

**COPY**

Contract # \_\_\_\_\_ CTIF-01-187  
District # \_\_\_\_\_ 11  
Code Chart 64 # \_\_\_\_\_ 50187  
Project: \_\_\_\_\_ Polk 2014 CTIF Award

STATE OF TEXAS §

COUNTY OF TRAVIS §

**COUNTY TRANSPORTATION  
INFRASTRUCTURE FUND GRANT AGREEMENT**

**THIS AGREEMENT** is made by and between the State of Texas, acting by and through the Texas Department of Transportation, called the "State", and       POLK       County, acting by and through its duly authorized officials, called the "County."

**WITNESSETH**

**WHEREAS**, Transportation Code, Chapter 256, Subchapter C allows for the Texas Department of Transportation to make grants to counties for transportation infrastructure projects located in areas of the state affected by increased oil and gas production; and

**WHEREAS**, The County has submitted its application for the Grant funding from the State and its application was approved; and

**WHEREAS**, state law requires counties to meet certain contract standards relating to the management and administration of State funds; and

**WHEREAS**, the Governing Body of the County has approved entering into this agreement by resolution or ordinance which is attached to and made a part of this agreement as Attachment A; and

**NOW THEREFORE**, the State and the County agree as follows:

**AGREEMENT**

**1. Agreement Period.** This agreement becomes effective when signed by the last party whose signing makes the agreement fully executed. This agreement shall remain in effect until the Projects are completed or unless terminated as provided below.

**2. Scope of Work.** The County shall complete the transportation infrastructure projects as proposed in its List of Transportation Infrastructure Projects defined in 3. below. The County shall place the transportation infrastructure projects on the county road system.

**3. List of Transportation Infrastructure Projects.** The County is responsible to review the list of projects listed on its previously submitted application for a grant from the fund and create a List of Transportation Infrastructure Projects prioritizing its choice of projects which can be performed with the grant amount awarded to the County by the State. Within thirty (30) calendar days after final execution of this agreement, the County shall submit to the State this List of Transportation Infrastructure Projects (in a format specified by the State). This List of Transportation Infrastructure Projects shall include an estimated month and year of starting construction and completing construction for each funded project including the estimated project cost for each project. During the term of this agreement, updates to the List of Transportation Infrastructure Projects may be made by the County. Updates can include changes in priority, changes in estimated cost, changes in month or year of starting

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or completing construction, or adding or deleting projects. Any proposed new projects shall include the same information as was required for projects submitted as part of the application for a grant from the fund. Updated List of Transportation Infrastructure Projects or a statement of no material change to the previously submitted list shall be submitted to the State no less than semi-annually. Any update to the List of Transportation Infrastructure Projects requires written concurrence from the State to the County.

**4. Project Sources, Uses of Funds, and Reimbursement.**

- a. The State has authorized the total amount of grant award from the fund as shown in Attachment B, Amount of Grant Award and Funding Commitments, which is attached to this agreement. The expected cash contributions from the State, the County, or other parties are shown in Attachment B. The State will reimburse only for allowable project costs for this program in accordance with 43 TAC § 15.192. The County must be in compliance with the requirements of this agreement to receive reimbursement of project costs.
- b. The County shall submit monthly billing statements or a statement that no construction or maintenance work was performed during the previous month, in accordance with procedures defined by the State, accompanied by a certification of work performed during the previous month. Along with the billing statements submitted by the County, it shall submit copies of all paid invoices and/or force account documentation. Within thirty (30) days of receipt of a complete billing statement and supporting documentation, the State will reimburse the County.
- c. The County shall not commence construction of a funded transportation infrastructure project prior to receipt of written approval from the State in accordance with procedures defined by the State.
- d. If the County commences performance on a transportation infrastructure project but fails to complete the project, the State may seek reimbursement of all money received by the County for that individual transportation infrastructure project.
- e. For each transportation infrastructure project located on the State highway system, the County shall contribute to the State (from the amount awarded to the County from the fund and the County's matching funds) an amount equal to the allowable costs incurred by the State for that project.
- f. The County may submit in writing to the State a proposed amendment during the term of this agreement changing the order of projects on its List of Transportation Infrastructure Projects or identifying additional project(s) or extended limits on an approved project that contains all information required by rule for that project. If funds are available within the amount awarded to the County, the State may execute the proposed amendment allowing the County to use the available funds in the revised order, for the additional project(s), or for extended limits on an approved project in the County.
- g. The state auditor may conduct an audit or investigation of any entity receiving funds from the State directly under this agreement or indirectly through a subcontract under this agreement. Acceptance of funds directly under this agreement or indirectly through a subcontract under this agreement acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.



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**5. Project Responsibilities.** The County is responsible for all aspects of the work constituting this Project or list of projects unless otherwise indicated in this agreement. In order to obtain reimbursement for eligible expenses from the State, the County shall certify to the State in accordance with procedures defined by the State that they have complied with all program requirements and applicable federal, state, and local laws and regulations.

**6. Final Inspection.** The County shall perform final inspection and acceptance of each transportation infrastructure project when it is complete. The County shall send a copy of a document evidencing inspection and acceptance of the project to the State within thirty (30) days after the inspection is completed.

**7. Right of Way and Real Property Acquisition.** The County shall comply with all the requirements of Title II and Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Title 42 U.S.C.A. Section 4601et seq.

**8. Suspension.** If the State determines that the County has not been complying with 43, TAC, Part I, Chapter 15, Subchapter O, the State may prohibit the County from continuing with all projects on the List of Transportation Infrastructure Projects until the County complies.

**9. Termination of this Agreement.** This agreement shall remain in effect until the transportation infrastructure projects identified in the most current List of Transportation Infrastructure Projects with concurrence from the State are completed and accepted by all parties, unless the:

- a. Agreement is terminated in writing with the mutual consent of the parties; or
- b. Agreement is terminated because the County has breached the agreement for Failure to Comply as stated in Paragraph 16.

**10. Environmental Permitting and Regulatory Issues.**

- a. The County must comply with all applicable federal, state, and local environmental laws and regulations and permitting requirements.
- b. The County is responsible for coordination and environmental clearance.
- c. The County is responsible for identification and assessment of any environmental problems associated with the project(s) and for the cost of any environmental problem's mitigation and remediation.
- d. The County is responsible for providing any required public meetings or public hearings for assessing and mitigating environmental issues.
- e. The County shall provide the State with written certification by a qualified professional that all identified environmental problems have been remediated and that all required permits and clearances from appropriate regulatory agencies have been obtained.

**11. Compliance with Texas Accessibility Standards and ADA.** The County shall ensure that the plans for and the construction of the transportation infrastructure projects subject to this agreement are in compliance with the Texas Accessibility Standards (TAS) issued by the Texas Department of Licensing and Regulation, under the Texas Government Code, Chapter 469, Elimination of Architectural Barriers. The TAS establishes minimum accessibility requirements to be consistent with minimum accessibility requirements of the Americans with Disabilities Act (42 U.S.C. Section 12101 et seq.). The County shall provide written

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certification to the State of compliance, or non-applicability, for each transportation infrastructure project.

**12. Project Maintenance.** The County shall maintain any roadway on the County system constructed under this Agreement after completion of the proposed work.

**13. Historically Underutilized Business (HUB) Program Requirements.** The County shall comply with all applicable requirements of the Comptroller of Public Accounts (CPA) Historically Underutilized Business (HUB) Program.

**14. Grant Management Standards.** The County must comply with the Uniform Grant Management Standards promulgated by the Office of the Governor under 34 TAC Part 1, Chapter 20, Subchapter I – Comptroller.

**15. Certification.**

Within sixty (60) days after the completion of a listed transportation infrastructure project, the County must submit a written certification to the State in accordance with procedures defined by the State that it has complied with the requirements for this grant awarded under 43 TAC, Part 1, Chapter 15, Subchapter O, including a certification that the project has been constructed in accordance with all applicable requirements, laws, rules and requirements. The Certification must describe the allowable costs for the project and the amount reimbursed from the fund.

**16. Failure to Comply.**

- a. If the State determines that the County has not complied with one or more material requirements of the grant rules, the State may prohibit the County from participating in the program.
- b. The prohibition from participating may continue until the State determines that the County has complied with all material requirement of the applicable rule.
- c. The State may remove the County's project or projects from participation in the program if the project(s) is not let or begun as force account work within three (3) years of the execution of this agreement or within another reasonable period agreed to by the State and the County.
- d. Prior to exercising any remedies above or the remedy regarding reimbursement in 4.d., the State will provide a written notice to the County identifying the applicable requirement and specifying the failure to comply.
- e. The County may respond in writing to the State with a reasonable schedule for the County's timely compliance with the applicable requirement, or if compliance is not practical, with an alternative proposal that is acceptable to the State. Should the County fail to deliver an acceptable response to the State within thirty (30) days after the date that the County received the notice, the State may proceed with the applicable remedies allowed by rule.

**17. Amendments.** An amendment to this agreement must be in writing and executed jointly by the State and the County.

**18. Remedies.** This agreement shall not be considered as specifying the exclusive remedy for any agreement default, but all remedies existing at law and in equity may be availed of by either party to this agreement and shall be cumulative.



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**19. Notices.** All notices to either party by the other required under this agreement shall be delivered personally or sent by certified or U.S. mail, postage prepaid, addressed to the party at the following addresses:

<b>County:</b>	<b>State:</b>
<u>Polk County, Texas</u>	<u>Texas Dept. of Transportation</u>
<u>C/O County Judge's Office</u>	<u>Director - Contract Services Office</u>
<u>101 W. Church, ste. 300</u>	<u>125 E. 11th Street</u>
<u>Livingston, Texas 77351</u>	<u>Austin, Texas 78701-2483</u>

All notices shall be deemed given on the date delivered or deposited in the regular mail, unless otherwise provided in this agreement. Either party may change the above address by sending written notice of the change to the other party. Either party may request in writing that notices shall be delivered personally or by certified U.S. mail and the request shall be honored and carried out by the other party.

**20. Legal Construction.** In case one or more of the provisions contained in this agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, that invalidity, illegality, or unenforceability shall not affect any other provisions and this agreement shall be construed as if it did not contain the invalid, illegal or unenforceable provision.

**21. Responsibilities of the Parties.**

- a. The State and the County agree that neither party is an agent, servant, or employee of the other party and each party agrees it is responsible for its individual acts and deeds as well as the acts and deeds of its contractors, employees, representatives, and agents.
- b. To the extent permitted by law, the County agrees to indemnify and save harmless the State, its agents and employees from all suits, actions or claims and from all liability and damages resulting from any and all injuries or damages sustained by any person or property in consequence of any neglect, error, or omission in the performance of the design, construction, maintenance or operation of the Project by the County, its contractors, subcontractors, agents and employees, and from any claims or amounts arising or recovered under the Workers' Compensation Laws; the Texas Tort Claims Act, Chapter 101, Texas Civil Practice and Remedies Code; or any other applicable laws or regulations, all as from time to time may be amended.
- c. The parties expressly agree that this project is not a joint venture or enterprise. However, if a court should find that the parties are engaged in a joint venture or enterprise, then the County agrees to pay any liability adjudicated against the State for acts and deeds of the County, its employees or agents during the performance of this Project.
- d. The County shall also indemnify and save harmless the State from any and all expense, including, but not limited to, attorney fees which may be incurred by the State in litigation or otherwise resisting any claim or liabilities which may be imposed on the State as a result of activities by the County, its agents, or employees.

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- e. Should the County's transportation infrastructure project require the County or its contractor to perform any work on State right of way, the County, by contract, shall require each: (1) contractor and subcontractor it may hire to secure a policy of insurance in the maximum statutory limits for tort liability, naming the State as an additional insured under its terms; and (2) contractor it may hire to indemnify and hold harmless the County and the State from all claims, liability, and damages resulting from the contractor's performance under a contract to do work.

**22. Ownership of Documents.** Upon completion or termination of this agreement, all documents prepared by the State shall remain the property of the State. All data prepared under this agreement shall be made available to the State without restriction or limitation on their further use. All documents produced or approved or otherwise created by the County shall be made available to the State upon request by the State. The originals shall remain the property of the County.

**23. Compliance with Laws.** The parties shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, permitting requirements, and the orders and decrees of any courts or administrative bodies or tribunals in any manner affecting the performance of this agreement. When required, the County shall furnish the State with satisfactory proof of this compliance.

**24. Sole Agreement.** This agreement constitutes the sole and only agreement between the parties and supersedes any prior understandings or written or oral agreements respecting the subject matter of this agreement.

**25. Retention of Records and Inspection.** The County shall keep a complete and accurate record to document the performance of the work and to expedite any audit that might be conducted. The County shall maintain all books, documents, papers, accounting records and other documentation relating to costs. Records shall include, but not be limited to, diaries, materials received (invoices), test reports, manufacturer's certificates, warranties, change orders, and time extensions. The County shall make those materials available to the State or their duly authorized representatives for verification, review and inspection at its office during the contract period and for three (3) years from the date the final payment is received by the County or until any impending litigation, or claims are resolved.

**26. Signatory Warranty.** Each signatory warrants that the signatory has the necessary authority to execute this agreement on behalf of the entity represented.

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THIS AGREEMENT IS EXECUTED by the State and the County in duplicate.

**THE COUNTY**

\_\_\_\_\_  
Signature

Robert C. "Bob" Willis, Commissioner Pct 1 (presiding)

\_\_\_\_\_  
Printed Name and Title

June 24, 2014

\_\_\_\_\_  
Date

**THE STATE OF TEXAS**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Typed or Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**COPY**



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## ATTACHMENT A

### Resolution or Ordinance



IN THE COMMISSIONERS COURT  
OF  
POLK COUNTY, TEXAS

**RESOLUTION AND ORDER**  
**APPROVING THE COUNTY TRANSPORTATION**  
**INFRASTRUCTURE FUND GRANT PROGRAM AGREEMENT,**  
**DESIGNATING AUTHORIZED REPRESENTATIVE,**  
**AND MAKING SPECIFIC FINDINGS**  
**REQUIRED BY THE**  
**TEXAS DEPARTMENT OF TRANSPORTATION**

**WHEREAS**, Polk County has received a Notice of Eligible Grant Award from the Texas Department of Transportation (“TxDOT”) in the amount of \$519,595.00; and

**WHEREAS** the Commissioners Court of Polk County has determined that it is in the best interests of the citizens of Polk County to enter into an Agreement with TxDOT concerning the County Transportation Infrastructure Fund Grant Program; and

**WHEREAS** TxDOT has created County Transportation Infrastructure Fund Grant Program Implementation Procedures that Polk County is required to follow to receive the **grant** funding; and

**THEREFORE, IT IS ORDERED ADJUDGED AND DECREED** that Polk County designates (4) County Commissioners as listed on pg. 4 of Order as its County Representative and authorizes the County Representative to sign all project-related documents on behalf of the County, including any certifications required by the Grant Program; and

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the Polk County Commissioners Court hereby approves the attached County Transportation Infrastructure Fund Grant Program Agreement (“the Agreement”) and authorizes the County Representative to execute the Agreement between Polk County and the Texas Department of Transportation.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the Polk County Commissioners Court hereby approves the attached revised Prioritized List of road projects to be funded with the County Transportation Infrastructure Fund Grant.

**IT IS FURTHER ORDERED ADJUDGED AND DECREED** that the Commissioners Court of Polk County makes the following findings in the exercise of discretion and authority extended to said Commissioners Court by Texas Law, and such findings are made upon due

inquiry and satisfactory proof that such findings are factual and based upon commonly accepted practices and standards by Texas Counties:

**IT IS THE FINDING OF THIS COMMISSIONERS COURT** that the county has experience in the construction and maintenance of all county roads currently in the County road maintenance inventory, and that the county has suitable equipment, experience and personnel to properly repair such roads without the utilization of outside contractors, or, if such contractors are required in the prudent expenditure of county and grant funds, that such contractors will be selected upon demonstrated competence and the lowest and most suitable bid, if competitive bidding is required. In this regard, the County has suitable design standards, specifications and quality assurance procedures in place to assure that resulting road maintenance projects are properly constructed with suitable materials and that appropriate safety and environmental procedures will be utilized. The County Representative is hereby expressly authorized to certify to such.

**IT IS THE FURTHER FINDING OF THIS COMMISSIONERS COURT** that Polk County will utilize generally accepted cost accounting practices in the financial aspects of this grant administration, and that proper documentation of all expenditures will be maintained by the appropriate county officials responsible for financial aspects of the grant administration.

The County Representative is hereby expressly authorized to certify to such.

**IT IS THE FURTHER FINDING OF THIS COMMISSIONERS COURT** that with the following exceptions, all road right-of-way involved in projects identified for funding under this grant is presently within the county road maintenance inventory, and no new right of way, except as noted, is required:

**(If new right of way is required, please describe here, i.e. the width of the right of way to be acquired, and a legal description of the new right of way. Please note that acquisition of right of way may require legal and environmental assessment, along with care to insure that all acquisition procedures required by law are followed.)**

The County Representative is hereby expressly authorized to certify to such.

**IT IS THE FURTHER FINDING OF THIS COMMISSIONERS COURT** that Polk County will notify all public utilities, water supply corporations, and common carriers of record of their plans to repair, renovate or construct the project roads identified in the Grant application, and will cooperate with the said utilities and common carriers for protection of such



infrastructure. It is not anticipated that any relocation of utilities will be required. The County Representative is hereby expressly authorized to certify to such.

**IT IS THE FURTHER FINDING OF THIS COMMISSIONERS COURT** pursuant to 40 C.F.R. §1500, and specifically §1508.4 et seq, and 33 U.S.C. §1344, (f)(1)(B) and (C), county road maintenance projects are not prohibited by the National Environmental Protection Act (NEPA), nor the Water Pollution Prevention and Control Act, and that as a categorical exclusion, such projects pose no significant effect on the human or natural environment, and which this Court finds to have no such adverse impact, and therefore do not require an environmental impact assessment of the projects contemplated in this grant, in that no federal funds are being used by the County in meeting the grant requirements. The County shall comply with applicable state environmental standards, as applicable, such as 30 TAC §111.147, and as such, this finding further authorizes the County Representative to make certifications regarding compliance with environmental requirements of the Grant, which is expressly approved by this Commissioners Court.

**IT IS THE FURTHER FINDING OF THIS COMMISSIONERS COURT** that as a public roadway, open to all residents for use as a public road designed for vehicular traffic, as defined by statute and other applicable law, that the road projects subject to this grant are in full compliance with the Texas Accessibility Standards and the Americans with Disabilities access standards, as the same may apply, and the County Representative is hereby expressly authorized to certify to such.

Finally, **IT IS THE FURTHER FINDING OF THIS COMMISSIONERS COURT** that where necessary, any materials required for the completion of this project shall be solicited by a standard that is known to be suitable for use in road construction and repair projects, and the County will require such testing as may be deemed appropriate to determine that such materials meet any applicable standards, either by specification or by direct inquiry with the provider or vendor of such materials. The County Representative is hereby expressly authorized to certify to such.

Read and Adopted this 24th day of June, 2014, by a vote of ALL ayes and NO nays.

ABSENT  
\_\_\_\_\_  
County Judge

\_\_\_\_\_  
Commissioner, Precinct 1  
Robert C. "Bob" Willis, Presiding

\_\_\_\_\_  
Commissioner, Precinct 2  
Ronnie Vincent

\_\_\_\_\_  
Commissioner, Precinct 3  
Milton Purvis

\_\_\_\_\_  
Commissioner, Precinct 4  
Tommy Overstreet

ATTEST:

\_\_\_\_\_  
County Clerk  
Schelana Walker



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## ATTACHMENT B

### Amount of Grant Award and Funding Commitments

County of: POLK

Amount of Grant Funds Awarded by State: \$ 519,595.00

Minimum amount of County Matching Funds\*: \$ 129,899.00

\* The State Share will be 90% for counties determined to be "economically disadvantaged" by Transportation Code 222.053. These counties will have a minimum of 10% county matching funds. The State Share will be 80% for counties not determined to be "economically disadvantaged" by Transportation Code 222.053. These counties will have a minimum of 20% matching funds.





County: **POLK**

Choose your county from drop down menu

**COUNTY TRANSPORTATION INFRASTRUCTURE FUND GRANT PROGRAM**

**LIST OF TRANSPORTATION INFRASTRUCTURE PROJECTS (Prioritized List)**

Make sure to prioritize your county's projects and put them in order of most importance to least importance. Total project cost will equal the total grant as reflected in the agreement (including engineering, right-of-way and utility costs, construction, inspection, etc., as applicable.)

TxDOT District: 11

Project Priority Number	Roadway Name or Designation	Project Limits	PROJECT INFORMATION		EXISTING ROADWAY		IMPLEMENTATION SCHEDULE			ESTIMATE			FUNDING	
			Scope / Type of Work	Type of Facility	Existing Surface	Competitive Bid or County Forces?	Proposed Begin Construction Date (Mo./Yr.)	Proposed End Construction Date (Mo./Yr.)	Engineering	ROW/Utilities	Construction	Estimated Total Project Cost	State Share	County Share
1	Stevens Ln	from Fm 3277, ~3,500 feet to Tigerville Rd	Limestone Stabilization and Full application of chip & seal	Precinct 1: 2 lane rural	Asphalt	Both	05/2014	5/2015			\$ 89,175	\$ 71,340	\$ 17,835	
2	Rocky Creek Road	from FM3152 appx. 14,350 LF to Reel and Rifle Rd	Apply, compact & blade road base	Precinct 2: 2 lane rural	mixture of rock & native soil	County Forces	5/2014	5/2015			\$ 149,384	\$ 119,507	\$ 29,877	
3	McSpadden Rd	from FM942 appx 1.5mi to Y intersection	Add limestone base, regrade & compact	Precinct 3: 2 lane rural	mixture of rock & dirt	County Forces	5/2014	5/2015			\$ 175,363	\$ 140,290	\$ 35,073	
4	Plum Pudding Rd	from FM2798 appx 1mi to unnamed oil field rd on left	add limestone road base & regrade	Precinct 4: 2 lane rural	mixture of rock & native soil	County Forces	5/2014	5/2015			\$ 129,500	\$ 103,600	\$ 25,900	
5	Tigerville Rd	from New Cove Dr. ~2,180 feet to end of road	Limestone Stabilization and Full application of chip & seal	Precinct 1: 2 lane rural	Asphalt	Both	05/2014	5/2015			\$ 49,317	\$ 39,454	\$ 9,863	
6	Tom Marsh Rd	from FM943 to end	Add limestone base & regrade	Precinct 4: 2 lane rural	mixture of rock & native soil	County Forces	5/2014	5/2015			\$ 45,863	\$ 36,690	\$ 9,173	
7	Mangum Rd	from FM 350 ~4.25 miles to FM 3126	Limestone Stabilization and Full application of chip & seal	Precinct 1: 2 lane rural	Asphalt	Both	05/2014	5/2015			\$ 10,892	\$ 8,714	\$ 2,178	
8														
9														
10														
11														
12														
13														
14														
15														
16														
17														
18														
19														
20														
Total											\$ 649,494	\$ 519,595	\$ 129,899	

If your county is an "economically disadvantaged county" as determined by Transportation Code 222.053, the State Share will be 90% of the allowable Total Project Cost. If your county is not "economically disadvantaged," the State Share will be 80%. A list of economically disadvantaged counties can be found at <http://ftp.dot.state.tx.us/pub/txdot/info/energy/edc-2014.pdf>.

The state acknowledges and concurs with the information stated herein as the \_\_\_ day of \_\_\_\_\_.

The State of Texas

By: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_