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BARR TAM TELETON NOTICE OF MEETING OF THE

COMMISSIONERS COURT OF POLK COUNTY, TEXAS

51

Notice is hereby given that a Regular meeting of the above named Commissioners' Court will be held on Friday, May 21, 1999 at 10 00 a.m. (rescheduled from Tuesday, May 25) in the County Courthouse, Livingston, Texas, at which time the following subjects will be discussed, to wit

#### SEE ATTACHED AGENDA

Dated Monday, May 17, 1999

Commissioners' Court of Polk County, Texas

John P Thompson, County Judge

I, the undersigned County Clerk, do hereby certify that the above Notice of Meeting of Polk County Commissioners Court, is a true and correct copy of said Notice, and that I posted a true and correct copy of said notice in the County Courthouse of Polk County, Texas, at a place readily accessible to the general public at all times on Monday, May 17, 1999, and said notice remained so posted continuously for at least 72 hours preceding the scheduled time of said meeting

Notice filed, Monday, May 17, 1999

Barbara Middleton, County Clerk

Ditikderton

# COMMISSIONERS COURT AGENDA

for: FRIDAY - MAY 21, 1999 - 10 00 A M

### **CALL TO ORDER**

- 1 WELCOME Public Comments
- 2 INFORMATIONAL REPORTS
  - A Recognize Graduating Seniors receiving the Commissioners Court Scholarship, sponsored by County's Delinquent Tax Collection Firm, Linebarger Heard Goggan Blair Graham Pena & Sampson, LLP
- 3 CONSIDER APPROVAL OF MINUTES for meeting of, May 11, 1999

### **NEW BUSINESS**

- 4 CONSIDER ANY/ALL NECESSARY ACTION PERTAINING TO RENEWAL/EXTENSION OF HOSPITAL LEASE
- 5 CONSIDER APPROVAL OF ORDER INCREASING COUNTY HOTEL OCCUPANCY TAX FROM 4% TO 7%, EFFECTIVE JULY 1, 1999
- 6 CONSIDER APPROVAL TO PURCHASE PROPERTY ADJOINING PRECINCT 3 ROAD & BRIDGE YARD, INCLUDING ISSUANCE OF TIME WARRANT IN AN AMOUNT NOT TO EXCEED \$105,000 00 (purchase price plus appraisal and closing costs) FOR A PERIOD NOT TO EXCEED 5 YEARS AND AN INTEREST RATE NOT TO EXCEED 5 2%

## **CONSENT AGENDA ITEMS**

- 7 CONSIDER APPROVAL OF BUDGET AMENDMENTS
- 8 CONSIDER APPROVAL AND PAYMENT OF BILLS (by Schedule)
- 9 CONSIDER APPROVAL OF PERSONNEL ACTION FORMS

### **EXECUTIVE SESSION**

(Statement of time beginning)

As authorized by the Texas Open Meetings Act, as amended, Government Code, Chapter 551, Subchapter D, Section 551 071(1)

\* Consultation with Attorney

(Statement of time ending)

## **ADJOURN**

Next regularly scheduled meeting - Thursday, June 3, 1999, 10 00 a m

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OFFICIAL PUBLIC RECARDED
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# ADDENDUM TO NOTICE OF MEETING # 51

### COMMISSIONERS COURT OF POLK COUNTY, TEXAS

THE FOLLOWING WILL SERVE TO AMEND THE AGENDA OF THE COMMISSIONERS COURT MEETING SCHEDULED FOR MAY 21, 1999 AT 10 00 A M

ADD,

10 CONSIDER APPROVAL OF PERMANENT ROAD FUND EXPENDITURE FOR PCT, 3, CLAMON CEMETARY RD, IN THE AMOUNT OF \$1,765 50

Posted on Monday, May 17, 1999

Commissioners' Court of Polk County, Texas

y Jours. Octoberson

John P Thompson, County Judge

I, the undersigned County Clerk, do hereby certify that the above Notice of Meeting of Polk County Commissioners Court, is a true and correct copy of said Notice, and that I posted a true and correct copy of said notice at the door of the County Courthouse of Polk County, Texas, at a place readily accessible to the general public at all times on Monday, May 17, 1999 and said notice remained so posted continuously for at least 72 hours preceding the scheduled time of said meeting

Dated Monday, May 17, 1999

Barbara Middleton, County Clerk

By Bider

STATE OF TEXAS

**DATE MAY 21, 1999** 

COUNTY OF POLK }

"REGULAR" CALLED MEETING ALL PRESENT

#### "COMMISSIONERS COURT"

BE IT REMEMBERED ON THIS THE 11th DAY OF MAY, 1999
THE HONORABLE COMMISSIONERS COURT MET IN "REGULAR"
CALLED MEETING WITH THE FOLLOWING OFFICERS AND MEMBERS
PRESENT, TO WIT

JOHN P THOMPSON, COUNTY JUDGE, PRESIDING B E "Slim" SPEIGHTS COUNTY COMMISSIONER PCT#1, BOBBY SMITH COUNTY COMMISSIONER PCT#2, JAMES J "Buddy" PURVIS COUNTY COMMISSIONER PCT#3, R R "Dick" HUBERT COUNTY COMMISSIONER PCT#4, BARBARA MIDDLETON-COUNTY CLERK & SHIRLEEN COWAN, ASSISTANT COUNTY AUDITOR, THE FOLLOWING AGENDA ITEMS, ORDERS, AND DECREES WERE DULY HAD, CONSIDERED & PASSED

1 WELCOME & CALLED TO ORDER BY JUDGE JOHN P THOMPSON AT 10 00 A M

Rev Keefe Cropper, Pastor of First United Methodist Church of Onalaska delivered the opening prayer

#### PUBLIC COMMENTS NONE

#### 2 INFORMATIONAL REPORTS

- A. Judge Thompson recognized graduating seniors receiving
  Scholarships sponsored by the county's Delinquent Tax Collection
  Law firm, Linebarger, Heard, Goggan, Blair, Graham, Pena & Sampson, LLP
  Livingston ISD Sandra Long
  Big Sandy ISD Nikki McAvoy
  Corrigan/Camden ISD Jarod "Caylon" Sullivan
  Goodrich ISD Jeremy Bennett
  Leggett ISD Abeil Martinez
- B Motioned by James J "Buddy" Purvis, seconded by B E "Slim"
  Speights, to approve Commissioners Court "Proclamation" honoring
  Goodrich High School on being selected as "Whataburger Texas
  High School of the week"
  All voting yes (See attached)
- C Barbara Middleton County Clerk reported on "DECA" Banquet at Livingston High School on Thursday evening May 20th Cala Swilley has been employed as part-time employee during this school year The County Clerks' office was recognized and given a Plaque for participating in the Program
- D Commissioner Speights reported on the road & bridge project at Big Thicket Lake Estates is still progressing well.

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- 3 MOTIONED BY BOBBY SMITH, SECONDED BY R R "Dick" HUBERT, APPROVAL OF MINUTES FOR MEETING OF MAY 11, 1999 ALL VOTING YES
- 4 MOTIONED BY BOBBY SMITH, SECONDED BY JAMES J "Buddy" PURVIS, RENEWAL/EXTENSION OF HOSPITAL LEASE TO DECEMBER 31, 2000 OR WHENEVER THEY VACATE THE PREMISES ALL VOTING YES (SEE ATTACHED)
- 5 MOTIONED BY JAMES J "Buddy" PURVIS, SECONDED BY B E "Slim" SPEIGHTS, APPROVE "ORDER" INCREASING COUNTY HOTEL OCCUPANCY TAX FROM 4% TO 7%, EFFECTIVE JULY 1, 1999 ALL VOTING YES (SEE ATTACHED)
- 6 MOTIONED BY JAMES J "Buddy" PURVIS, SECONDED BY BOBBY SMITH, APPROVAL TO PURCHASE PROPERTY ADJOINING PRECINCT #3 (Road & Bridge Yard) INCLUDING ISSUANCE OF TIME WARRANT IN AN AMOUNT NOT TO EXCEED \$ 105,000,00, (Purchase price plus appraisal and closing cost) FOR A PERIOD NOT TO EXCEED 5 YEARS and INTEREST RATE NOT TO EXCEED 5.2%, ALL VOTING YES
- 7 MOTIONED BY BOBBY SMITH, SECONDED BY JAMES J "Buddy" PURVIS, APPROVAL OF BUDGET AMENDMENTS # 99-16, plus addendums ALL VOTING YES (SEE ATTACHED)

8 MOTIONED BY BOBBY SMITH, SECONDED BY JAMES J "Buddy" PURVIS, APPROVAL AND PAYMENT OF BILLS (by schedule), PLUS ADDENDUMS ALL VOTING YES. (SFE ATTACHED)

ALL VOTING 1ES,	(SFE ATTACHED)	
DATE	AMOUNT	CHECK NUMBERS
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5 12 99	148,059 00	140742 - 140761
5 12 99	50,000 00	140762
5-12 99	- 311 40	14044 Voided Check
5 13 99	14,209 94	23 28 BTLE Project 125 Perm School 229 & 230 Elec Off Fee Accts
5 13 99	- 152 75	140276 Voided Check
5-14-99	55, 215 04	Electronic Pymts Employee Tax
5-14-99	168,984 31	140763 - 140772 (Payroll)
5-14-99	1,448 79	140773 - 140775
5-14-99	8 02	Electronic Transfer Employ Tax
5-17-99	284 25	140776 - 140777

- 9 MOTIONED BY BOBBY SMITH, SECONDED BY JAMES J "Buddy" PURVIS, APPROVAL OF PERSONNEL ACTION FORMS ALL VOTING YES (SEE ATTACHED)
- 10 MOTIONED BY BOBBY SMITH, SECONDED BY B E "Slim" SPEIGHTS. APPROVAL OF PERMANENT ROAD FUND EXPENDITURE FOR PCT #3, CLAMON CEMETERY ROAD, IN THE AMOUNT OF \$ 1,765.50 ALL VOTING YES

#### RECESS - REGULAR COURT SESSION - 10:15 A.M.

EXECUTIVE SESSION \* (Beginning 10 15 A.M.) As authorized by the Texas Open Meetings Act, as amended; Government Code, Chapter 551, Subchapter D, Section 551 071(1)

\* Consultation with Attorney.

(Ending time of executive session - 10 28 A.M.

#### RECONVENED INTO REGULAR SESSION - 10.28 A.M

11 MOTIONED BY R R "Dick" HUBERT, SECONDED BY B E "Slim" SPEIGHTS TO ADJOURN COURT THIS 21st DAY OF MAY, 1999 AT 10 28 A M **ALL VOTING YES** 

THOMPSON, COUNTY JUDGE

LOW

**ATTEST** 

BARBARA MIDDLETON, COUNTY CLERK

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# ORDER OF THE COMMISSIONERS COURT OF POLK COUNTY, TEXAS

WHF RFAS in a regularly called meeting of the Polk County Commissioners Court held on May 21, 1999 where and among other business was had, the Court approved this Order, as follows,

FOR THE PURPOSE OF INCREASING THE <u>COUNTY HOTEL OCCUPANCY TAX</u> TO SEVEN PERCENT (7 00%) AND SETTING RULES, REGULATIONS AND PROCEDURES FOR THE COLLECTION AND REPORTING OF SAID TAX IN POLK COUNTY, TEXAS (As authorized by V T S C A - Tax Code Title 3, Subtitle D, Chapter 352, Subchapter A, B)

- I <u>DEFINITION OF TERMS</u> The following words, terms and phrases are for the purpose of this article, except where the context clearly indicates a different meaning, defined as follows,
  - (A) 'Hotel shall mean a building in which members of the public obtain sleeping accommodations for consideration. The term includes a hotel, motel tourist home, tourist house tourist court lodging house inn, or rooming house or Bed and Breakfast, but does not include a hospital, sanitarium, nursing home or school dormitory or other housing facility owned or leased by an institution of higher education.
  - (B) Consideration shall mean the cost paid under a lease concession permit right of access license contract or agreement for the use or possession or for the right to use or possess a room that is in a hotel costs two dollars (\$2 00) or more each day and is ordinarily used for sleeping and shall not include the cost of any food served or personal services rendered to the occupant not related to cleaning and readying such room or space for occupancy and shall not include any tax assessed for occupancy thereof by any other governmental agency
  - (C) Occupancy' shall mean the use or possession, or the right to use or possess any room in a hotel that costs two dollars (\$2 00) or more per day and is ordinarily used for sleeping 'Occupant' shall be anyone who, for a consideration uses, possesses or has a right to use or possess a room in a hotel under any lease concession, permit, right of access, license, contract or agreement other than a permanent resident
  - (D) Person' shall mean any individual, company, corporation or association owning, operating, managing or controlling any hotel
  - (E) "Treasurer" shall mean the County Treasurer of Polk County, Texas
  - (F) 'Quarterly Period' shall mean the regular calendar quarters of the year, the first quarter being composed of the months of January, February and March, the second quarter being the months of April, May and June, the third quarter being the months of July, August and September, and the fourth quarter being the months of October, November and December
  - (G) 'Tourist' shall mean an individual who travels from the individual's residence to a different municipality, county, state or country for pleasure, recreation, education or culture
  - (H) "Tourism" shall mean the guidance or management of tourists

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#### ORDER - County Hotel Occupancy Tax Page 2

- (I) "Convention Center Facilities" or "Convention Center Complex" means civic centers, civic center buildings, auditoriums, exhibition halls and coliseums that are owned by the County or that are managed in whole or part by the County The term includes parking areas or facilities that are for the parking or storage of conveyances and that are located at or in the immediate vicinity of other convention center facilities
- (J) "Visitor Information Center" or "Tourism Information Center" means a building or portion of a building used to distribute or disseminate information to tourists

#### II LEVY OF TAX. RATE. EFFECTIVE DATE.

(A) There is hereby levied a tax upon an occupant who, under a lease, concession, permit, right of access, license contract or agreement, pays for the use or possession or the right to the use or possession of a room that is in a hotel costs \$2 or more each day, and is ordinarily used for sleeping. Such tax shall be equal to seven percent (7 00%) of the consideration paid by the occupant of such room space or facility, to such hotel, exclusive of other occupancy taxes imposed by other governmental agencies. This tax rate shall be effective July 1, 1999. This tax rate does not apply to the tax imposed on the use or possession of a room under a contract executed by and between an occupant and a hotel before the effective date of this Order if the contract provides for the payment of occupancy tax at the rate in effect when the contract was executed, unless the contract is subject to change or modification by reason of a tax rate increase.

#### III USE OF REVENUE.

- (A) Revenue derived from the tax authorized by this order is to be expended in a manner directly enhancing and promoting tourism and the convention and hotel industry as permitted by applicable law, including but not necessarily limited to,
  - the acquisition of sites for and the construction, improvement, enlarging equipping, repairing operation and maintenance of Convention Center facilities and/or Visitor Information Centers,
  - 2) Advertising and conducting solicitations and promotional programs to attract tourists to the County
  - the encouragement, promotion, improvement and application of the arts which are related to the presentation, performance execution and exhibition of major art forms,
  - historic restoration and preservation projects or activities or advertising, soliciting or promoting programs to encourage tourists to visit preserved historic sites or museums within the County that would be frequented by tourists
  - the Commissioners Court, by contract, may delegate to a person, including another governmental entity or private organization, the management or supervision of programs and activities funded with revenue from the tax authorized by this Order and in accordance with state law regarding the same

# **ORDER** - County Hotel Occupancy Tax Page 3

(B) Revenue derived from the tax authorized by this order may not be used for the general revenue purposes or general governmental operations of Polk County

#### IV EXEMPTIONS

- (A) The County Hotel Occupancy Tax shall not apply to a person who is a permanent resident of a hotel which for the purposes herein means a person who has the right to use or possess a room in a hotel for a period of at least thirty (30) consecutive days, so long as there is no interruption of payment for the period
- (B) The County Hotel Occupancy Tax shall not apply to any person or entity exempt under the provisions of Chapter 352 of the Tax Code of the State of Texas
- (C) The County Hotel Occupancy Tax shall not apply to a Hotel or other applicable facilities located within the limits of a municipality or incorporated city in Polk County which has authorized and collects an occupancy tax for that municipality or incorporated city

#### V TAX COLLECTION, REPORTING, PENALTIES

- (A) Every person owning, operating managing or controlling any hotel other than those included in the aforementioned exemptions, shall collect the tax imposed in this order, for Polk County, Texas
- (B) On the last day of the month following each quarterly period every person required in this Section to collect the tax imposed herein shall file a report with the County Treasurer in the form prescribed by the County The Report shall show the consideration paid for all room occupancies in the preceding quarter, the total tax collected on such occupancies and any other information as the County may reasonably require Such person shall pay the amount of tax collected during the period of the report at the time of filing the report with the County Treasurer
  - The County Treasurer shall have the power to impose such rules and regulations as are necessary to effectively collect the tax levied herein, and shall, upon reasonable notice, have access to books and records necessary to enable the County to determine the accurateness of any report filed under this order and the amount of taxes due under the provisions of this order. Further, the County Treasurer may request and shall receive within a reasonable time, documentation of information contained within the report to the County by the Hotel
- (C) The owner or operator of a hotel or other applicable facility shall report and send the taxes collected under this Order to the County in a timely manner and as provided within this Order
  - If the person required to collect the tax should fail to report when required or pay the tax when due, the person shall pay a penalty of five (5) percent of the amount of the tax due If the person fails to file a report or pay the tax before the 31st day after the date that the report or the tax payment was due, the person shall pay an additional penalty of five percent (5 00%) of the amount of the tax due to the County or a total penalty of ten percent (10 00%)

# ORDER - County Hotel Occupancy Tax

Page 4

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- Delinquent taxes and accrued penalties shall draw interest at the rate of ten percent (10%) per annum, beginning sixty (60) days after the date on which the tax was due. Any person or entity who purchases a hotel shall retain out of the purchase price an amount sufficient to cover any delinquent hotel occupancy taxes that are due to the County. Should the purchaser of the hotel fail to remit to the County such amount of the delinquent tax without providing sufficient proof to the County that the hotel is current in remitting hotel occupancy taxes, the purchaser shall be hable for any delinquent County Hotel Occupancy Taxes due on the purchased hotel
- The District Attorney of Polk County may bring suit against a person who is required to collect the tax imposed by this order and pay the collections over to the County and who has failed to file a tax report when required or pay the tax when due to collect the tax not paid or to enjoin the person from operating a hotel in the County until the tax is paid or the report filed as applicable as provided by this order. The remedy provided by this subsection is in addition to other available remedies.

#### VI SEVERABILITY.

In the event that any one or more of the provisions, clauses, sections or words in this Order or the application hereof to any situation or circumstance shall for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not effect any other provisions, clauses, sections or words of this Order or the application thereof to any other situation or circumstance and it is intended that this Order shall be severable and that it shall be construed and applied as if such invalid or unconstitutional provision, clause, section or word had not been included herein

APPROVED AND ADOPTED THIS 21st DAY OF MAY, 1999

John P Thompson County Judge Polk County, Texas

Barbara Middleton, County Clerk

Attest

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RLK COUNTY Billew County Audion	Auditor		BUDGET #3	BUDGET REVISION #99-16			MAY 21 1599	
Fund Account	Description	Increase	Decrease	Comments	Ongmai Budget	Amenced	Net Change	
010-403-481	Dues Payable for Co Clerk Office Equipment	90 OS	8	To establish Dues Line item account	0 00 2,500 00	50 00 2,350,00	8 8 8 8	
010-271-000	Fund Balance Juny Fees	00 000,1	1,000 00	To cover jusy fees	2,000.00	3,000 00	1 00 00	
010-271-000 010-435-401	Fund Balance TDJC	13.650.00	13 650 00	To cover excess TDCJ expenses	8,000.00	21 650 00	13 650 00	
010-495-410	Fxd Asset Maintenance Office /Equipment Expenditure	3.246 00	3,246.00	Upgrade to new asset tracking equipment, software, and supplies	5 000 00	8,246 00 2,254 00	3246 00	
310-630-406 310-630-411	HC Administrative Rembursement Pauper Care & Lunacy	3247.89	3,247,99	To cover additional expenses	35 000 00 10 000 00	000	3247.99	
315-621-339 315-621-354	Const/Matenals Tres/Tubes	1,500.00	1,500 00	To cover additional expenses	91 047 13	302,266 13	2 1,319 00 1,500 00	
115-370-150 115-622-456	Sale of Assets Parts & repairs	2,000,00		To record Sale of Truck To cover additional expenses	35 000 00	6 770.00	6 770 00	
115-623-338 115-623-338 115-623-430 115-623-573 115-625-103	Cuhverts Tires/Tubes Telephone Equipment Rental Capital Outlay Tobacco Settlement	6,000,00 1,500,00 800,00 20,500,00	3.300 00	To cover expenses	5,000.00 7,500.00 2,000.00 4,000.00 9,000.00	13,585 00 24 000 00 2 800 00 700 00 29 500 00	8,585 00 16,500 00 800 00 3 300 00 20,500 00	
15-625-104	Tobacco Settlement Culverts	1,800 00	1,800 00	To cover add expenses due to flood	136,566 00 8,000 00	40.053 00	96,513 00 7 400 00	
CZ 595-489	Contingencies	40,000 00		Grading and Excavation at current side	20 000 00	118,952.20	68.952.20	
64-409-590 64-409-591	Construction Expenditures County Match Funds	100,000 00	100 000 00	To segregale county match funds for identification and audit purposes.	320 000 00	320 000 00 100 000 00	900000 800000	AOT
95-560-134	Operating Expenses	1,350 00		Equipment for vehicles	000	8.325.18	81 222.8	
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COUNTY AUDITOR

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#### Addendum Schedule of Bills for Court Dated 5/21/99

NACRC	\$50	00	County Clerk
Excel Reporting	\$13,650	00	District Court
Davis & Brown Construction	\$1,765	50	RB 3 Permanent Road
Gray s Wholesale Tires	\$716	40	R 6 B 3
A to Z Tire	\$570	08	R & B 1
Thomas Supply	\$1,014	79	R & B 4
Deelee Plant Farm	\$200	59	Courthouse Landscaping
Texas Dept of Transportation	\$20,500	00	R & B 3
Cherokee County	\$1,052	00	Pauper Care & Luncacy
Joe McCoy	\$2,500	00	Waste Management
Polk County Garden Club	\$10,000	00	Courthouse Landscaping
W H Clarke & Sons	\$42,247	80	Waste Management

TOTAL

\$94,267 16 John P. Thoupson

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(21)	(8	(19)	(18)	(61)	(F)	(15)	3	(13)	(12)	(11)	(ē	3	3	3	9	3		(5)	3	€	3		2)		3	NO
														WALKER	MALLEY C	JAMAM	PROVINCE	LINDA	CELESTINE	MARARET	\$	VAUGHN	CHARLES D	MYERS	MICHELLE	NAME
														MANAGEMENT	MANAGEMENT	WASTE	CLERK	COUNTY	CLERK	COMPA	COUNTY	MANAGEMENT	WASTE		SHERIFF	DEPT
														HEAVY FOLIPHENT OPERATOR	TRUCK DRIVER	P905	DEPUTY CLERK	#105	DEPUTY CLERK	SECRETARY	#102	TRUCK DRIVER	#905	TELCOMMUNICATION OPER	#1043	CLASSIFICATION
														REGULAR	FULL TIME	REGULAR	FULL TIME	REGULAR	FINI TIME	PART TIME	TEMPORARY	FULL TIME	REGULAR	FULL TIME	REGULAR	TYPE OF
													# 1,000 GS	: š	\$10 688 88	12/3	\$16 117 43	10/1	10/1	85.25	UNCLASSIFIED	\$17 793 46	121	\$17 357.24	11/2	SALARY
													EFFECTIVE CANTES	RETIRED	EFFECTIVE 06/01/99	TRANSFER TO #100 HEAVY EQUIT OPER 14/1 \$19 630 21	EFFECTIVE 06-01-29	MERIT INCREASE YO GOOD & GERN ON	MERIT INCREASE TO 10/2 \$14_530 70	EFFECTIVE 05/27/99	RESIGNED	EFFECTIVE 06/01/79	NEW HIRE	EFFECTIVE 05/28/29	RESKNED	АСТЮМ
													TANOL L'I UUA		ADDITIONAL.											