



COMMISSIONER'S COURT MINUTES
AUGUST 9TH SPECIAL TERM, A.D. 2021

1. CALL TO ORDER.

2. DETERMINATION THAT A QUORUM IS PRESENT:

BE IT REMEMBERED that on this the 9th day of August A.D. 2021 at 9:00 o'clock A.M., after due notice was given by posting of the attached Agenda; the Honorable Val Verde County Commissioners' Court convened in **SPECIAL SESSION**. The meeting was called to order, the following members being present and constituted a quorum: Lewis G. Owens Jr., County Judge, Presiding; Martin Wardlaw, Commissioner of Precinct No. 1; Juan Carlos Vazquez, Commissioner of Precinct No. 2; Robert "LeBeau" Nettleton; Commissioner of Precinct No. 3; Gustavo Flores, Commissioner of Precinct No. 4; and Generosa Gracia-Ramon, County Clerk; when the following proceeding was had to wit:

3. Pledge of allegiance.

4. Present Tax Rate.

ORDER	Motion	2 nd	Amend	Amendment/Notes	Accept	Ayes	Noes	Abst
N/A				Presentation by Tax				
				Assessor-Collector and				
				County Auditor.				

5. Vote on proposed Tax Rate.

ORDER	Motion	2 nd	Amend	Amendment/Notes	Accept	Ayes	Noes	Abst
21-510	N	V		Motion to set the		F, N, O, V, W		
				Proposed Tax				
				Rate at .5121.				
				Roll Call Vote:				
				JUDGE OWENS		AYE		
				COMM. FLORES		AYE		
				COMM. NETTLETON		AYE		
				COMM. VASQUEZ		AYE		
				COMM. WARDLAW		AYE		

MOTION KEY:

JUDGE OWENS= O
 COMM WARDLAW=W
 COMM VAZQUEZ=V
 COMM NETTLETON=N
 COMM FLORES= F

QUORUM

☒ COUNTY JUDGE
☒ Judge's Staff
☐ Judge's Staff
☒ COMM. PRCT# 1
☒ COMM. PRCT# 2
☒ COMM. PRCT# 3
☒ COMM. PRCT# 4

ATTENDING

COUNTY STAFF/DEPTS:

☒ COUNTY ATTY
☐ COUNTY ATTY STAFF
☐ COUNTY ATTY STAFF
☐ DISTRICT CLERK
☒ IT
☒ SHERIFF
☐ SHERIFF'S STAFF
☒ AUDITOR
☐ TREASURER
☐ PURCHASING
☐ HR
☒ TAX COLLECTOR
☒ RISK MGMT
☐ FIRE DEPT
☐ EMERGENCY MGMT
☒ JP #1 Constable #1 ☒
☐ JP #2 Constable #2
☐ JP #3 Constable #3
☒ JP #4 Constable #4
☐ OTHER

MOTION KEY: JUDGE OWENS= O; COMM WARDLAW=W; COMM VAZQUEZ=V; COMM NETTLETON=N; COMM FLORES=F

6. Set date for Proposed Tax Rate hearing.

ORDER	Motion	2 nd	Amend	Amendment/Notes	Accept	Ayes	Noes	Abst
21-511	N	F		Motion to set the Proposed		F, N, O, V, W		
				Tax Rate Hearing for August				
				31, 2021 at 9:15 a.m.				

7. Set date to Publish Notice for Tax Rate.

ORDER	Motion	2 nd	Amend	Amendment/Notes	Accept	Ayes	Noes	Abst
21-512	N	F		Motion to Publish Notice for		F, N, O, V, W		
				Proposed Tax Rate on August				
				18, 2021.				

8. Set date for Budget Hearing.

ORDER	Motion	2 nd	Amend	Amendment/Notes	Accept	Ayes	Noes	Abst
21-513	N	V		Motion to set the Budget Hearing		F, N, O, V, W		
				For August 31, 2021.				
			N	Motion to set hearing for 9:30 AM.	V			

9. Set date to Publish Notice for Budget.

ORDER	Motion	2 nd	Amend	Amendment/Notes	Accept	Ayes	Noes	Abst
21-514	N	F		Motion to publish Notice for Budget		F, N, O, V, W		
				For August 18, 2021.				

10. Set date to Adopt Budget.

ORDER	Motion	2 nd	Amend	Amendment/Notes	Accept	Ayes	Noes	Abst
21-515	N	V		Motion to set August 31, 2021 to		F, N, O, V, W		
				Adopt Budget 2021-2022.				

11. Set date to Adopt Tax Rate.

ORDER	Motion	2 nd	Amend	Amendment/Notes	Accept	Ayes	Noes	Abst
21-516	N	F		Motion to set August 31, 2021 to		F, N, O, V, W		
				Adopt Tax Rate.				

MOTION KEY: JUDGE OWENS=O; COMM WARDLAW=W; COMM VAZQUEZ=V; COMM NETTLETON=N; COMM FLORES=F

12. Vote to set Elected Official Salaries.

ORDER	Motion	2 nd	Amend	Amendment/Notes	Accept	Ayes	Noes	Abst
21-517	N	F		Motion to Table until after Executive Session. (See Order #21-512)		F, N, O, V, W		

13. Set date for Budget Workshop.

ORDER	Motion	2 nd	Amend	Amendment/Notes	Accept	Ayes	Noes	Abst
21-518	N	V		Motion to set Budget Workshop for August 17, 2021 at Regular Meeting.		F, N, O, V, W		

14. Set date for Budget Workshop.

ORDER	Motion	2 nd	Amend	Amendment/Notes	Accept	Ayes	Noes	Abst
N/A				NO ACTION				

15. Discussion and possible action on the use of the Fairgrounds for the September 11th retirement of the flags on September 11, 2021.

ORDER	Motion	2 nd	Amend	Amendment/Notes	Accept	Ayes	Noes	Abst
21-519	N	W		Motion to approve as presented.		F, N, O, V, W		

16. Discussion and possible action to adopt a Resolution in place of a bill filed by Senator Roland Gutierrez.

ORDER	Motion	2 nd	Amend	Amendment/Notes	Accept	Ayes	Noes	Abst
21-520	N	F		Motion to authorize Judge to prepare and Submit a Resolution once a reimbursement Bill For Operation Lone Star is filed.		F, N, O, V, W		

17. Discussion and possible action to approval and apply for County Feral Hog Grant.

ORDER	Motion	2 nd	Amend	Amendment/Notes	Accept	Ayes	Noes	Abst
21-521	N	W		Motion to approve as presented.		F, N, O, V, W		

18. Discussion and possible action to go out for RFQ's for Bond Counsel.

ORDER	Motion	2 nd	Amend	Amendment/Notes	Accept	Ayes	Noes	Abst
21-522	N	F		Motion to approve as presented.		F, N, O, V, W		

MOTION KEY: JUDGE OWENS=O; COMM WARDLAW=W; COMM VAZQUEZ=V; COMM NETTLETON=N; COMM FLORES=F

19. Discussion and possible action to go out for RFQ's for Financial Advisor.

ORDER	Motion	2 nd	Amend	Amendment/Notes	Accept	Ayes	Noes	Abst
21-523	N	F		Motion to approve as presented.		F, N, O, V, W		

20. Approving TWDB Grant Agreement 40062 for Flood Infrastructure Fund Project and authorize County Judge to sign.

ORDER	Motion	2 nd	Amend	Amendment/Notes	Accept	Ayes	Noes	Abst
21-524	N	F		Motion to approve as presented		F, N, O, V, W		
				and authorize the Judge to sign.				

21. Approval of Kelley Ranch Subdivision and authorizing County Judge to sign Construction Agreement.

ORDER	Motion	2 nd	Amend	Amendment/Notes	Accept	Ayes	Noes	Abst
21-525	N	V		Motion to approve as presented.		F, N, O, V, W		

22. Approving/Ratifying contract with Bond Counsel.

ORDER	Motion	2 nd	Amend	Amendment/Notes	Accept	Ayes	Noes	Abst
21-526	N	F		Motion to ratify Bond Counsel		F, N, O, V, W		
				Contract (\$210,000 Certificates of				
				Obligation) which has been				
				reviewed by Counsel and authorize				
				the Judge to sign.				

David E. Martinez, County Attorney

23. Closed session consultation pursuant to Texas Government Code:

A. §551.071(2), attorney/client privilege.

B. §551.071(1)(A), contemplated litigation.

EXECUTIVE SESSION:	☒ §551.071(1) (A)	☒ §551.071(1) (A)	☐ §551.071(2)
	☐ §551.071(1) (B)	☐ §551.072	
OTHER	BEGAN @ 9:40 AM	ENDED @ 10:45 AM	BREAK @
	RESUMED @	ACTION AFTER EX: Yes	

MOTION KEY: JUDGE OWENS= O; COMM WARDLAW=W; COMM VAZQUEZ=V; COMM NETTLETON=N; COMM FLORES=F

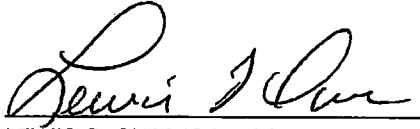
[SEE ALSO AGENDA ITEM #12]

ORDER	Motion	2 nd	Amend	Amendment/Notes	Accept	Ayes	Noes	Abst
21-527	N	F		Motion to propose that all elected official's		F, N, O, V, W		
				receive a 3% salary increase or \$1,200.00,				
				whichever is higher, this being their regular				
				raise; and, that the County Sheriff, County				
				Attorney, Commissioners Nettleton, Flores				
				Wardlaw, Vasquez, County Judge; receive a				
				one-time \$2,000.00 stipend out of ARPA				
				monies with all other elected officials to				
				receive a one-time \$1,300.00 stipend.				

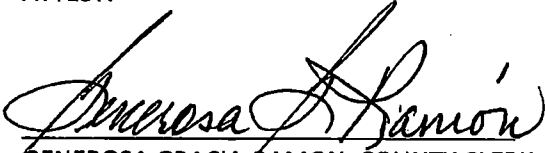
Commissioners Court reserves the right to hear any of the above agenda items that qualify for an executive session in an executive session by publicly announcing the applicable section number of the Open Meetings Act (Chapter 551 of the Texas Government Code) that justifies executive session treatment.

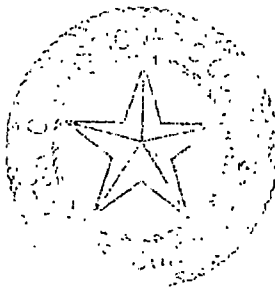
The foregoing, recorded in Volume 60, pages 522-571, inclusive, was on this the 17th day of AUGUST A.D. 2021, read and is hereby **APPROVED**.

Respectfully submitted,


LEWIS G. OWENS JR, COUNTY JUDGE
VAL VERDE COUNTY, TEXAS

ATTEST:


GENEROSA GRACIA-RAMON, COUNTY CLERK
VAL VERDE COUNTY, TEXAS



MOTION KEY: JUDGE OWENS= O; COMM WARDLAW=W; COMM VAZQUEZ=V; COMM NETTLETON=N; COMM FLORES=F

County of Val Verde



Lewis G. Owens Jr.

County Judge

400 Pecan Street
Del Rio, TX 78840
Email: lowens@valverdecountry.texas.gov

Phone (830) 774-7501
Fax (830) 775-9406

AGENDA/NOTICE
VAL VERDE COUNTY COMMISSIONERS COURT
SPECIAL MEETING

Old County Court at Law Bldg.
207B E. Losoya Street
Del Rio, TX

Live Feed Link- <http://valverdecountry.texas.gov/>

August 9, 2022
9:00 am

1. Call to order.
2. Determination that a quorum is present.
3. Pledge of allegiance.
4. Present Tax Rate.
5. Vote on proposed Tax Rate.
6. Set date for Tax Rate hearing.

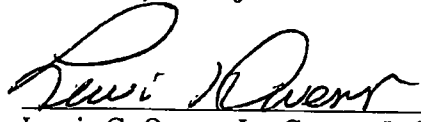
7. Set date to Publish Notice for Tax Rate.
8. Set date for Budget Hearing.
9. Set date to Publish Notice for Budget.
10. Set date to Adopt Budget.
11. Set date to Adopt Tax Rate.
12. Vote to set Elected Official Salaries.
13. Set date for Budget Workshop.
14. Discussion and possible action on a grievance committee for FY 2022/2023 and for Elected Officials salaries.

David E. Martinez, County Attorney

15. Closed session consultation pursuant to Texas Government Code:
 - A. §551.071(2), attorney/client privilege.
 - B. §551.071(1)(A), contemplated litigation.

400 Pecan Street • Del Rio, TX 78840

Commissioners Court reserves the right to hear any of the above agenda items that qualify for an executive session in an executive session by publicly announcing the applicable section number of the Open Meetings Act (Chapter 551 of the Texas Government Code) that justifies executive session treatment.


Lewis G. Owens Jr., County Judge
Val Verde County, Texas

THIS NOTICE OF THE AGENDA WAS POSTED ON THE BULLETIN BOARD ON: AUGUST 5,
2022 AT 3:37 AM/PM

FILED

2022 AUG -5 P 3:37
CLERK
VAL VERDE COUNTY
BY MA DEPUTY

400 Pecan Street • Del Rio, TX 78840

#12

		YR 21-22	RAISES	YR 22-23
COUNTY JUDGE	SALARY	\$87,670.28		\$87,670.28
	STATE	\$25,200.00		\$25,200.00
	JUVENILE	\$3,000.00		\$3,000.00
	AUTO	\$7,000.00		\$7,000.00
	TOTAL	\$122,870.28		\$122,870.28
COUNTY CLERK	SALARY	\$85,117.53	\$2,979.00	\$88,096.53
	TOTAL	\$85,117.53	\$2,979.00	\$88,096.53
DISTRICT CLERK	SALARY	\$85,117.53	\$2,979.00	\$88,096.53
	TOTAL	\$85,117.53	\$2,979.00	\$88,096.53
JP 1	SALARY	\$71,820.57	\$2,513.73	\$74,334.30
	TOTAL	\$71,820.57	\$2,513.73	\$74,334.30
JP 2	SALARY	\$71,820.57	\$2,513.73	\$74,334.30
	TOTAL	\$71,820.57	\$2,513.73	\$74,334.30
JP 3	SALARY	\$71,820.57	\$2,153.73	\$73,974.30
	TOTAL	\$71,820.57	\$2,153.73	\$73,974.30
JP 4	SALARY	\$71,820.57	\$2,513.73	\$74,334.30
	TOTAL	\$71,820.57	\$2,513.73	\$74,334.30
COUNTY COURT AT LAW JUDGE	SALARY	\$183,000.00	\$7,400.00	\$190,400.00
	JUVENILE	\$3,000.00		\$3,000.00
	TOTAL	\$186,000.00	\$7,400.00	\$193,400.00
COUNTY ATTORNEY	SALARY	\$112,452.67	\$3,935.86	\$116,388.53
	STATE SUPPLEMENT	\$28,000.00		\$28,000.00
	TOTAL	\$140,452.67	\$3,935.86	\$144,388.53
COUNTY TREASUER	SALARY	\$67,397.82	\$2,358.93	\$69,756.75
	TOTAL	\$67,397.82	\$2,358.93	\$69,756.75
TAX ASSESSOR	SALARY	\$96,400.00	\$3,374.00	\$99,774.00
	TOTAL	\$96,400.00	\$3,374.00	\$99,774.00

		YR 21-22	RAISES	YR 22-23
COUNTY SHERIFF	SALARY	\$85,117.53	\$2,979.11	\$88,096.64
	TOTAL	\$85,117.53	\$2,979.11	\$88,096.64
CONSTABLE PCT 1	SALARY	\$46,961.89	\$1,643.67	\$48,605.56
	AUTO	\$8,000.00	\$1,000.00	\$9,000.00
	TOTAL	\$54,961.89	\$2,643.67	\$57,605.56
CONSTABLE PCT 2	SALARY	\$46,961.89	\$1,643.67	\$48,605.56
	AUTO	\$8,000.00	\$1,000.00	\$9,000.00
	TOTAL	\$54,961.89	\$2,643.67	\$57,605.56
CONSTABLE PCT 3	SALARY	\$46,961.89	\$1,643.67	\$48,605.56
	AUTO	\$8,000.00	\$1,000.00	\$9,000.00
	TOTAL	\$54,961.89	\$2,643.67	\$57,605.56
CONSTABLE PCT 4	SALARY	\$46,961.89	\$1,643.67	\$48,605.56
	AUTO	\$8,000.00	\$1,000.00	\$9,000.00
	TOTAL	\$54,961.89	\$2,643.67	\$57,605.56
COMMISSIONER PCT 1	SALARY	\$57,046.98	\$1,996.64	\$59,043.62
	AUTO	\$9,650.00	\$1,000.00	\$10,650.00
	TOTAL	\$66,696.98	\$2,996.64	\$69,693.62
COMMISSIONER PCT 2	SALARY	\$57,046.98	\$1,996.64	\$59,043.62
	AUTO	\$9,650.00	\$1,000.00	\$10,650.00
	TOTAL	\$66,696.98	\$2,996.64	\$69,693.62
COMMISSIONER PCT 3	SALARY	\$57,046.98	\$1,996.64	\$59,043.62
	AUTO	\$9,650.00	\$1,000.00	\$10,650.00
	TOTAL	\$66,696.98	\$2,996.64	\$69,693.62
COMMISSIONER PCT 4	SALARY	\$57,046.98	\$1,996.64	\$59,043.62
	AUTO	\$9,650.00	\$1,000.00	\$10,650.00
	TOTAL	\$66,696.98	\$2,996.64	\$69,693.62

COUNTY

NO NEW REVENUE TAX RATE (effective tax	0.4433
VOTER APPROVAL TAX RATE (rollback rate	0.5153

2021 UNUSED INCREMENT RATE	0.0517
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2022 TOTAL TAXABLE VALUE	
3,281,973,333	PER 1 CENT \$32,800

2022 DEBT RATE (I&S)	0.0667
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FARM TO MARKET

VOTER APPROVAL RATE	0.0196
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#17

Application must be received by: **Friday, August 20, 2021**. Late or incomplete applications will not be considered.

GENERAL INFORMATION			
County Name	<u>Val Verde County</u>		
Mailing Address:	<u>400 Pecan Street</u>		
	Street Address:		
	<u>Del Rio</u>	<u>TX</u>	<u>78840</u>
	City	State	Zip Code
Physical Address:	<u>400 Pecan Street</u>		
	Street Address:		
	<u>Del Rio</u>	<u>TX</u>	<u>78840</u>
	City	State	Zip Code

CONTACT INFORMATION			
(1) Name of Primary Program Contact <i>(This person can answer day-to-day questions about the project.)</i>			
Full Name:	<u>Carl</u>	<u>Esser</u>	☒ Mr. ☐ Dr. ☐ Ms. ☐ Other _____
	First	Last	
Position Title:	<u>Consultant - Grant Writer</u>		
Email Address:	<u>Carl.esser@hotmail.com</u>		
Phone:	<u>(830) 273-1423</u>	Ext.	<u>Alt #3</u>

(2) Name of Authorized Official <i>(This person is authorized to enter into legal agreements on behalf of the organization. This person's name will appear on the grant agreement for signature.)</i>			
Full Name:	<u>Lewis G.</u>	<u>Owens</u>	☒ Mr. ☐ Dr. ☐ Ms. ☐ Other _____
	First	Last	
Position Title:	<u>County Judge</u>		
Email Address:	<u>lowens@valverdecountytx.us</u>		
Phone:	<u>(830) 774-7561</u>	Ext. / Voice	<u>Alt #3</u>

Previous Participation

• Has your County previously participated in the feral hog abatement grants? / ☐ Yes ☒ No

• If yes, what years? _____

• Has your County previously received a grant through any FDA or Texas A&M AgriLife Extension Service feral hog abatement program? ☐ Yes* ☒ No

• If yes, what years? _____

**Quantifiable
Information and
Description of
Activities**

Please provide a narrative describing the feral hog abatement program and your use of the funds. Include as much detail as necessary for the reviewers to evaluate your proposal against the evaluation criteria. Include budget, past final reports and bounty pool commitments as appropriate.

(Additional sheets may be attached if more space is needed.)

VAL VERDE COUNTY FERAL HOG GRANT APPLICATION

Val Verde County is in southwestern Texas on the Mexican border. Although a part of the county extends west of the Pecos River, more than two-thirds of it is in the Edwards Plateau. Val Verde County comprises 3,150 square miles of sharply dissected massive limestone, which underlies flat terrain. The county is actually a plateau cut by many arroyos and canyons, giving deep relief to the topography. Fresh water is supplied from an aquifer in the various limestone formations, which receive their recharge from counties to the north. Numerous creeks, which remain dry most of the year, provide drainage during floods and empty into the Pecos and Devils Rivers. The Pecos flows into the Rio Grande in southwestern Val Verde County, and the Devils flows into Amistad Reservoir, on the dammed Rio Grande above Del Rio. Vegetation in the western and central sections of the county consists of desert shrub savanna. While most people may associate Texas with cattle, Val Verde County also has sizable herds of sheep and goats. Throughout the county's history ranching has consisted of "mixed ranching" or "combination ranching" with larger and smaller livestock occupying the same ranches. Statistics demonstrate the area's reliance on ranching for economic development. Greater numbers of sheep and goats are raised in Val Verde County as opposed to cattle because of the economics of the landscape. With production of sheep and goats comes predation. Predation from large feral hog populations. The landscape of Val Verde County with their numerous creeks and rivers make for ideal habitat for feral hog populations giving rise to predation of smaller livestock, such as lambs and kids as well as wildlife to include deer, turkeys and quail. Additionally feral hog populations in Val Verde County are destructive to the terrain along the pristine Devil River, Pecos and Rio Grande. A number of ranches have been sold over the years giving rise to fragmentation of property and absentee landowners. There continues to be a need to educate absentee landowners on the economic impact that feral hogs have on Val Verde County due to their predation on livestock and wildlife as well as the destruction to the landscape of Val Verde County. Val Verde County's feral hog grant application is requesting resources in the amount of \$10,000.00 for the purchase of five (5) hog traps to be loaned to landowners for the trapping of feral hogs. The objective is to reduce damage through direct management and outreach to private landowners, by increasing the supply of traps. Private landowners will be required to record the number of feral hogs removed from the landscape with the use of the loaned traps by collecting the tails from the feral hogs. Additionally Val Verde County will continue outreach events to both public and private entities to increase awareness of feral hogs and the damage they cause. With the assistance of the Val Verde County AgriLife Extension Service a countywide damage assessment will be conducted, in addition to two (2) feral hog predator control programs and demonstrations. The feral hog predator control programs and demonstrations will be coordinated with the 4-H and Youth program in Val Verde County and possibly collaborated with youth school programs.



Lewis G. Owens Jr. Val Verde County Judge

#20

STATE OF TEXAS

TWDB Commitment No. G1001230

COUNTY OF TRAVIS

Flood Infrastructure Fund - Category 4

Val Verde County

This Contract, (hereinafter "CONTRACT"), between the Texas Water Development Board (hereinafter "TWDB") and Val Verde County (hereinafter "the County"), is composed of two parts, SECTION I - SPECIFIC CONDITIONS AND EXCEPTIONS TO THE STANDARD AGREEMENT and SECTION II - STANDARD AGREEMENT.

SECTION I - SPECIFIC CONDITIONS AND EXCEPTIONS TO STANDARD AGREEMENT

ARTICLE I	DEFINITIONS
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For the purposes of this CONTRACT, the following terms or phrases are defined as follows:

- 1. TWDB – The Texas Water Development Board, or its designated representative
- 2. EXECUTIVE ADMINISTRATOR – The Executive Administrator of TWDB or a designated representative
- 3. REQUIRED INTERLOCAL AGREEMENT(S) – N/A
- 4. TWDB APPROVAL DATE – December 17, 2020, as amended on June 3, 2021
- 5. PROJECT – The flood project identified as Project Number 40062, (Abridged Application Number 13795), and defined in the Original Application, **EXHIBIT A**.
- 6. PROJECT AREA – Defined in **EXHIBIT A**, the Original Application.
- 7. TWDB COMMITMENT EXPIRATION DATE – September 30, 2021
- 8. CONTRACT INITIATION DATE – The date CONTRACT is signed by the EXECUTIVE ADMINISTRATOR.
- 9. FINAL REPORT – The report that describes the objective, approach, and results of the PROJECT
- 10. PROJECT COMPLETION DATE – September 1, 2022
- 11. EXPIRATION DATE – March 31, 2023
- 12. TOTAL PROJECT COST – \$500,000.00

13. TWDB GRANT SHARE OF THE TOTAL PROJECT COST – The lesser of \$290,000.00 or 58 percent of the total cost. TWDB Grant, G1001230, is the subject of this agreement.
14. LOCAL SHARE OF THE TOTAL PROJECT COST – \$0.00
15. PAYMENT REQUEST SCHEDULE – Not less than quarterly but not more frequently than monthly.
16. SURPLUS FUNDS – Those funds remaining after the County has submitted final accounting to the EXECUTIVE ADMINISTRATOR, including interest earned.
17. CONSTRUCTION ACCOUNT – An account dedicated to the payment of eligible PROJECT costs, as defined by 31 TAC § 363.2(8).
18. ELIGIBLE EXPENSES – The expenses allowed by TWDB program requirements and authorized by the TWDB in the approved Project Task and Expense Budget. Expenses incurred prior to March 12, 2020, are not ELIGIBLE EXPENSES.
19. ESCROW ACCOUNT – An account established by the County that will be used to manage the grant funds in accordance with an escrow agreement acceptable to the EXECUTIVE ADMINISTRATOR, which is attached hereto as **EXHIBIT F**, until the EXECUTIVE ADMINISTRATOR authorizes the release of the grant funds to the CONSTRUCTION ACCOUNT.
20. OBLIGATIONS – The \$210,000 Val Verde County, Texas Combination Tax and Subordinate Lien Revenue Certificates of Obligation, Series 2021, together with all authorizing documents, which evidence the portion of the TOTAL PROJECT COST that requires repayment to TWDB, identified as L1001231.
21. OTHER SPECIAL CONDITIONS AND EXCEPTIONS TO STANDARD AGREEMENT OF THIS CONTRACT –
 - A. Environmental Compliance. The County must comply with all environmental conditions and must implement environmental mitigation measures as required through TWDB environmental review under 31 TAC § 363.14.
 - B. The County may not begin construction of the PROJECT until the environmental finding under 31 TAC § 363.14 is issued.
 - C. The County must include the following language in the advertisement for bids for all contracts for construction or construction materials receiving funds from the Flood Infrastructure Fund (FIF):

Any contract(s) awarded under this solicitation is/are subject to the United States Iron and Steel (U.S. I&S) requirements of Texas Government Code Chapter 2252, Subchapter G, if applicable.

- D. The County must include the following United States Iron and Steel Requirement language in all contracts for construction or construction materials:

Subcontractor acknowledges to and for the benefit of Contractor and TWDB that it understands the goods and services under this Subcontract are being partially funded with monies made available by the Flood Infrastructure Fund (FIF). This fund has statutory requirements commonly known as "United States Iron and Steel" that require all of the iron and steel products used in the project to be produced in the United States ("United States Iron and Steel Requirement"), including iron and steel products provided by Subcontractor pursuant to this Agreement. Subcontractor hereby represents and warrants to and for the benefit of Contractor and TWDB that (a) Subcontractor has reviewed and understands the United States Iron and Steel Requirement, (b) all of the iron and steel products used in the project will be and/or have been produced in the United States in a manner that complies with the United States Iron and Steel Requirement, unless a waiver of the requirement is approved or an exemption applies under Texas Government Code § 2252.203(b) and (c) or 31 Texas Administrative Code § 363.41(c)(2), and (c) Subcontractor will provide any further verified information, certification or assurance of compliance with this paragraph, or information necessary to support a waiver of the United States Iron and Steel Requirement as may be requested by Contractor or TWDB. Notwithstanding any other provision of this Agreement, any failure to comply with this paragraph by Subcontractor will permit Contractor to enforce this Agreement and recover as damages against Subcontractor any loss, expense, or cost (including without limitation attorney's fees) incurred by Contractor resulting from any such failure (including without limitation any impairment or loss of funding, whether in whole or in part, from TWDB or any damages owed to TWDB by Contractor). Neither this paragraph (nor any other provision of this Agreement necessary to give this paragraph force or effect) may be amended or waived without the prior written consent of TWDB.

In the execution of the Contract, Subcontractor must be familiar with and at all times must observe and comply with all applicable federal, state, and local laws, ordinances and regulations concerned with the use of iron and steel made in the United States which in any manner affect the conduct of the work, and will indemnify and save harmless the Texas Water Development Board against any claim arising from violation of any such law, ordinance or regulation by the Contractor or by their Subcontractor(s) or employees.

SECTION II - STANDARD AGREEMENT

ARTICLE I RECITALS

Whereas, the County applied to TWDB, for financial assistance to develop a flood early warning system (FEWS);

Whereas, the County is the entity that will act as administrator of the PROJECT and will be responsible for the execution of this CONTRACT;

Whereas, on TWDB APPROVAL DATE, TWDB approved the County's application for financial assistance for the PROJECT, consisting of reimbursement of the TWDB GRANT SHARE OF THE TOTAL PROJECT COST;

Whereas, on December 17, 2020 TWDB determined that the County qualifies for financial assistance pursuant to Texas Water Code § 15.534 and the applicable Flood Intended Use Plan (FIUP) and agreed pursuant to the TWDB Resolution to:

- A. provide a grant in the amount of \$290,000.00 to the County; and
- B. provide financing in the amount of \$210,000.00 to be evidenced by the TWDB's proposed purchase of \$210,000 Val Verde County, Texas Combination Tax and Subordinate Lien Revenue Certificates of Obligation, Series 2021;

Now, therefore, TWDB and the County agree as follows:

ARTICLE II PROJECT DESCRIPTION AND SERVICES TO BE PERFORMED

1. TWDB enters into this CONTRACT pursuant to Texas Water Code Chapter 15, Subchapter I; **EXHIBIT A**, Original Application; **EXHIBIT B**, Scope of Work; **EXHIBIT C**, Task and Expense Budgets; **EXHIBIT D**, Guidelines for Authors Submitting Contract Reports to the Texas Water Development Board; **EXHIBIT E**, TWDB Guidelines for a Progress Report; and **EXHIBIT F**, Escrow Agreement, which are incorporated herein and made a permanent part of this CONTRACT.
2. The County will conduct the PROJECT for the PROJECT AREA, as delineated and described in **EXHIBIT A** and according to the Scope of Work contained in **EXHIBIT B**. The County will be solely responsible for all costs that exceed the Task and Expense Budgets for the PROJECT, **EXHIBIT C**.
3. The County must establish formal, direct, and continuous liaisons with all community leaders, cities, counties, councils of governments, river authorities, and all applicable state agencies, districts, federal agencies, including the appropriate

project directors of the U.S. Army Corps of Engineers, and other governmental entities having flood response, mitigation, or protection responsibility within the PROJECT AREA for the purpose of coordinating the Scope of Work with existing studies, plans, or activities and for the purpose of providing the best information to support the PROJECT. The County is responsible for soliciting comments from the general public as to the content and objective of the PROJECT.

- 4. The County must coordinate the PROJECT with existing plans and policies of the entities listed above and all other affected entities.
- 5. The County must hold public meetings with the consultants, local entities, TWDB, and any other interested parties to describe the PROJECT and to solicit input and comments from the affected public. Public meetings must be conducted in accordance with the Texas Open Meetings Act (in accordance with Section II, Article X, Paragraph 2H) and held as determined by the County and TWDB, but at a minimum must be held at the commencement of the PROJECT, near the mid-point of the PROJECT, and upon completion of the Draft Report.
- 6. The County may not begin construction of the PROJECT until the County submits the following information signed and sealed by a licensed Professional Engineer:
 - A. a description and purpose of the project;
 - B. the entities to be served and current and future population;
 - C. the cost of the project;
 - D. a description of alternatives considered and reasons for the selection of the project proposed;
 - E. sufficient information to evaluate the engineering feasibility of the project; and
 - F. maps and drawings as necessary to locate and describe the project area.

ARTICLE III	CONTRACT TERM, SCHEDULE, REPORTS, AND OTHER REQUIREMENTS
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- 1. This CONTRACT begins and the County begins performing its obligations hereunder on the CONTRACT INITIATION DATE and ends on the EXPIRATION DATE. Delivery of an acceptable FINAL REPORT for the PROJECT no later than the EXPIRATION DATE constitutes completion of the terms of this CONTRACT.
- 2. A progress report, including results to date, must be provided to the EXECUTIVE ADMINISTRATOR throughout the project on the same timetable as the PAYMENT

REQUEST SCHEDULE. Interim reports on special topics and/or results must be provided as requested. Instructions for the progress report are shown in **EXHIBIT E**.

3. The County must complete a Draft Report. Draft reports must include a Table of Contents, List of Figures, List of Tables, a List of References, and any other pertinent information such as the Scope of Work or other diagrams, graphics, or tables to explain the procedures and results of the PROJECT. The Draft Report also must include an electronic copy of any computer programs, maps, or models along with any manuals or sample data set(s) developed under the terms of this CONTRACT. The County must deliver electronic copies (one in Portable Document Format (PDF) and one in Microsoft Word format) of the Draft Report to the EXECUTIVE ADMINISTRATOR no later than the PROJECT COMPLETION DATE. All draft reports must be prepared according to **EXHIBIT D**. After a 45-day review period, the EXECUTIVE ADMINISTRATOR will return review comments to the County.

All draft and FINAL REPORTS must include, at a minimum, the following:

- A. Communities and/or entities involved in formulating the PROJECT, including dates of contact;
 - B. Public comment;
 - C. Types of equipment installed or proposed equipment (if applicable);
 - D. Location(s) of equipment placement or proposed equipment (if applicable);
 - E. An asset management plan that includes, at a minimum:
 - i. Scheduled maintenance of equipment or proposed equipment (if applicable);
 - ii. Scheduled monitoring of equipment or proposed equipment (if applicable); and
 - iii. A funding plan to cover future costs of maintenance, monitoring, and replacement of equipment (if applicable).
4. The County must consider incorporating comments from the EXECUTIVE ADMINISTRATOR and other commenters on all draft deliverables into the FINAL REPORT. The County must attach a copy of the EXECUTIVE ADMINISTRATOR's comments in the FINAL REPORT. The County must submit one (1) electronic copy of the entire FINAL REPORT in Portable Document Format (PDF) to the EXECUTIVE ADMINISTRATOR no later than the EXPIRATION DATE. The County must submit

one (1) electronic copy of any computer programs or models and an operations manual developed under the terms of this CONTRACT. In compliance with Texas Administrative Code, Title 1, Part 10, Chapters 206 and 213 (related to Accessibility and Usability of State Web Sites), the digital copy of the FINAL REPORT must comply with the requirements and standards specified in statute. After a 30-day review period, the EXECUTIVE ADMINISTRATOR will either accept or reject the FINAL REPORT. If the FINAL REPORT is rejected, the rejection letter sent to the County will state the reasons for rejection and the steps the County needs to take to have the FINAL REPORT accepted and the retainage released. The CONTRACT may be extended if necessary and allowable, based on the state funding source, to allow time for the County to resubmit the FINAL REPORT.

5. EXECUTIVE ADMINISTRATOR may extend the PROJECT COMPLETION DATE and the EXPIRATION DATE upon written approval. The County must notify the EXECUTIVE ADMINISTRATOR in writing within ten (10) working days prior to the PROJECT COMPLETION DATE or sixty (60) days prior to the EXPIRATION DATE that the County is requesting an extension to the respective dates.
6. If the County is a retail public utility as defined in Texas Water Code § 13.002 and the County provides potable water, then the County annually shall perform and file a water audit computing the County's most recent annual system water loss with TWDB. The first water audit shall be submitted by May 1st following the passage of one year after the effective date of this Agreement and then by May 1st every year thereafter during the term of this Agreement. The County agrees to comply with 31 TAC § 358.6 relating to water audits.
7. During the Term of this Agreement, the County must submit an annual audit of the general-purpose financial statements prepared in accordance with Generally Accepted Accounting Principles (GAAP) by a certified public accountant or licensed public accountant. Audits must be submitted to TWDB no later than 120 days after the close of the County's fiscal year.

ARTICLE IV COMPENSATION AND REIMBURSEMENT

1. TWDB agrees to compensate and reimburse the County in a total amount not to exceed TWDB GRANT SHARE OF THE TOTAL PROJECT COST for costs incurred by the County pursuant to performance of this CONTRACT. The County will contribute local funds, if applicable, in sources and amounts defined as the LOCAL SHARE OF THE TOTAL PROJECT COST. TWDB will reimburse the County for ninety-five percent (95%) of TWDB's share of each Outlay Report. Pending the County's performance, completion of the PROJECT, and written acceptance of said PROJECT by the EXECUTIVE ADMINISTRATOR, TWDB will pay the retained five percent (5%) to the County. If the PROJECT involves construction or installation activities, the EXECUTIVE ADMINISTRATOR will not provide written acceptance of the PROJECT

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until the County submits documentation written by a licensed engineer stating that the PROJECT was constructed and/or installed in accordance with any applicable local, state, and federal requirements.

2. No grant funds will be deposited into the ESCROW ACCOUNT or released until all funds for OBLIGATIONS have been released and the applicable requirements and conditions in 31 TAC § 363.43, relating to Release of Funds, are met.
3. TWDB will deposit the TWDB GRANT SHARE OF THE TOTAL PROJECT COST in an approved ESCROW ACCOUNT to be released to the County's CONSTRUCTION ACCOUNT at the direction of the EXECUTIVE ADMINISTRATOR.
4. The County must submit TWDB Outlay Report forms identifying:
 - A. the total amount of expenses incurred by the County for the period covered by the Outlay Report;
 - B. identification and description of LOCAL SHARE OF THE TOTAL PROJECT COST for the billing period, if applicable; and
 - C. invoices, receipts, or other documentation satisfactory in form and in substance to TWDB sufficient to establish the requested amount as an ELIGIBLE EXPENSE incurred by the County.
5. The EXECUTIVE ADMINISTRATOR will authorize the release of the TWDB GRANT SHARE OF THE TOTAL PROJECT COST from the ESCROW ACCOUNT when Outlay Reports have been approved by TWDB.
6. The County must use grant funds for ELIGIBLE EXPENSES. The County must return any grant funds that are used for expenses that cannot be verified as eligible or that are ineligible. The amount of grant funds used for any ineligible or unverified expenses must be credited against verified ELIGIBLE EXPENSES. If the total amount of ELIGIBLE EXPENSES is insufficient to fully offset the amount of improperly expended grant funds, the County must use other funds to fully repay the TWDB. This Section II, Article IV, Item 6 survives the termination or expiration of this Agreement.
7. The County must submit payment requests and documentation for reimbursement billing according to the PAYMENT REQUEST SCHEDULE.
8. The County is responsible for any food or entertainment expenses incurred by its own organization or that of its subcontractors, outside that of eligible travel expenses authorized and approved by the State of Texas under this CONTRACT.

9. The County is responsible for submitting any final payment request and documentation for reimbursement, along with a request to release any retained funds, no later than 60 days following the EXPIRATION DATE. Failure to submit a timely final payment request may result in closure of the CONTRACT. After closure of the CONTRACT, any SURPLUS FUNDS will be unavailable for reimbursement.
10. The County must provide a final accounting of funds expended on the PROJECT. The EXECUTIVE ADMINISTRATOR will provide written instructions to the County to either return to TWDB or deposit into the Interest and Sinking Fund for the OBLIGATIONS any SURPLUS FUNDS remaining after the County has submitted a final accounting to the EXECUTIVE ADMINISTRATOR.
11. The County shall submit payments and documentation for reimbursement billing according to the PAYMENT REQUEST SCHEDULE and in accordance with the approved Task and Expense Budgets contained in **Exhibit C** to this CONTRACT. The County has budget flexibility within Task and Expense Budget categories to the extent that the resulting change in amount in any one task or expense category does not exceed 10% of the TOTAL PROJECT COST authorized by this CONTRACT for that task or category. Larger deviations shall require approval by EXECUTIVE ADMINISTRATOR, which will be documented through an Approved Budget Memorandum to the TWDB contract file. The County must provide written explanation for the overage and reallocation of the Task and Expense Budget.

ARTICLE V	INTELLECTUAL PROPERTY
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1. It is agreed that all works developed by the County and any subcontractors using funds provided under this CONTRACT or otherwise rendered in or related to the performance in whole or part of this CONTRACT, including but not limited to reports, drafts of reports, material, data, drawings, studies, analyses, notes, plans, computer programs and codes, or other work products, whether final or intermediate, are the joint property of TWDB and the County. The County hereby conveys co-ownership of such works to TWDB as they are created in whole or part. If present conveyance is ineffective under applicable law, the County agrees to convey a co-ownership interest of such works to TWDB after creation and to provide written documentation of such conveyance upon request by TWDB. TWDB and the County each have full and unrestricted rights to use such works with no compensation obligation.
2. The County must include terms and conditions in all contracts or other engagement agreements with any subcontractors as are necessary to secure these rights and protections and must require that subcontractors include similar such terms and conditions in any contracts or other engagements with their subcontractors.

ARTICLE VI AMENDMENT, TERMINATION, AND STOP ORDERS

1. This CONTRACT may be altered or amended by mutual written consent of the County and the EXECUTIVE ADMINISTRATOR. This CONTRACT may be terminated by the EXECUTIVE ADMINISTRATOR at any time by written notice to the County. PROJECT schedule dates and deadlines as outlined in Section I, Article I may not be revised without written approval by TWDB and amendment to this CONTRACT. Upon receipt of such termination notice, the County must, unless the notice directs otherwise, immediately discontinue all work in connection with the performance of this CONTRACT and cancel all existing orders insofar as such orders are chargeable to this CONTRACT. The County must submit a statement showing in detail the work performed under this CONTRACT to the date of termination. TWDB will pay the County that proportion of the prescribed fee which applies to the work that is actually performed under this CONTRACT, less all payments that have been previously made. Thereupon, copies of all work accomplished under this CONTRACT must be delivered to TWDB.
2. The EXECUTIVE ADMINISTRATOR may issue a Stop Work Order to the County at any time. Upon receipt of such order, the County must discontinue all work under this CONTRACT and cancel all orders pursuant to this CONTRACT, unless the order directs otherwise. The County may not resume work under this CONTRACT unless the EXECUTIVE ADMINISTRATOR issues a Restart Order. If the EXECUTIVE ADMINISTRATOR does not issue a Restart Order within 60 days after the Stop Work Order, this CONTRACT is terminated in accordance with the foregoing provisions.

ARTICLE VII SUBCONTRACTS

1. Each Subcontract entered into to perform required work under this CONTRACT must contain the following:
 - A. A detailed budget estimate with specific cost details for each task or specific item of work to be performed by the Subcontractor and for each category of reimbursable expenses.
 - B. A clause stating the following: "Subcontractor agrees and acknowledges that it is subject to all applicable requirements of the master contract between (Contractor Name) and the Texas Water Development Board. Subcontractor adopts by reference the requirements of Section II, Article VII of the TWDB Contract for this Subcontract."

All Subcontracts entered into to perform required work under this CONTRACT are also subject to the following requirements:

1. the Subcontract is subject to audit by the Texas State Auditor's Office, and Subcontractor must cooperate with any request for information from the Texas State Auditor, as further described in Section II, Article X, Paragraph 1K;
2. payments under the Subcontract are contingent upon appropriation of funds by the Texas Legislature, as further described in Section II, Article X, Paragraph 1C;
3. ownership of data, materials and work papers, in any media, that is gathered, compiled, adapted for use, or generated by Subcontractor or the County will become data, materials, and work owned by TWDB, and Subcontractor will have no proprietary rights in such data, materials and work papers, except as further described in Section II, Article V;
4. Subcontractor must keep timely and accurate books and records of accounts according to Generally Accepted Accounting Principles;
5. Subcontractor is solely responsible for securing all required licenses and permits from local, state and federal governmental entities and solely responsible for obtaining sufficient insurance in accordance with the general standards and practices of the industry or governmental entity; and
6. Subcontractor is an independent contractor and TWDB has no liability resulting from any failure of Subcontractor that results in breach of contract, property damage, personal injury, or death.

ARTICLE VIII	LICENSES, PERMIT, AND INSURANCE
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1. For the purpose of this CONTRACT, the County will be considered an independent contractor (in accordance with Section II, Article X, Paragraph 2D) and therefore solely responsible for liability resulting from negligent acts or omissions. The County must obtain all necessary insurance that, in the judgment of the County and consistent with the standard practices of the industry or the County, is necessary to protect themselves, TWDB, and employees and officials of TWDB from liability arising out of this CONTRACT.
2. The County is solely and entirely responsible for procuring all appropriate licenses and permits, which may be required by any competent authority for the County to perform the subject work.

ARTICLE IX	SEVERABILITY
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Should any one or more provisions of this CONTRACT be held to be null, void, voidable, or for any reason whatsoever, of no force and effect, such provision(s) will be construed as

severable from the remainder of this CONTRACT and will not affect the validity of all other provisions of this CONTRACT which will remain of full force and effect.

ARTICLE X GENERAL TERMS AND CONDITIONS

1. GENERAL TERMS

- A. **Disaster Recovery Plan.** Upon request of TWDB, the County must provide descriptions or copies of its business continuity and disaster recovery plans.
- B. **Dispute Resolution.** The dispute resolution process provided for in Texas Government Code Chapter 2260 must be used to attempt to resolve any dispute arising under this CONTRACT.
- C. **Excess Obligations Prohibited/No Debt Against the State.** This CONTRACT is subject to termination or cancellation without penalty to TWDB, either in whole or in part, subject to the availability of state funds.
- D. **False Statements.** If the County signs its application with a false statement or it is subsequently determined that the County has violated any of the representations, guarantees, warranties, certifications or affirmations included in its application, the County will be in default under the CONTRACT and TWDB may terminate or void the CONTRACT.
- E. **Force Majeure.** Neither the County nor TWDB will be liable to the other for any delay in or failure of performance of any requirement contained in this CONTRACT caused by force majeure. The existence of such causes of delay or failure will extend the period of performance until after the causes of delay or failure have been removed, provided the non-performing party exercises all reasonable due diligence to perform. Force majeure is defined as acts of God, war, fires, explosions, hurricanes, floods, failure of transportation or other causes that are beyond the reasonable control of either party and that by exercise of due foresight such party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome.
- F. **Governing Law and Venue.** This CONTRACT is governed by and construed in accordance with the laws of the State of Texas, without regard to the conflicts of law provisions. The venue of any suit arising under this CONTRACT is fixed in any court of competent jurisdiction in Travis County, Texas, unless the specific venue is otherwise identified in a statute which directly names or otherwise identifies its applicability to TWDB.

- G. **Applicable Laws.** In consideration of the performance of the mutual agreements set forth in this CONTRACT, the County, by and through its designated and authorized representatives agrees to implement the PROJECT in compliance with all state and federal laws and regulations that may be applicable; Texas Water Code, Chapter 15, Subchapters F and I; 31 Texas Administrative Code Chapter 363; and TWDB Guidance.
- H. **Remedies.** TWDB has all remedies available in law or equity, including remedies available under Texas Water Code §§ 6.114 and 6.115.
- I. **Indemnification.** TO THE EXTENT ALLOWED BY LAW, THE COUNTY AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS AND TWDB, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES ARISING OUT OF, OR RESULTING FROM ANY ACTS OR OMISSIONS OF RESPONDENT OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THE CONTRACT AND ANY PURCHASE ORDERS ISSUED UNDER THE CONTRACT. THE DEFENSE MUST BE COORDINATED BY THE COUNTY WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT, AND RESPONDENT MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE TEXAS ATTORNEY GENERAL. THE COUNTY AND TWDB AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.
- J. **Public Information Act.** The County understands that TWDB will comply with the Texas Public Information Act, Texas Government Code Chapter 552, as interpreted by judicial rulings and opinions of the Attorney General of the State of Texas. Information, documentation, and other material in connection with this CONTRACT may be subject to public disclosure pursuant to the Texas Public Information Act. In accordance with Texas Government Code § 2252.907, the County is required to make any information created or exchanged with the State pursuant to this CONTRACT, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the State.
- K. **State Auditor's Right to Audit.** The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the CONTRACT or indirectly through a subcontract under the CONTRACT. The acceptance of funds directly under the CONTRACT or indirectly through a

subcontract under the CONTRACT 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. Under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

- L. **National Flood Insurance Program.** The appropriate entities within the PROJECT AREA must currently enforce and continue to enforce floodplain management standards at least equivalent to National Flood Insurance Program minimum standards and may exceed the National Flood Insurance Program minimum standards.
- M. **Investment and Collateralization of Public Funds.** Grant proceeds are public funds and, as such, these proceeds shall be held at a designated state depository institution or other properly chartered and authorized institution in accordance with the Public Funds Investment Act, Government Code, Chapter 2256, and the Public Funds Collateral Act, Government Code, Chapter 2257.

2. STANDARDS OF PERFORMANCE

- A. **Personnel.** The County must assign only qualified personnel to perform the services required under this CONTRACT. The County is responsible for ensuring that any Subcontractor utilized also assigns only qualified personnel. Qualified personnel are persons who are properly licensed to perform the work and who have sufficient knowledge, skill and ability to perform the tasks and services required herein according to the standards of performance and care for their trade or profession.
- B. **Professional Standards.** The County must provide the services and deliverables in accordance with applicable professional standards. The County represents and warrants that it is authorized to acquire Subcontractors with the requisite qualifications, experience, personnel and other resources to perform in the manner required by this CONTRACT.
- C. **Procurement Laws.** The County must engage in competitive procurements for work on the Project. All purchases for goods, services, or commodities made with funds provided under this CONTRACT must comply with State and local procurement and contracting laws.
- D. **Independent Contractor.** Both the County and TWDB, in the performance of this CONTRACT, act in an individual capacity and not as agents, employees,

partners, joint ventures or associates of one another. The employees or agents of one party will not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever.

- E. **Proprietary and Confidential Information.** The County warrants and represents that any information that is proprietary or confidential and is received by the County from TWDB or any governmental entity will not be disclosed to third parties without the written consent of TWDB or applicable governmental entity, whose consent will not be unreasonably withheld.
- F. **Contract Administration.** TWDB will designate a project manager for this CONTRACT. The project manager will serve as the point of contact between TWDB and the County. TWDB's project manager will supervise TWDB's review of the County's technical work, deliverables, draft reports, the FINAL REPORT, payment requests, schedules, financial and budget administration, and similar matters. The project manager does not have any express or implied authority to vary the terms of the CONTRACT, amend the CONTRACT in any way or waive strict performance of the terms or conditions of the CONTRACT.
- G. **Nepotism.** The County must comply with Texas Government Code Chapter 573 by ensuring that no officer, employee or member of the County's governing body votes or confirm the employment of any person related within the second degree of affinity or the third degree of consanguinity to any member of the governing body or to any other officer or employee authorized to employ or supervise such person. This prohibition does not prohibit the employment of a person who has been continuously employed for a period of two years prior to the election or appointment of the officer, employee or governing body member related to such person in the prohibited degree.
- H. **Open Meetings.** The County must comply with Texas Government Code Chapter 551, which requires all regular, special or called meetings of governmental bodies to be open to the public, except as otherwise provided by law.

3. **AFFIRMATIONS AND CERTIFICATIONS**

- A. **Antitrust Affirmation.** The County represents and warrants that, in accordance with Texas Government Code § 2155.005, neither the County nor any firm, corporation, partnership, or institution represented by the County, or anyone acting for such a firm, corporation, partnership, or institution has (1) violated any provision of the Texas Free Enterprise and Antitrust Act of 1983, Chapter 15 of the Texas Business & Commerce Code, or the federal

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antitrust laws; or (2) communicated directly or indirectly the contents of the proposal resulting in this CONTRACT to any competitor or any other person engaged in the same line of business as the County.

- B. **Child Support Obligation Affirmation.** Under Texas Family Code § 231.006, the County certifies that the individual or business entity named in this CONTRACT is not ineligible to receive the specified grant, loan or payment, and acknowledges that this CONTRACT may be terminated and payment may be withheld if this certification is inaccurate.
- C. **Dealings with Public Servants.** Pursuant to Texas Government Code § 2155.003, the County represents and warrants that it has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the goods or services being supplied.
- D. **Debts and Delinquencies Affirmation.** The County agrees that any payments due under the CONTRACT will be applied towards any debt or delinquency that is owed to the State of Texas.
- E. **E-Verify Program.** The County certifies that for contracts for services, the County will utilize the U.S. Department of Homeland Security's E-Verify system during the term of the CONTRACT to determine the eligibility of: (1) all persons employed by the County to perform duties within Texas; and (2) all persons, including Subcontractors, assigned by the County to perform work pursuant to the CONTRACT within the United States of America.
- F. **Entities that Boycott Israel.** Pursuant to Texas Government Code § 2270.002, the County certifies that either (1) it meets one of the exemption criteria under § 2270.002; or (2) it does not boycott Israel and will not boycott Israel during the term of the CONTRACT resulting from this solicitation. The County must state any facts that make it exempt from the boycott certification.
- G. **Excluded Parties.** The County certifies that it is not listed on the federal government's terrorism watch list as described in Executive Order 13224.
- H. **Executive Head of a State Agency Affirmation.** In accordance with Texas Government Code § 669.003, relating to contracting with the executive head of a state agency, the County certifies that it is not: (1) the executive head of TWDB; (2) a person who at any time during the four years before the date of this CONTRACT was the executive head of TWDB; or (3) a person who employs a current or former executive head of TWDB.

If § 669.003 applies, the County must provide the following information:

Name of Former Executive: _____
Name of State Agency: _____
Date of Separation from State Agency: _____
Position with County: _____
Date of Employment with County: _____

- I. **Financial Participation Prohibited.** Pursuant to Texas Government Code § 2155.004(a), the County certifies that neither the County nor any person or entity represented by the County has received compensation from TWDB or any agency of the State of Texas for participation in the preparation of the specifications or solicitation on which this CONTRACT is based. Under Texas Government Code § 2155.004(b), the County certifies that the individual or business entity named in this CONTRACT is not ineligible to receive the specified CONTRACT and acknowledges that this CONTRACT may be terminated and payment withheld if this certification is inaccurate.
- J. **Foreign Terrorist Organizations.** The County represents and warrants that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization, as prohibited by Texas Government Code § 2252.152.
- K. **Human Trafficking Prohibition.** Under Texas Government Code § 2155.0061, the County certifies that the County is not ineligible to receive the specified CONTRACT and acknowledges that this CONTRACT may be terminated and payment withheld if this certification is inaccurate.
- L. **Lobbying Prohibition.** The County represents and warrants that TWDB's payments to the County and the County's receipt of appropriated or other funds under the CONTRACT are not prohibited by Texas Government Code §§ 556.005 or 556.0055, related to the prohibition on payment of state funds to a lobbyist or for lobbying activities.
- M. **No Conflict of Interest.** The County represents and warrants that the provision of goods and services or other performance under this CONTRACT will not constitute an actual or potential conflict of interest or reasonably create an appearance of impropriety. The County also represents and warrants that, during the term of this CONTRACT, the County will immediately notify TWDB, in writing, of any existing or potential conflict of interest relative to the performance of the CONTRACT.
- N. **Prior Disaster Relief Declaration.** Texas Government Code §§ 2155.006 and 2261.053 prohibit state agencies from accepting a response or awarding a contract that includes proposed financial participation by a person who, in the past five years, has been convicted of violating a federal law or assessed a penalty in connection with a contract involving relief for Hurricane Rita,

Hurricane Katrina, or any other disaster, as defined by Texas Government Code § 418.004, occurring after September 24, 2005. Under Texas Government Code §§ 2155.006 and 2261.053, the County certifies that the individual or business entity named in this CONTRACT is not ineligible to receive the specified CONTRACT and acknowledges that this CONTRACT may be terminated and payment withheld if this certification is inaccurate.

- O. **Suspension and Debarment.** The County certifies that it and its principals are not suspended or debarred from doing business with the state or federal government as listed on the State of Texas Debarred Vendor List maintained by the Texas Comptroller of Public Accounts and the System for Award Management (SAM) maintained by the General Services Administration.

ARTICLE XI CORRESPONDENCE

All correspondence between the parties must be made to the following addresses:

For the TWDB:

Contract Issues:

Texas Water Development Board
Attention: (Project Manager as
assigned by TWDB)
P.O. Box 13231
Austin, Texas 78711-3231
Email: (Project Manager as assigned
by TWDB)

Payment Request Submission:

Texas Water Development Board
Attention: Outlays and Escrows
P.O. Box 13231
Austin, Texas 78711-3231
Email: outlays@twdb.texas.gov

Physical Address:

Stephen F. Austin State Office Building
1700 N. Congress Avenue
Austin, Texas 78701

For the County:

Contract Issues:

Lewis G. Owens Jr.
Val Verde County Judge
400 Pecan Street
Del Rio, Texas 78840
Email: lowens@valverdecountry.texas.gov

Payment Request Submission:

Lewis G. Owens Jr.
Val Verde County Judge
400 Pecan Street
Del Rio, Texas 78840
Email: lowens@valverdecountry.texas.gov

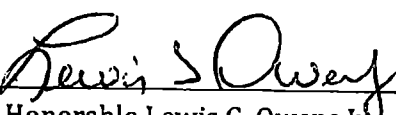
Physical Address:

400 Pecan Street
Del Rio, TX 78840

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties have caused this CONTRACT to be duly executed in multiple counterparts, each of which shall be deemed to be an original.

VAL VERDE COUNTY

By: 
The Honorable Lewis G. Owens Jr.
Val Verde County Judge

Date: 8-11-21

TEXAS WATER DEVELOPMENT BOARD

By: _____

Jeff Walker

Executive Administrator

Date: _____

TWDB Commitment No. G1001230

Page 21 of 21

EXHIBIT A
ORIGINAL APPLICATION

TWDB Commitment No. G1001230
Exhibit A, Page 1 of 633

#21

Figure: 31 TAC §364.54(a)

APPENDIX 2A: SUBDIVISION CONSTRUCTION AGREEMENT

1. Parties. This Subdivision Construction Agreement (the Agreement) is by and between the County and the Subdivider. The County is VAL VERDE County, Texas, acting by and through its Commissioners Court, or authorized representative as designated by the Commissioners Court. The Subdivider is ROCK PILE CONSTRUCTION, LLC, who is the owner, or the authorized agent of owner, of a tract of land located within the geographic area and jurisdiction of the County.
2. Effective Date. This Agreement is effective on the date the County approves the final plat for the subdivision described in Paragraph 3 of this agreement (the Effective Date).

Recitals

3. Subdivider is the owner of the land included in the proposed final subdivision plat of the KELLEY RANCH subdivision, as shown in County's File Number (the Subdivision) and more particularly described by the metes and bounds description attached and incorporated into this Agreement as EXHIBIT B: METES AND BOUNDS, FIELD NOTES FOR KELLEY RANCH SUBDIVISION (the Property); and
4. Subdivider seeks authorization from the County to subdivide the Property in accordance with the requirements imposed by Texas statute and the County's ordinances, regulations, and other requirements; and
5. County ordinances require the completion of various improvements in connection with the development of the Subdivision to protect the health, safety, and general welfare of the community and to limit the harmful effects of substandard subdivisions; and
6. The purpose of this Agreement is to protect the County from the expense of completing subdivision improvements required to be installed by the Subdivider; and
7. This agreement is authorized by and consistent with state law and the County's ordinances, regulations, and other requirements governing development of a subdivision.

IN CONSIDERATION of the foregoing recitals and the mutual covenants, promises, and obligations by the parties set forth in this Agreement, the parties agree as follows:

Subdivider's Obligations

8. Improvements. The Subdivider agrees to construct and install, at Subdivider's expense, all subdivision improvements required to comply with County orders, ordinances, regulations, and policies governing subdivision approval, specifically including without limitation those improvements listed on Exhibit B attached and incorporated by reference into this Agreement (collectively, the Improvements, any one of which is an Improvement). All Improvements shall be constructed in conformity to the County's requirements, procedures, and specifications, pursuant to construction plans, permits, and specifications approved by the County prior to commencement of construction, and subject to inspection, certification, and acceptance by the County.

9. Completion. Unless a different time period is specified for a particular Improvement in Exhibit B, construction of all the Improvements shall be completed no later than three (3) years after the Effective Date (the Completion Date); provided, however, that if the Subdivider or the Issuer delivers to the County no later than the Completion Date a substitute Letter of Credit satisfying the criteria established by Paragraph 11 and which has an expiration date no earlier than one year from the Completion Date, then the Completion Date shall be extended to the expiration date of that substitute Letter of Credit or any subsequent substitute Letter of Credit provided in accordance with this Paragraph. Upon completion of each of the Improvements, the Subdivider agrees to provide to the County a complete set of construction plans for the Improvements, certified "as built" by the engineer responsible for preparing the approved construction plans and specifications.

10. Warranty. The Subdivider warrants the Improvements constructed by Subdivider or Subdivider's agents, contractors, employees, tenants, or licensees will be free from defects for a period of one (1) year from the date the County accepts the dedication of a completed Improvement or group of Improvements (the Warranty Period), as such Improvement or group of Improvements is separately identified and listed on Exhibit B, except the Subdivider does not warrant the Improvements for defects caused by events outside the control of the Subdivider or the Subdivider's agents, contractors, employees, tenants, or licensees. The Subdivider agrees to repair any damage to the Improvements before and during the Warranty Period due to private construction-related activities. As a condition of the County's acceptance of dedication of any of the Improvements, the County may require the Subdivider to post a maintenance bond or other financial security acceptable to the County to secure the warranty established by this Agreement. If the Improvements have been completed but not accepted, and neither the Subdivider nor Issuer is then in default under this Agreement or the Letter of Credit, at the written request of the Subdivider or the Issuer the County shall complete, execute, and deliver to the Issuer a reduction letter documenting that the Stated Amount has been reduced to an amount equal to the face amount of the maintenance bond or other financial security acceptable to the County.

11. Security. To secure the performance of Subdivider's obligations under this Agreement, Subdivider agrees to provide adequate financial guarantees of performance in the form of a surety bond acceptable to the County, a cash deposit to be held by the County in escrow, or an irrevocable letter of credit in the amount of NINE HUNDRED THOUSAND 00/100 Dollars (\$ 900,000.00) (the Stated Amount), which amount is the estimated total cost of constructing each of the Improvements as shown on Exhibit B. If a letter of credit is provided pursuant to this Agreement, it shall be in a standard form acceptable to the County, shall have an expiration date no earlier than one year from the date of its issuance, and shall be issued by a financial institution having a rating equivalent to the minimum acceptable rating established under the County's financial institution rating system in effect at the time the initial letter of credit is issued pursuant to this Agreement (the Issuer). During the term of this Agreement and subject to the terms of Paragraph 22 of this Agreement, the County may revise the standard form letter of credit it reasonably considers acceptable and necessary to secure the performance of Subdivider's obligations under this agreement. A letter of credit satisfying the criteria of this Paragraph (and any substitute or confirming letter of credit) is referenced to in this agreement as the "Letter of Credit."

12. Reduction In Letter of Credit. After the acceptance of any Improvement, the amount which the County is entitled to draw on the Letter of Credit shall be reduced by an amount equal to ninety percent (90%) of the Quoted cost of the accepted Improvement, as shown on Exhibit B. Upon completion of an Improvement, at the written request of Subdivider or Issuer, and if neither the Subdivider nor Issuer is then in default under this agreement or the Letter of Credit, the County shall complete, execute, and deliver to the Issuer a reduction letter verifying the acceptance of the Improvement and documenting that the Stated Amount has been reduced by stating the balance of the Stated Amount remaining after the reduction required by the first sentence of this Paragraph. No later than sixty (60) days after its receipt of a written request to reduce the Stated Amount submitted by the Subdivider or the Issuer, the County shall determine the Estimated Remaining Cost and shall complete, execute, and deliver to the Issuer a reduction letter documenting that the Stated Amount has been reduced to the Estimated Remaining Cost if the County determines the Stated Amount exceeds the Estimated Remaining Cost. Notwithstanding the preceding sentence, the County shall not be required to authorize reductions in the Stated Amount more frequently than every ninety (90) days. As used in this Paragraph, "Estimated Remaining Cost" means the amount the County estimates to be the cost of completing all Improvements which are incomplete as of the time of such estimate.

County's Obligations

13. Inspection and Certificate. The County agrees to inspect Improvements during and at the completion of construction and, if completed in accordance with the standards and specifications for such Improvements, to certify the Improvements as being in compliance with County standards and specifications. The inspections and certifications will be conducted in accordance with standard County policies and requirements. The Subdivider grants the County, its agents, employees, officers, and contractors an easement and license to enter the Property to perform such inspections as it deems appropriate.

14. Notice of Defect. The County will provide timely notice to the Subdivider whenever inspection reveals that an Improvement is not constructed or completed in accordance with the standards and specifications for health or safety, and if the notice of defect includes a statement explaining why the defect creates such immediate and substantial harm, the cure period may be shortened to no less than five (5) days and the County may declare a default under this Agreement if not satisfied that the defect is cured after the cure period. Any cure period should be reasonable in relation to the nature of the default.

15. Use of Proceeds. The County will disburse funds drawn under the Letter of Credit only for the purposes of completing the Improvements in conformance with the County's requirements and specifications for the Improvements, or to correct defects in or failures of the Improvements. The Subdivider has no claim or rights under this Agreement to funds drawn under the Letter of Credit or any accrued interest earned on the funds. All funds obtained by the County pursuant to one or more draws under the Letter of Credit shall be maintained by the County in an interest bearing account or accounts until such funds, together with accrued interest thereon (the Escrowed Funds), are disbursed by the County. The County may disburse all or portions of the Escrowed Funds as Improvements are completed and accepted by the County, or in accordance with the terms of a written construction contract between the County and a third party for the construction of Improvements. Escrowed Funds not used or held by the County for the purpose

of completing an Improvement or correcting defects in or failures of an Improvement, together with interest accrued thereon, shall be paid by the County to the Issuer of the Letter of Credit no later than sixty (60) days following the County's acceptance of the Improvement or its decision not to complete the Improvement using Escrowed Funds, whichever date is earlier.

16. Return of Excess Escrowed Funds. No later than sixty (60) days after its receipt of a written request from the Subdivider or the Issuer to return Excess Escrowed Funds to the Issuer, the County shall disburse to the Issuer from the Escrowed Funds all Excess Escrowed Funds. For purposes of this Paragraph, "Excess Escrowed Funds" means the amount of Escrowed Funds exceeding one hundred ten percent (110%) of the estimated cost of constructing Improvements the County intends to construct but which have not been accepted, as such cost is shown on Exhibit B. Notwithstanding the first sentence in this Paragraph, the County shall not be required to disburse Excess Escrowed Funds more frequently than every ninety (90) days.

17. Cost Participation by County. If the County and Subdivider agree the County will participate in the expense of installing any of the Improvements, the respective benefits and obligations of the parties shall be governed by the terms of a Community Facilities Construction Agreement executed by the parties thereto, and the terms of that agreement shall control to the extent of any inconsistency with this Agreement.

18. Conditions of Draw on Security The County may draw upon any financial guarantee posted in accordance with Paragraph 11 upon the occurrence of one or more of the following events:

- (a) Subdivider's failure to construct the Improvements in accordance with Paragraph 8 of this Agreement;
- (b) Subdivider's failure to renew or replace the Letter of Credit at least forty-five (45) days prior to the expiration date of the Letter of Credit;
- (c) Subdivider's failure to replace or confirm the Letter of Credit if the Issuer fails to maintain the minimum rating acceptable to the County, in accordance with Paragraph 11 of this Agreement;
- or
- (d) Issuer's acquisition of the Property or a portion of the Property, through foreclosure or an assignment or conveyance in lieu of foreclosure.

The County shall provide written notice of the occurrence of one or more of the above events to the Subdivider, with a copy provided to the Issuer. Where a Letter of Credit has been provided as the financial guarantee, with respect to an event described by subparagraph (a), the County shall provide notice to the Subdivider and the Issuer of the specific default and the notice shall include a statement that the County intends to perform some or all of Subdivider's obligations under Paragraph 8 for specified Improvements if the failure is not cured. The notice with respect to a default under subparagraph (a) shall be given no less than twenty (20) days before presentation of a draft on the Letter of Credit, unless, in the reasonable opinion of the County, the failure creates an immediate and substantial harm to the public health or safety, in which case the notice shall state why the failure creates an immediate and substantial harm to the public health or safety, and shall be given no less than five (5) days before presentation of a draft on the Letter of Credit. In the event of a draw based on subparagraph (a), the County shall be entitled to draw in the amount it considers necessary to perform Subdivider's obligations under Paragraph 8, up to the amount allocated according to Exhibit B for any Improvement it states its intent to construct

or complete in accordance with the standards and specifications for such improvement. The subdivider hereby grants to the County, its successors, assigns, agents, contractors, and employees, a nonexclusive right and easement to enter the Property for the purposes of constructing, maintaining, and repairing such Improvements. Where a Letter of Credit has been provided as the financial guarantee, with respect to an event described by subparagraphs (b), (c), or (d), the notice shall be given no less than twenty (20) days before presentation of a draft on the Letter of Credit. In lieu of honoring a draft based on an event described in subparagraphs (b) or (c), the Issuer or the Subdivider may deliver to the County a substitute Letter of Credit if the event is described by subparagraph (b) or a substitute or confirming Letter of Credit if the event is described by subparagraph (c). If the Issuer has acquired all or a portion of the Property through foreclosure or an assignment or conveyance in lieu of foreclosure, in lieu of honoring a draft based on an event described in subparagraph (d), the Issuer may deliver to the County a substitute or confirming Letter of Credit.

19. Procedures for Drawing on the Letter of Credit. The County may draw upon the Letter of Credit in accordance with Paragraph 18 by submitting a draft to the Issuer in compliance with the terms of the Letter of Credit governing such draft. The Letter of Credit must be surrendered upon presentation of any draft which exhausts the Stated Amount of such Letter of Credit. The County may not draft under a Letter of Credit unless it has substantially complied with all its obligations to the Issuer under this Agreement and has properly completed and executed the draft in strict accordance with the terms of the Letter of Credit.

20. Measure of Damages. The measure of damages for breach of this Agreement by the Subdivider is the reasonable cost of completing the Improvements in conformance with the County's requirements, procedures, and specifications. For Improvements upon which construction has not begun, the estimated cost of the Improvements shown on Exhibit B will be prima facie evidence of the minimum cost of completion; however, neither that amount or the amount of the Letter of Credit establishes the maximum amount of the Subdivider's liability.

21. Remedies. The remedies available to the County, the Subdivider, and Issuer under this Agreement and the laws of Texas are cumulative in nature.

22. Provisions for the Benefit of Issuer. The provisions of Paragraphs 9, 10, 11, 12, 15, 16, 18, 19, 21, 22, 23, 25, 26, 27, 28, 29, 30, 32, and 36 of this Agreement for the benefit of the Issuer may not be modified, released, diminished, or impaired by the parties without the prior written consent of the Issuer.

23. Third Party Rights. No person or entity who or which is not a party to this Agreement shall have any right of action under this Agreement, nor shall any such person or entity other than the County (including without limitation a trustee in bankruptcy) have any interest in or claim to funds drawn on the Letter of Credit and held in escrow by the County in accordance with this Agreement. Notwithstanding the preceding sentence, the Issuer shall have a right of action to enforce any provision of this Agreement where the Issuer is specifically named as a beneficiary of such provision pursuant to Paragraph 22.

24. Indemnification. The Subdivider hereby expressly agrees to indemnify and hold the County harmless from and against all claims, demands, costs, and liability of every kind and nature, including reasonable attorney's fees for the defense of such claims and demands, arising from any breach on the part of Subdivider of any provision in this Agreement, or from any act or negligence of Subdivider or Subdivider's agents, contractors, employees, tenants, or licensees in the construction of the Improvements. The Subdivider further agrees to aid and defend the County if the County is named as a defendant in an action arising from any breach on the part of Subdivider of any provision in this Agreement, or from any act of negligence of Subdivider or Subdivider's agents, contractors, employees, tenants, or licensees in the construction of the Improvements, except where such suit is brought by the Subdivider. The Subdivider is not an employee or agent of the County. Notwithstanding anything to the contrary contained in this agreement, the Subdivider does not agree to indemnify and hold the County harmless from any claims, demands, costs, or liabilities arising from any act or negligence of the County, its agents, contractors, employees, tenants, or licensees.

25. No Waiver. No waiver of any provision of this Agreement will be deemed or constitute a waiver of any other provision, nor will it be deemed or constitute continuing waiver unless expressly provided for by a written amendment to this Agreement; nor will the waiver of any default under this agreement be deemed a waiver of any subsequent defaults of the same type. The failure at any time to enforce this Agreement or covenant by the County, the Subdivider, or the Issuer, their heirs, successors or assigns, whether any violations thereof are known or not, shall not constitute a waiver or estoppel of the right to do so.

26. Attorney's Fees. Should either party or the Issuer, to the extent Issuer is named as specific beneficiary, be required to resort to litigation to enforce the terms of this agreement, the prevailing party, plaintiff or defendant, shall be entitled to recover its costs, including reasonable attorney's fees, court costs, and expert witness fees, from the other party. If the court awards relief to both parties, each will bear its own costs in their entirety.

27. Assignability. The benefits and burdens of this Agreement are personal obligations of the Subdivider and also are binding on the heirs, successors, and assigns of the Subdivider. The Subdivider's obligations under this Agreement may not be assigned without the express written approval of the County. The County's written approval may not be withheld if the Subdivider's assignee explicitly assumes all obligations of the Subdivider under this Agreement and has posted the required security. The County agrees to release or reduce, as appropriate, the Letter of Credit provided by the Subdivider if it accepts substitute security for all or any portion of the Improvements. The County, in its sole discretion, may assign some or all of its rights under this Agreement, and any such assignment shall be effective upon notice to the Subdivider and the Issuer.

28. Expiration. This Agreement shall terminate upon the expiration of the approval of the proposed final plat of the Subdivision or if the Subdivision is vacated by the Subdivider.

29. Notice. Any notice required or permitted by this Agreement is effective when personally delivered in writing or three (3) days after notice is deposited with the U.S. Postal Service, postage prepaid, certified with return receipt requested, and addressed as follows:

if to Subdivider:

Attn: ROCK PILE CONSTRUCTION LLC

Printed Name: Justin Burk

Office or Position: owner / manager

Address: PO Box 420577

Del Rio, Tx 78842

if to County:

Attn: VAL VERDE COUNTY

Printed Name: LEWIS G. OWENS JR.

Office or Position: COUNTY JUDGE

Address: 400 PECAN ST.

DEL RIO, TX. 78840

if to the Issuer: at Issuer's address shown on the Letter of Credit.

The parties may, from time to time, change their respective addresses listed above to any other location in the United States for the purpose of notice under this Agreement. A party's change of address shall be effective when notice of the change is provided to the other party in accordance with the provisions of this Paragraph.

30. Severability. If any part, term, or provision of this Agreement is held by the courts to be illegal, invalid, or otherwise unenforceable, such illegality, invalidity, or enforceability shall not affect the validity of any other part, term, or provision, and the rights of the parties will be construed as if the part, term, or provision was never part of this Agreement.

31. Personal Jurisdiction and Venue. Personal jurisdiction and venue for any civil action commenced by either party to this Agreement or the Issuer, whether arising out of or relating to the Agreement or the Letter of Credit, will be deemed to be proper only if such action is commenced in District Court for VAL VERDE County, Texas, or the United States District Court for the WESTERN District of Texas, DEL RIO Division. The Subdivider expressly waives any right to bring such an action in or to remove such an action to any other court, whether state or federal. The Issuer, by providing a Letter of Credit pursuant to the terms of this Agreement, expressly waives any right to bring such an action in or to remove such an action to any other court, whether state or federal.

32. Release Upon Completion. Upon acceptance of all Improvements, the County agrees: (a) to complete, execute and deliver to the Subdivider and the Issuer a release in recordable form releasing the Subdivider and Subdivider's heirs, successors and assigns, and the Property from all provisions of this Agreement except those contained in Paragraph 10, and (b) to return to the Issuer the Letter of Credit and any Escrowed Funds not expended or obligated by the County for the completion of the Improvements.

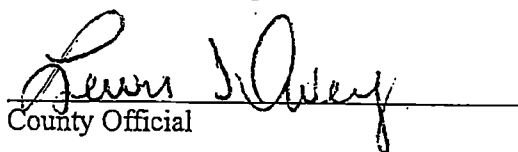
33. Captions Immaterial. The numbering, order, and captions or headings of the paragraphs of this agreement are for convenience only and shall not be considered in construing this agreement.

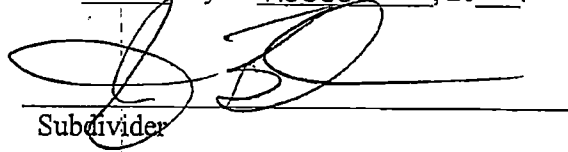
34. Entire Agreement. This Agreement contains the entire agreement between the parties and correctly sets forth the rights, duties, and obligations of each to the other as of the Effective Date. Any oral representations or modifications concerning this Agreement shall be of no force or effect excepting a subsequent written modification executed by both parties.

35. Authorization to Complete Blanks. By signing and delivering this agreement to the appropriate official of the County, the Subdivider authorizes completion of this Agreement by filling in the Effective Date below.

36. Binding Agreement. The execution and delivery of this agreement and the performance of the transactions contemplated thereby have been duly authorized by all necessary corporate and governmental action of the County. This Agreement has been duly executed and delivered by each party, and constitutes a legal, valid, and binding obligation of each party enforceable in accordance with the terms as of the effective Date. These representations and agreements are for the benefit of the Issuer, and have been relied on by the Issuer in issuing the Letter of Credit.

EXECUTED by the parties to be effective as of the 9 day of AUGUST, 2021.


County Official


Subdivider

[SIGNATURES OF THE PARTIES TO BE ACKNOWLEDGED]

EXHIBIT A: METES AND BOUNDS DESCRIPTION OF PROPERTY

EXHIBIT B: SUBDIVISION IMPROVEMENTS

Subdivision Improvements. Subdivider and County agree the following improvements are required in connection with the approval and development of the Subdivision (collectively, the Subdivision Improvements). Subdivider agrees to deliver a financial guarantee acceptable in form and substance to the County in an amount equal to the Estimated Cost of Completion listed below, as follows:

Description of Improvement(s)	Estimated Cost of Completion
a) 7.78 MILES OF ROADS TWO COURSE TREATMENT	\$780,000.00
b) TWO DRIVEWAY ENTRANCES (SAN PEDRO DR AND US HWY 277 (TxDOT Standards)	\$90,000.00

**FIELD NOTES
FOR
KELLEY RANCH SUBDIVISION**

1523.476 Acres

August 2, 2021
21-E-0581_1523.476ac

Being an area of 1523.476 acres of land being a portion of W. W. Sankey, G. C. & S. F. R. R. Co. Block 5, Survey No. 24, Abstract No. 2329, a portion of G. C. & S. F. R. R. Co. Block 5, Survey No. 25, Abstract No. 1630, a portion of W. W. Sankey, C. C. S. D. & R. G. N. G. R. R. Co., Survey No. 490, Abstract No. 2330, a portion of D. & P. R. R. Co. Survey No. 743, Abstract No. 267, a portion of Charles L. Kelley, D. & P. R. R. Co. Survey No. 745, Abstract No. 268, and a portion of C. L. Kelley, D. & P. R. R. Co. Survey No. 746, Abstract No. 1995, and being all of that certain 1523.477 acre tract described and recorded in Instrument No. 00327589, Official Public Records of Val Verde County, Texas and said 1523.476 acre tract being more particularly described by metes and bounds as follows:

Beginning at a 1/2" iron rod found in the south line of U. S. A. 377.15 acre tract Parcel V-30-B-10 (Parcel V-30-B-10 (Plat AP-328, Vol. 3, Pg. 68, Map Records) and Volume 179, Page 71-72, Deed Records of Val Verde County, Texas and the northwest corner of David Kelley 22.923 acre tract described and recorded in Document No. 00286694, Official Public Records of Val Verde County, Texas and the north northeast corner of this tract and said 1523.477 acre tract;

Thence with the northerly east line of this tract and said 1523.477 acre tract and the west line of said David Kelley 22.923 acre tract and certain Claud Kelley 22.923 acre tract described and recorded in Document No. 002869693, Official Public Records of Val Verde County, Texas, S. 03° 13' 15" W. 2000.00 feet to a 1/2" iron rod found for the southwest corner of said Claud Kelley 22.923 acre tract and the northeast reentrant corner of this tract and said 1523.477 acre tract;

Thence with the south line of said Claud Kelley 22.923 acre tract and the easterly north line of this tract and said 1523.477 acre tract, S. 89° 53' 12" E. 1000.00 feet to a 1/2" iron rod found for the southeast corner of said Claud Kelley 22.923 acre tract and the east northeast corner of this tract and said 1523.477 acre tract and being in the west right-of-way line of U. S. Highway 277 & 377.

Thence with the most easterly line of this tract and said west line of U. S. Highway 277 & 377, S. 03° 13' 15" W. 451.35 feet to a right-of-way monument found, S. 03° 19' 39" W. 2264.17 feet to a 1/2" iron rod found for the east southeast corner of this tract and said 1523.477 acre tract;

Thence with an easterly south line of this tract and said 1523.477 acre tract, N. 86° 36' 38" W. at 2.7 feet pass the northeast corner of a Reece Albert, Inc. 182.953 acre pit lease tract (nothing of record found) and thence with fence and the north side of said lease tract a total 2590.03 feet to a 1/2" iron rod found at the northwest corner of said pit lease tract;

Thence with the west line of said pit lease tract, S. 09° 54' 38" E. 3750.49 feet to a 1/2" iron rod found for the southwest corner of said pit lease tract and the northwest corner of a 161.343 acre lease tract described in Volume 575, Pages 688-691, Official Public Records of Val Verde County, Texas and angle corner of this tract and said 1523.477 acre tract,

Thence with the west line of said 161.343 acre tract, S. 06° 26' 25" W. 1952.09 feet to a 2" steel fence corner found for angle corner of this tract and said 1523.477 acre tract:

Thence S. 68° 52' 20" W. 1244.14 feet to a 1/2" iron rod found for angle corner, S. 19° 54' 17" E. 214.36 feet to a 1/2" iron rod found for angle corner, S. 50° 28' 05" E. 355.32 feet to a 1/2" iron rod found in the south line of said Survey No. 25, in the north line of Benjamin Jeffrey Adam, et ux 34.92 acre tract described in Document No. 00304718, Official Public Records of Val Verde County, Texas and the south southeast corner of this tract and said 1523.477 acre tract:

Thence with the south line of said Survey No. 25, said 1523.477 acre tract and this tract and north line of said Adam 34.92 acre tract, N. 88° 53' 13" W. 2072.99 feet to a 1/2" iron rod found for the northwest corner of said Adam 34.92 acre tract and in the east line of certain Lazy Lady, LLC 18.882 acre tract "Tract I" described and recorded in Document No. 00251781 (Vol. 1128, Pgs. 501-508, Official Public Records of Val Verde County, Texas) and a south southwest corner of this tract and said 1523.477 acre tract and southwest corner of said Survey No. 25;

Thence with the east line of said Lazy Lady 18.882 acre tract and west line of said Survey No. 25, N. 00° 12' 14" E. 372.92 feet to a 1/2" iron rod found for the southeast corner of said Survey No. 746 and north northeast corner of said Lazy Lady 18.882 acre tract and a reentrant corner of this tract and said 1523.477 acre tract:

Thence with the south line of said Survey No. 746 and north line of said Lazy Lady 18.882 acre tract, N. 88° 40' 55" W. 1223.66 feet to a 1/2" iron rod found for the northwest corner of said Lazy Lady 18.882 acre tract and the northeast corner of Lazy Lady Lot 6, Block N, "Tract III", Document No. 00251781, Official Public Records of Val Verde County, Texas and angle corner of this tract and said 1523.477 acre tract:

Thence with the northeast line of said Lot 6, N. 62° 03' 25" W. 71.86 feet to a 1/2" iron rod found for the northwest corner of said Lot 6 and northeast corner of Lot 5 for corner.

Thence N. 61° 37' 31" W. 199.94 feet to a 1/2" iron rod found for the northwest corner of said Lot 5 and northeast corner of Lot 4, Block N described and recorded Volume 917, Page 912-914, Official Public Records of Val Verde County, Texas:

Thence N. 61° 49' 06" W. 199.98 feet to a 1/2" iron rod found for the northwest corner of said Lot 4 and northeast corner of Lot 3, Block N, described and recorded in Volume 851, Page 740-742, Official Public Records of Val Verde County, Texas:

Thence N. 61° 27' 20" W. 199.29 feet to a 1/2" iron rod found for the northwest corner of said Lot 3 and northeast corner of Lot 2, Block N, described and recorded in Document No. 00299436, Official Public Records of Val Verde County, Texas and the southeast corner of a certain 4.315 acre tract described and recorded in Document No. 00299436, Official Public Records of Val Verde County, Texas:

Thence N. 28° 39' 55" E. 252.03 feet to a 1/2" iron rod found for the northeast corner of said 4.315 acre tract and angle corner of this tract and said 1523.477 acre tract.

Thence N. 61° 38' 57" W. 774.01 feet to a 1/2" iron rod found for the northwest corner of said 4.315 acre tract and the west southwest corner of this tract and said 1523.477 acre tract and being in the east line of Sport Development LTD 430.58 acres Tracts I & III, described and recorded in Volume 1004, Page 803-816, Official Public Records of Val Verde County, Texas:

Thence with the west line of this tract and said 1523.477 acre tract and east line of said 430.58 acre tract, N. 00° 19' 36" W. 210.60 feet to a 1/2" iron rod found for angle corner, N. 01° 04' 57" E. 3451.37 feet to a 1/2" iron rod found for angle corner, N. 01° 04' 58" E. 2459.15 feet to a 2" steel fence corner found for the southwest corner of a certain Gus Brandt Smith 15.957 acre tract described and recorded in Volume 692, Page 598-603, Official Public Records of Val Verde County, Texas:

Thence with the south line of said 15.957 acre tract, N. 87° 00' 00" E. 782.23 feet to a 1/2" iron rod found for the southeast corner of said 15.957 acre tract:

Thence with the east line of said 15.957 acre tract, N. 11° 06' 40" E. 655.63 feet to a 1/2" iron rod found for the northeast corner of said 15.957 acre tract:

Thence with the north line of said 15.957 acre tract as follows, S. 86° 59' 32" W. 300.00 feet to a 2" steel fence corner found for angle corner, N. 46° 52' 21" W. 414.52 feet to a 2" steel fence corner found for angle corner, N. 74° 49' 39" W. 295.98 feet to a 1/2" iron rod found for the northwest corner of said 15.957 acre tract:

Thence continuing with the west line of this tract and said 1523.477 acre tract and the east line of said 430.58 acre tract, N. 01° 29' 01" E. 2742.05 feet in the 1144.3 feet contour line of Amistad Reservoir National Recreational Area and the northeast corner of said 430.58 acre tract.

Thence continuing with the 1144.3 feet contour line as follows, S. 61° 53' 42" E. 111.46 feet, S. 38° 31' 28" E. 50.05 feet, S. 06° 07' 58" W. 117.25 feet, N. 23° 37' 29" E. 177.55 feet, N. 44° 02' 28" W. 66.83 feet, S. 79° 00' 59" E. 68.59 feet, S. 54° 01' 23" E. 108.43 feet, N. 30° 31' 13" W. 88.08 feet, N. 50° 27' 19" W. 159.96 feet, N. 01° 17' 12" W. 117.08 feet, N. 29° 56' 17" E. 63.13 feet, S. 86° 02' 36" W. 70.06 feet, N. 61° 29' 21" W. 83.25 feet to the southeast corner of a certain 1.83 acre tract designated as Area "B" as shown in Volume 3, Page 38, of the Plat Records of Val Verde County, Texas:

Thence continuing with the west line of this tract and said 1523.477 acre tract N. 01° 10' 07" E 416.60 feet to a aluminum disc found for the northwest corner of this tract and said 1523.477 acre tract and the southwest corner said 377.15 acre tract;

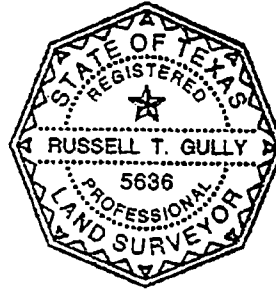
Thence with the north line of this tract and said 1523.477 acre tract and south line of said 377.15 acre tract N. 87° 34' 08" E. 394.23 feet to a 1/2" iron rod found for angle corner. S. 89° 29' 23" E. 2053.12 feet to a 1/2" iron rod found for angle corner. S. 69° 26' 49" E. 2700.51 feet to a 1/2" iron rod found for angle corner, N. 89° 59' 22" E. 1510.27 feet to the place of beginning and containing an area of 1523.476 acres of land.

Bearings recited hereon are based on Texas Coordinate System NAD83 – Texas South Central Zone by GPS observation.

See Attached Plat of Survey



Russell T. Gully
Registered Professional Land Surveyor No. 5636
SKG Engineering, LLC
Firm No. 10102400



Date :	7/19/2021

Project	
Kelley Ranch Project	

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APPENDIX 2B, IRREVOCABLE LETTER OF CREDIT NO. 449

TO: Val Verde County, Texas

DATE: August 4, 2021

We hereby authorize you to draw at sight on The Bank and Trust, 1200 Veterans Blvd, Del Rio, TX 78840, for the account of Rock Pile Construction, up to the aggregated amount of 900,000.00 available by our draft, accompanied by a certification by the county judge, any county commissioner, or the county treasurer that the following condition exists:

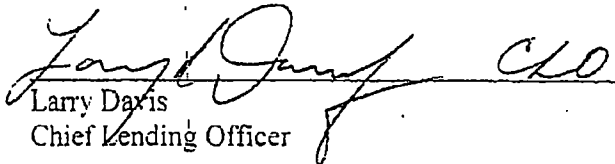
"A Condition of Draw exists under Subdivision Construction Agreement dated 08/04/2021, by and between Subdivider (Rock Pile Construction) and the County of Val Verde. County is in substantial compliance with the terms of said Agreement and has calculated the amount of this draft in accordance with the terms of the Agreement."

Drafts must be drawn and presented by or on 08/04/2023 by the close of business of the Issuer of this credit and must specify the date and number of this credit. Drafts will be honored within five calendar days of presentment. We hereby engage all drawers that drafts drawn and presented in accordance with this credit shall be duly honored. Partial draws are permitted and the letter of credit shall be reduced by the amount of such partial draws as well as by any reduction letters authorized by the County. The sum of such partial draws shall on no account exceed the Stated Amount of this credit, and upon any draw or reduction letter which exhausts this credit, the original of this credit will be surrendered to us.

Except as expressly stated, this credit shall be subject to the Uniform Customs and Practice for Documentary Credits (1993 Revision), International Chamber of Commerce (Publication No. 500).

This credit is irrevocable prior to its expiration date unless both parties consent to revocation in writing.

The Bank & Trust, s.s.b.
PO Box 4010
Del Rio, TX 78841-4010


Larry Davis
Chief Lending Officer

BRACKETTVILLE • DEL RIO • SAN ANGELO • SONORA

P.O. Box 895 - 229 Hwy 277 North - Sonora, Texas 76950
(325) 387-2593 - (800) 833-5746 - Fax (325) 387-5256 - www.thebankandtrust.com