with similar coverage, or drop coverage prospectively if no similar coverage is offered.

If, during the period of coverage, a new benefit package option or other coverage option is added, an existing benefit package option is significantly improved, or an existing benefit package option or other coverage option is eliminated, then the affected Participants may elect the newly-added option, or elect another option if an option has been eliminated prospectively and make corresponding election changes with respect to other benefit package options providing similar coverage. In addition, those Eligible Employees who are not participating in the Plan may opt to become Participants and elect the new or newly improved benefit package option.

A Participant may make a prospective election change to add group health coverage for the Participant, the Participant's spouse or dependent if such individual loses group health coverage sponsored by a governmental or educational institution, including a state children's health insurance program under the Social Security Act, the Indian Health Service or a health program offered by an Indian tribal government, a state health benefits risk pool, or a foreign government group health plan.

A Participant may make a prospective election change that is on account of and corresponds with a change made under the plan of a spouse's, former spouse's or dependent's employer if (1) the cafeteria plan or other benefits plan of the spouse's, former spouse's or dependent's employer permits its participants to make a change; or (2) the cafeteria plan permits participants to make an election for a period of coverage that is different from the period of coverage under the cafeteria plan of a spouse's, former spouse's or dependent's employer.

A Participant may make a prospective election change that is on account of and corresponds with a change by the Participant in the dependent care provider. The availability of dependent care services from a new childcare provider is similar to a new benefit package option becoming available. A cost change is allowable in the Dependent Care Assistance Program only if the cost

change is imposed by a dependent care provider who is not related to the Participant, as defined in Code Section 152(a)(1) through (8).

A Participant shall not be permitted to change an election to the Health Care Reimbursement Plan as a result of a cost or coverage change under this subsection.

(f) A Participant may not make changes to his Benefit elections under the Health Care Reimbursement Fund in the event of a change in status.

## ARTICLE VI HEALTH CARE REIMBURSEMENT PLAN

### 6.1 ESTABLISHMENT OF PLAN

This Health Care Reimbursement Plan is intended to qualify as a medical reimbursement plan under Code Section 105 and shall be interpreted in a manner consistent with such Code Section and the Treasury regulations thereunder. Participants who elect to participate in this Health Care Reimbursement Plan may submit claims for the reimbursement of Medical Expenses. All amounts reimbursed under this Health Care Reimbursement Plan shall be periodically paid from amounts allocated to the Health Care Reimbursement Fund. Periodic payments reimbursing Participants from the Health Care Reimbursement Fund shall in no event occur less frequently than monthly.

### 6.2 DEFINITIONS

For the purposes of this Article and the Cafeteria Plan, the terms below have the following meaning:

(a) "Health Care Reimbursement Fund" means the fund established for Participants pursuant to this Plan to which part of their Cafeteria Plan Benefit Dollars may be allocated and from which all allowable Medical Expenses may be reimbursed.

(b) "Health Care Reimbursement Plan" means the plan of benefits contained in this Article, which provides for the reimbursement of eligible Medical Expenses incurred by a Participant or his Dependents.

(c) "Highly Compensated Participant" means, for the purposes of this Article and determining discrimination under Code Section 105(h), a participant who is:

- (1) one of the 5 highest paid officers;
- (2) a shareholder who owns (or is considered to own applying the rules of Code Section 318) more than 10 percent in value of the stock of the Employer; or

(3) among the highest paid 25 percent of all Employees (other than exclusions permitted by Code Section 105(h)(3)(B) for those individuals who are not Participants).

(d) "Medical Expenses" means any expense for medical care within the meaning of the term "medical care" or "medical expense" as defined in Code Section 213 and the rulings and Treasury regulations thereunder, and not otherwise used by the Participant as a deduction in determining his tax liability under the Code. However, a Participant may not be reimbursed for the cost of other health coverage such as premiums paid under plans maintained by the employer of the Participant's spouse or individual policies maintained by the Participant or his spouse or Dependent. Furthermore, a Participant may not be reimbursed for "qualified long-term care services" as defined in Code Section 7702B(c).

(e) The definitions of Article I are hereby incorporated by reference to the extent necessary to interpret and apply the provisions of this Health Care Reimbursement Plan.

### 6.3 FORFEITURES

The amount in the Health Care Reimbursement Fund as of the end of any Plan Year (and after the processing of all claims for such Plan Year pursuant to Section 6.7 hereof) shall be forfeited and credited to the benefit plan surplus. In such event, the Participant shall have no further claim to such amount for any reason, subject to Section 8.2.

### 6.4 LIMITATION ON ALLOCATIONS

Notwithstanding any provision contained in this Health Care Reimbursement Plan to the contrary, no more than \$1000.00 may be allocated to the Health Care Reimbursement Fund by a Participant in or on account of any Plan Year.

### 6.5 NONDISCRIMINATION REQUIREMENTS

(a) It is the intent of this Health Care Reimbursement Plan not to discriminate in violation of the Code and the Treasury regulations thereunder.

(b) If the Administrator deems it necessary to avoid discrimination under this Health Care Reimbursement Plan, it may, but shall not be required to, reject any elections or reduce contributions or Benefits in order to assure compliance with this Section. Any act taken by the Administrator under this Section shall be carried out in a uniform and nondiscriminatory manner. If the Administrator decides to reject any elections or reduce contributions or Benefits, it shall be done in the following manner. First, the Benefits designated for the Health Care Reimbursement Fund by the member of the group in whose favor discrimination may not occur pursuant to Code Section 105 that elected to contribute the highest amount to the fund for the Plan Year shall be reduced until the nondiscrimination tests set forth in this Section or the Code are satisfied, or until the amount designated for the fund equals the amount designated for the fund by the next member of the group in whose favor discrimination may not

occur pursuant to Code Section 105 who has elected the second highest contribution to the Health Care Reimbursement Fund for the Plan Year. This process shall continue until the nondiscrimination tests set forth in this Section or the Code are satisfied. Contributions which are not utilized to provide Benefits to any Participant by virtue of any administrative act under this paragraph shall be forfeited and credited to the benefit plan surplus.

#### 6.6 COORDINATION WITH CAFETERIA PLAN

All Participants under the Cafeteria Plan are eligible to receive Benefits under this Health Care Reimbursement Plan. The enrollment under the Cafeteria Plan shall constitute enrollment under this Health Care Reimbursement Plan. In addition, other matters concerning contributions, elections and the like shall be governed by the general provisions of the Cafeteria Plan.

#### 6.7 HEALTH CARE REIMBURSEMENT PLAN CLAIMS

(a) All Medical Expenses incurred by a Participant shall be reimbursed during the Plan Year subject to Section 2.6, even though the submission of such a claim occurs after his participation hereunder ceases; but provided that the Medical Expenses were incurred during the applicable Plan Year. Medical Expenses are treated as having been incurred when the Participant is provided with the medical care that gives rise to the medical expenses, not when the Participant is formally billed or charged for, or pays for the medical care.

(b) The Administrator shall direct the reimbursement to each eligible Participant for all allowable Medical Expenses, up to a maximum of the amount designated by the Participant for the Health Care Reimbursement Fund for the Plan Year. Reimbursements shall be made available to the Participant throughout the year without regard to the level of Cafeteria Plan Benefit Dollars which have been allocated to the fund at any given point in time. Furthermore, a Participant shall be entitled to reimbursements only for amounts in excess of any payments or other reimbursements under any health care plan covering the Participant and/or his Spouse or Dependents.

(c) Reimbursement payments under this Plan shall be made directly to the Participant. However, in the Administrator's discretion, payments may be made directly to the service provider. The application for payment or reimbursement shall be made to the Administrator on an acceptable form within a reasonable time of incurring the debt or paying for the service. The application shall include a written statement from an independent third party stating that the Medical Expense has been incurred and the amount of such expense. Furthermore, the Participant shall provide a written statement that the Medical Expense has not been reimbursed or is not reimbursable under any other health plan coverage and, if reimbursed from the Health Care Reimbursement Fund, such amount will not be claimed as a tax deduction. The Administrator shall retain a file of all such applications.

ARTICLE VII  
DEPENDENT CARE ASSISTANCE PROGRAM

7.1 ESTABLISHMENT OF PROGRAM

This Dependent Care Assistance Program is intended to qualify as a program under Code Section 129 and shall be interpreted in a manner consistent with such Code Section. Participants who elect to participate in this program may submit claims for the reimbursement of Employment-Related Dependent Care Expenses. All amounts reimbursed under this Dependent Care Assistance Program shall be paid from amounts allocated to the Participant's Dependent Care Assistance Account.

7.2 DEFINITIONS

For the purposes of this Article and the Cafeteria Plan the terms below shall have the following meaning:

(a) "Dependent Care Assistance Account" means the account established for a Participant pursuant to this Article to which part of his Cafeteria Plan Benefit Dollars may be allocated and from which Employment-Related Dependent Care Expenses of the Participant may be reimbursed.

(b) "Dependent Care Assistance Program" means the program of benefits contained in this Article, which provides for the reimbursement of eligible expenses for the care of the Qualifying Dependents of Participants.

(c) "Earned Income" means earned income as defined under Code Section 32(c)(2), but excluding such amounts paid or incurred by the Employer for dependent care assistance to the Participant.

(d) "Employment-Related Dependent Care Expenses" means the amounts paid for expenses of a Participant for those services which if paid by the Participant would be considered employment related expenses under Code Section 21(b)(2). Generally, they shall include expenses for household services or for the care of a Qualifying Dependent, to the extent that such expenses are incurred to enable the Participant to be gainfully employed for any period for which there are one or more Qualifying Dependents with respect to such Participant. Employment-Related Dependent Care Expenses are treated as having been incurred when the Participant's Qualifying Dependents are provided with the dependent care that gives rise to the Employment-Related Dependent Care Expenses, not when the Participant is formally billed or charged for, or pays for the dependent care. The determination of whether an amount qualifies as an Employment-Related Dependent Care Expense shall be made subject to the following rules:

(1) If such amounts are paid for expenses incurred outside the Participant's household, they shall constitute Employment-Related Dependent Care Expenses only if incurred for a Qualifying Dependent as defined in Section 7.2(e)(1) (or deemed to be, as described in Section 7.2(e)(1) pursuant to Section 7.2(e)(3)), or for a Qualifying Dependent as

defined in Section 7.2(e)(2) (or deemed to be, as described in Section 7.2(e)(2) pursuant to Section 7.2(e)(3)) who regularly spends at least 8 hours per day in the Participant's household;

(2) If the expense is incurred outside the Participant's home at a facility that provides care for a fee, payment, or grant for more than 6 individuals who do not regularly reside at the facility, the facility must comply with all applicable state and local laws and regulations, including licensing requirements, if any; and

(3) Employment-Related Dependent Care Expenses of a Participant shall not include amounts paid or incurred to a child of such Participant who is under the age of 19 or to an individual who is a dependent of such Participant or such Participant's Spouse.

(e) "Qualifying Dependent" means, for Dependent Care Assistance Program purposes,

(1) a Dependent of a Participant who is under the age of 13, with respect to whom the Participant is entitled to an exemption under Code Section 151(c);

(2) a Dependent or the Spouse of a Participant who is physically or mentally incapable of caring for himself or herself; or

(3) a child that is deemed to be a Qualifying Dependent described in paragraph (1) or (2) above, whichever is appropriate, pursuant to Code Section 21(e)(5).

(f) The definitions of Article I are hereby incorporated by reference to the extent necessary to interpret and apply the provisions of this Dependent Care Assistance Program.

### 7.3 DEPENDENT CARE ASSISTANCE ACCOUNTS

The Administrator shall establish a Dependent Care Assistance Account for each Participant who elects to apply Cafeteria Plan Benefit Dollars to Dependent Care Assistance Program benefits.

### 7.4 INCREASES IN DEPENDENT CARE ASSISTANCE ACCOUNTS

A Participant's Dependent Care Assistance Account shall be increased each pay period by the portion of Cafeteria Plan Benefit Dollars that he has elected to apply toward his Dependent Care Assistance Account pursuant to elections made under Article V hereof.



#### 7.5 DECREASES IN DEPENDENT CARE ASSISTANCE ACCOUNTS

A Participant's Dependent Care Assistance Account shall be reduced by the amount of any Employment-Related Dependent Care Expense reimbursements paid or incurred on behalf of a Participant pursuant to Section 7.12 hereof.

#### 7.6 ALLOWABLE DEPENDENT CARE ASSISTANCE REIMBURSEMENT

Subject to limitations contained in Section 7.9 of this Program, and to the extent of the amount contained in the Participant's Dependent Care Assistance Account, a Participant who incurs Employment-Related Dependent Care Expenses shall be entitled to receive from the Employer full reimbursement for the entire amount of such expenses incurred during the Plan Year or portion thereof during which he is a Participant.

#### 7.7 ANNUAL STATEMENT OF BENEFITS

On or before January 31st of each calendar year, the Employer shall furnish to each Employee who was a Participant and received benefits under Section 7.6 during the prior calendar year, a statement of all such benefits paid to or on behalf of such Participant during the prior calendar year.

#### 7.8 FORFEITURES

The amount in a Participant's Dependent Care Assistance Account as of the end of any Plan Year (and after the processing of all claims for such Plan Year pursuant to Section 7.12 hereof) shall be forfeited and credited to the benefit plan surplus. In such event, the Participant shall have no further claim to such amount for any reason.

#### 7.9 LIMITATION ON PAYMENTS

Notwithstanding any provision contained in this Article to the contrary, amounts paid from a Participant's Dependent Care Assistance Account in or on account of any taxable year of the Participant shall not exceed the lesser of the Earned Income limitation described in Code Section 129(b) or \$5,000 (\$2,500 if a separate tax return is filed by a Participant who is married as determined under the rules of paragraphs (3) and (4) of Code Section 21(e)).

#### 7.10 NONDISCRIMINATION REQUIREMENTS

(a) It is the intent of this Dependent Care Assistance Program that contributions or benefits not discriminate in favor of the group of employees in whose favor discrimination may not occur under Code Section 129(d).

(b) It is the intent of this Dependent Care Assistance Program that not more than 25 percent of the amounts paid by the Employer for dependent care assistance during the Plan Year will be provided for the class of individuals who are shareholders or owners (or their Spouses or Dependents), each of whom (on any day of the Plan Year) owns more than 5 percent of the stock or of the capital or profits interest in the Employer.

(c) If the Administrator deems it necessary to avoid discrimination or possible taxation to a group of employees in whose favor discrimination may not occur in violation of Code Section 129 it may, but shall not be required to, reject any elections or reduce contributions or non-taxable benefits in order to assure compliance with this Section. Any act taken by the Administrator under this Section shall be carried out in a uniform and nondiscriminatory manner. If the Administrator decides to reject any elections or reduce contributions or Benefits, it shall be done in the following manner. First, the Benefits designated for the Dependent Care Assistance Account by the affected Participant that elected to contribute the highest amount to such account for the Plan Year shall be reduced until the nondiscrimination tests set forth in this Section are satisfied, or until the amount designated for the account equals the amount designated for the account of the affected Participant who has elected the second highest contribution to the Dependent Care Assistance Account for the Plan Year. This process shall continue until the nondiscrimination tests set forth in this Section are satisfied. Contributions which are not utilized to provide Benefits to any Participant by virtue of any administrative act under this paragraph shall be forfeited.

#### 7.11 COORDINATION WITH CAFETERIA PLAN

All Participants under the Cafeteria Plan are eligible to receive Benefits under this Dependent Care Assistance Program. The enrollment and termination of participation under the Cafeteria Plan shall constitute enrollment and termination of participation under this Dependent Care Assistance Program. In addition, other matters concerning contributions, elections and the like shall be governed by the general provisions of the Cafeteria Plan.

#### 7.12 DEPENDENT CARE ASSISTANCE PROGRAM CLAIMS

The Administrator shall direct the payment of all such Dependent Care Assistance claims to the Participant upon the presentation to the Administrator of documentation of such expenses in a form satisfactory to the Administrator. However, in the Administrator's discretion, payments may be made directly to the service provider. In its discretion in administering the Plan, the Administrator may utilize forms and require documentation of costs as may be necessary to verify the claims submitted. At a minimum, the form shall include a statement from an independent third party as proof that the expense has been incurred and the amount of such expense. In addition, the Administrator may require that each Participant who desires to receive reimbursement under this Program for Employment-Related Dependent Care Expenses submit a statement which may contain some or all of the following information:

- (a) The Dependent or Dependents for whom the services were performed;
- (b) The nature of the services performed for the Participant, the cost of which he wishes reimbursement;
- (c) The relationship, if any, of the person performing the services to the Participant;
- (d) If the services are being performed by a child of the Participant, the age of the child;

- (e) A statement as to where the services were performed;
- (f) If any of the services were performed outside the home, a statement as to whether the Dependent for whom such services were performed spends at least 8 hours a day in the Participant's household;
- (g) If the services were being performed in a day care center, a statement:
  - (1) that the day care center complies with all applicable laws and regulations of the state of residence,
  - (2) that the day care center provides care for more than 6 individuals (other than individuals residing at the center), and
  - (3) of the amount of fee paid to the provider.
- (h) If the Participant is married, a statement containing the following:
  - (1) the Spouse's salary or wages if he or she is employed, or
  - (2) if the Participant's Spouse is not employed, that
    - (i) he or she is incapacitated, or
    - (ii) he or she is a full-time student attending an educational institution and the months during the year which he or she attended such institution.
- (i) If a Participant fails to submit a claim within the 60 day period immediately following the end of the Plan Year or within the 60 day period immediately following termination of employment, those claims shall not be considered for reimbursement by the Administrator.

## ARTICLE VIII BENEFITS AND RIGHTS

### 8.1 CLAIM FOR BENEFITS

- (a) Any claim for Benefits underwritten by an Insurance Contract shall be made to the Insurer. If the Insurer denies any claim, the Participant or beneficiary shall follow the Insurer's claims review procedure. Any other claim for Benefits shall be made to the Administrator. If the Administrator denies a claim, the Administrator may provide notice to the Participant or beneficiary, in writing, within 90 days after the claim is filed unless special circumstances require an extension of time for processing the claim. If the Administrator does not notify the Participant of the denial of the claim within the 90 day period specified above, then the claim shall be deemed denied. The notice of a denial of

a claim shall be written in a manner calculated to be understood by the claimant and shall set forth:

- (1) specific references to the pertinent Plan provisions on which the denial is based;
- (2) a description of any additional material or information necessary for the claimant to perfect the claim and an explanation as to why such information is necessary; and
- (3) an explanation of the Plan's claim procedure.

(b) Within 60 days after receipt of the above material, the claimant shall have a reasonable opportunity to appeal the claim denial to the Administrator for a full and fair review. The claimant or his duly authorized representative may:

- (1) request a review upon written notice to the Administrator;
- (2) review pertinent documents; and
- (3) submit issues and comments in writing.

(c) A decision on the review by the Administrator will be made not later than 60 days after receipt of a request for review, unless special circumstances require an extension of time for processing (such as the need to hold a hearing), in which event a decision should be rendered as soon as possible, but in no event later than 120 days after such receipt. The decision of the Administrator shall be written and shall include specific reasons for the decision, written in a manner calculated to be understood by the claimant, with specific references to the pertinent Plan provisions on which the decision is based.

(d) Any balance remaining in the Participants' Health Care Reimbursement Fund or Dependent Care Assistance Account as of the end of each Plan Year shall be forfeited and deposited in the benefit plan surplus of the Employer pursuant to Section 6.3 or Section 7.8, whichever is applicable, unless the Participant had made a claim for such Plan Year, in writing, which has been denied or is pending; in which event the amount of the claim shall be held in his account until the claim appeal procedures set forth above have been satisfied or the claim is paid. If any such claim is denied on appeal, the amount held beyond the end of the Plan Year shall be forfeited and credited to the benefit plan surplus.

(e) Notwithstanding the foregoing, in the case of a claim for medical expenses under the Health Care Reimbursement Plan, the following timetable for claims and rules below apply:

Notification of whether claim is accepted or denied	30 days
Extension due to matters beyond the control of the Plan	15 days

Insufficient information on the Claim:

Notification of	15 days
Response by Participant	45 days
Review of claim denial	60 days

The Plan Administrator will provide written or electronic notification of any claim denial. The notice will state:

- (1) The specific reason or reasons for the denial.
- (2) Reference to the specific Plan provisions on which the denial was based.
- (3) A description of any additional material or information necessary for the claimant to perfect the claim and an explanation of why such material or information is necessary.
- (4) A description of the Plan's review procedures and the time limits applicable to such procedures. This will include a statement of the right to bring a civil action under section 502 of ERISA following a denial on review.
- (5) A statement that the claimant is entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to the Claim.
- (6) If the denial was based on an internal rule, guideline, protocol, or other similar criterion, the specific rule, guideline, protocol, or criterion will be provided free of charge. If this is not practical, a statement will be included that such a rule, guideline, protocol, or criterion was relied upon in making the denial and a copy will be provided free of charge to the claimant upon request.

When the Participant receives a denial, the Participant shall have 180 days following receipt of the notification in which to appeal the decision. The Participant may submit written comments, documents, records, and other information relating to the Claim. If the Participant requests, the Participant shall be provided, free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to the Claim.

The period of time within which a denial on review is required to be made will begin at the time an appeal is filed in accordance with the procedures of the Plan. This timing is without regard to whether all the necessary information accompanies the filing.

A document, record, or other information shall be considered relevant to a Claim if it:

- (1) was relied upon in making the claim determination;
- (2) was submitted, considered, or generated in the course of making the claim determination, without regard to whether it was relied upon in making the claim determination;
- (3) demonstrated compliance with the administrative processes and safeguards designed to ensure and to verify that claim determinations are made in accordance with Plan documents and Plan provisions have been applied consistently with respect to all claimants; or
- (4) constituted a statement of policy or guidance with respect to the Plan concerning the denied claim.

The review will take into account all comments, documents, records, and other information submitted by the claimant relating to the Claim, without regard to whether such information was submitted or considered in the initial claim determination. The review will not afford deference to the initial denial and will be conducted by a fiduciary of the Plan who is neither the individual who made the adverse determination nor a subordinate of that individual.

## 8.2 APPLICATION OF BENEFIT PLAN SURPLUS

Any forfeited amounts credited to the benefit plan surplus by virtue of the failure of a Participant to incur a qualified expense or seek reimbursement in a timely manner may, but need not be, separately accounted for after the close of the Plan Year (or after such further time specified herein for the filing of claims) in which such forfeitures arose. In no event shall such amounts be carried over to reimburse a Participant for expenses incurred during a subsequent Plan Year for the same or any other Benefit available under the Plan; nor shall amounts forfeited by a particular Participant be made available to such Participant in any other form or manner, except as permitted by Treasury regulations. Amounts in the benefit plan surplus shall first be used to defray any administrative costs and experience losses and thereafter be retained by the Employer.

## ARTICLE IX ADMINISTRATION

### 9.1 PLAN ADMINISTRATION

The operation of the Plan shall be under the supervision of the Administrator. It shall be a principal duty of the Administrator to see that the Plan is carried out in accordance with its terms, and for the exclusive benefit of Employees entitled to participate in the Plan. The Administrator shall have full power to administer the Plan in all of its details, subject, however, to the pertinent provisions of the Code. The Administrator's powers shall include, but shall not be limited to the following authority, in addition to all other powers provided by this Plan:

(a) To make and enforce such rules and regulations as the Administrator deems necessary or proper for the efficient administration of the Plan;

(b) To interpret the Plan, the Administrator's interpretations thereof in good faith to be final and conclusive on all persons claiming benefits by operation of the Plan;

(c) To decide all questions concerning the Plan and the eligibility of any person to participate in the Plan and to receive benefits provided by operation of the Plan;

(d) To reject elections or to limit contributions or Benefits for certain highly compensated participants if it deems such to be desirable in order to avoid discrimination under the Plan in violation of applicable provisions of the Code;

(e) To provide Employees with a reasonable notification of their benefits available by operation of the Plan;

(f) To approve reimbursement requests and to authorize the payment of benefits; and

(g) To appoint such agents, counsel, accountants, consultants, and actuaries as may be required to assist in administering the Plan.

Any procedure, discretionary act, interpretation or construction taken by the Administrator shall be done in a nondiscriminatory manner based upon uniform principles consistently applied and shall be consistent with the intent that the Plan shall continue to comply with the terms of Code Section 125 and the Treasury regulations thereunder.

## 9.2 EXAMINATION OF RECORDS

The Administrator shall make available to each Participant, Eligible Employee and any other Employee of the Employer such records as pertain to their interest under the Plan for examination at reasonable times during normal business hours.

## 9.3 PAYMENT OF EXPENSES

Any reasonable administrative expenses shall be paid by the Employer unless the Employer determines that administrative costs shall be borne by the Participants under the Plan or by any Trust Fund which may be established hereunder. The Administrator may impose reasonable conditions for payments, provided that such conditions shall not discriminate in favor of highly compensated employees.

#### 9.4 INSURANCE CONTROL CLAUSE

In the event of a conflict between the terms of this Plan and the terms of an Insurance Contract of an independent third party Insurer whose product is then being used in conjunction with this Plan, the terms of the Insurance Contract shall control as to those Participants receiving coverage under such Insurance Contract. For this purpose, the Insurance Contract shall control in defining the persons eligible for insurance, the dates of their eligibility, the conditions which must be satisfied to become insured, if any, the benefits Participants are entitled to and the circumstances under which insurance terminates.

#### 9.5 INDEMNIFICATION OF ADMINISTRATOR

The Employer agrees to indemnify and to defend to the fullest extent permitted by law any Employee serving as the Administrator or as a member of a committee designated as Administrator (including any Employee or former Employee who previously served as Administrator or as a member of such committee) against all liabilities, damages, costs and expenses (including attorney's fees and amounts paid in settlement of any claims approved by the Employer) occasioned by any act or omission to act in connection with the Plan, if such act or omission is in good faith.

### ARTICLE X AMENDMENT OR TERMINATION OF PLAN

#### 10.1 AMENDMENT

The Employer, at any time or from time to time, may amend any or all of the provisions of the Plan without the consent of any Employee or Participant. No amendment shall have the effect of modifying any benefit election of any Participant in effect at the time of such amendment, unless such amendment is made to comply with Federal, state or local laws, statutes or regulations.

#### 10.2 TERMINATION

The Employer is establishing this Plan with the intent that it will be maintained for an indefinite period of time. Notwithstanding the foregoing, the Employer reserves the right to terminate this Plan, in whole or in part, at any time. In the event the Plan is terminated, no further contributions shall be made. Benefits under any Insurance Contract shall be paid in accordance with the terms of the Contract.

No further additions shall be made to the Health Care Reimbursement Fund or Dependent Care Assistance Account, but all payments from such fund shall continue to be made according to the elections in effect until the end of the Plan Year in which the Plan termination occurs (and for a reasonable period of time thereafter, if required for the filing of claims). Any amounts remaining in any such fund or account as of the end of the Plan Year in which Plan termination occurs shall be forfeited and deposited in the benefit plan surplus after the expiration of the filing period.



ARTICLE XI  
MISCELLANEOUS

11.1 PLAN INTERPRETATION

All provisions of this Plan shall be interpreted and applied in a uniform, nondiscriminatory manner. This Plan shall be read in its entirety and not severed except as provided in Section 11.12.

11.2 GENDER AND NUMBER

Wherever any words are used herein in the masculine, feminine or neuter gender, they shall be construed as though they were also used in another gender in all cases where they would so apply, and whenever any words are used herein in the singular or plural form, they shall be construed as though they were also used in the other form in all cases where they would so apply.

11.3 WRITTEN DOCUMENT

This Plan, in conjunction with any separate written document which may be required by law, is intended to satisfy the written Plan requirement of Code Section 125 and any Treasury regulations thereunder relating to cafeteria plans.

11.4 EXCLUSIVE BENEFIT

This Plan shall be maintained for the exclusive benefit of the Employees who participate in the Plan.

11.5 PARTICIPANT'S RIGHTS

This Plan shall not be deemed to constitute an employment contract between the Employer and any Participant or to be a consideration or an inducement for the employment of any Participant or Employee. Nothing contained in this Plan shall be deemed to give any Participant or Employee the right to be retained in the service of the Employer or to interfere with the right of the Employer to discharge any Participant or Employee at any time regardless of the effect which such discharge shall have upon him as a Participant of this Plan.

11.6 ACTION BY THE EMPLOYER

Whenever the Employer under the terms of the Plan is permitted or required to do or perform any act or matter or thing, it shall be done and performed by a person duly authorized by its legally constituted authority.

11.7 EMPLOYER'S PROTECTIVE CLAUSES

(a) Upon the failure of either the Participant or the Employer to obtain the insurance contemplated by this Plan (whether as a result of negligence, gross neglect or otherwise), the Participant's Benefits shall be limited to the insurance premium(s), if any, that remained unpaid for the period in question and the actual

insurance proceeds, if any, received by the Employer or the Participant as a result of the Participant's claim.

(b) The Employer's liability to the Participant shall only extend to and shall be limited to any payment actually received by the Employer from the Insurer. In the event that the full insurance Benefit contemplated is not promptly received by the Employer within a reasonable time after submission of a claim, then the Employer shall notify the Participant of such facts and the Employer shall no longer have any legal obligation whatsoever (except to execute any document called for by a settlement reached by the Participant). The Participant shall be free to settle, compromise or refuse to pursue the claim as the Participant, in his sole discretion, shall see fit.

(c) The Employer shall not be responsible for the validity of any Insurance Contract issued hereunder or for the failure on the part of the Insurer to make payments provided for under any Insurance Contract. Once insurance is applied for or obtained, the Employer shall not be liable for any loss which may result from the failure to pay Premiums to the extent Premium notices are not received by the Employer.

#### 11.8 NO GUARANTEE OF TAX CONSEQUENCES

Neither the Administrator nor the Employer makes any commitment or guarantee that any amounts paid to or for the benefit of a Participant under the Plan will be excludable from the Participant's gross income for federal or state income tax purposes, or that any other federal or state tax treatment will apply to or be available to any Participant. It shall be the obligation of each Participant to determine whether each payment under the Plan is excludable from the Participant's gross income for federal and state income tax purposes, and to notify the Employer if the Participant has reason to believe that any such payment is not so excludable. Notwithstanding the foregoing, the rights of Participants under this Plan shall be legally enforceable.

#### 11.9 INDEMNIFICATION OF EMPLOYER BY PARTICIPANTS

If any Participant receives one or more payments or reimbursements under the Plan that are not for a permitted Benefit, such Participant shall indemnify and reimburse the Employer for any liability it may incur for failure to withhold federal or state income tax or Social Security tax from such payments or reimbursements. However, such indemnification and reimbursement shall not exceed the amount of additional federal and state income tax (plus any penalties) that the Participant would have owed if the payments or reimbursements had been made to the Participant as regular cash compensation, plus the Participant's share of any Social Security tax that would have been paid on such compensation, less any such additional income and Social Security tax actually paid by the Participant.

#### 11.10 FUNDING

Unless otherwise required by law, contributions to the Plan need not be placed in trust or dedicated to a specific Benefit, but may instead be considered general assets of the Employer. Furthermore, and unless otherwise required by law, nothing herein shall be construed to require the Employer or the Administrator to maintain any fund or segregate any amount for the benefit of any Participant, and no Participant or other person shall have any claim against, right to, or security or other interest in, any fund, account or asset of the Employer from which any payment under the Plan may be made.

#### 11.11 GOVERNING LAW

This Plan is governed by the Code and the Treasury regulations issued thereunder (as they might be amended from time to time). In no event shall the Employer guarantee the favorable tax treatment sought by this Plan. To the extent not preempted by Federal law, the provisions of this Plan shall be construed, enforced and administered according to the laws of the State of Texas.

#### 11.12 SEVERABILITY

If any provision of the Plan is held invalid or unenforceable, its invalidity or unenforceability shall not affect any other provisions of the Plan, and the Plan shall be construed and enforced as if such provision had not been included herein.

#### 11.13 CAPTIONS

The captions contained herein are inserted only as a matter of convenience and for reference, and in no way define, limit, enlarge or describe the scope or intent of the Plan, nor in any way shall affect the Plan or the construction of any provision thereof.

#### 11.14 CONTINUATION OF COVERAGE

Notwithstanding anything in the Plan to the contrary, in the event any benefit under this Plan subject to the continuation coverage requirement of Code Section 4980B becomes unavailable, each Participant will be entitled to continuation coverage as prescribed in Code Section 4980B.

#### 11.15 FAMILY AND MEDICAL LEAVE ACT

Notwithstanding anything in the Plan to the contrary, in the event any benefit under this Plan becomes subject to the requirements of the Family and Medical Leave Act and regulations thereunder, this Plan shall be operated in accordance with Regulation 1.125-3.

#### 11.16 HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT

Notwithstanding anything in this Plan to the contrary, this Plan shall be operated in accordance with HIPAA and regulations thereunder.

11.17 UNIFORM SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT

Notwithstanding any provision of this Plan to the contrary, contributions, benefits and service credit with respect to qualified military service shall be provided in accordance with USERRA and the regulations thereunder.

IN WITNESS WHEREOF, this Plan document is hereby executed this  
10 day of Nov 2003.

TOM GREEN COUNTY

By



EMPLOYER