

HIDALGO COUNTY REGIONAL MOBILITY AUTHORITY

NOTICE OF AND AGENDA FOR A PLANNING COMMITTEE MEETING TO BE HELD BY THE BOARD OF DIRECTORS

DATE: TUESDAY, DECEMBER 18, 2012
TIME: 4:30 PM
PLACE: DONNA HOUSING AUTHORITY
1711 STITES ROAD
DONNA, TEXAS 78537

PRESIDING: RICARDO PEREZ, CHAIRMAN-PLANNING COMMITTEE

CALL TO ORDER

AGENDA

1. Recommendation on Work Authorization Number 6 of Professional Service Agreement with Dannenbaum Engineering for General Engineering and Continued Program Management of SH 365 and IBTC Projects
2. Recommendation on Update to Internal Ethics Compliance Manual – Employee Conduct Manual

ADJOURNMENT

CERTIFICATION

I, the Undersigned Authority, do hereby certify that the attached agenda of the Hidalgo County Regional Mobility Authority Board of Director's Planning Committee is a true and correct copy and that I posted a true and correct copy of said notice on the Hidalgo County Regional Mobility Web Page (www.hcrma.net) and on the bulletin board in the Hidalgo County Court House (100 North Closner, Edinburg, Texas 78539), a place convenient and readily accessible to the general public at all times, and said Notice was posted on the **13th** day of **December, 2012** at **12:00 pm** and will remain so posted continuously for at least 72 hours preceding the scheduled time of said meeting in accordance with Chapter 551 of the Texas Government Code.

Flor E. Koll
Program Administrator

Note: If you require special accommodations under the Americans with Disabilities Act, please contact Flor E. Koll at 956-402-6742 at least 24 hours before the meeting.

HIDALGO COUNTY REGIONAL MOBILITY AUTHORITY

AGENDA RECOMMENDATION FORM

BOARD OF DIRECTORS	<u> </u>	AGENDA ITEM	<u> 1 </u>
PLANNING COMMITTEE	<u> X </u>	DATE SUBMITTED	<u> 12/10/12 </u>
FINANCE COMMITTEE	<u> </u>	MEETING DATE	<u> 12/18/12 </u>
TECHNICAL COMMITTEE	<u> </u>		

1. Agenda Item: **RECOMMENDATION ON APPROVAL OF DANNENBAUM ENGINEERING WORK AUTHORIZATION NUMBER 6 FOR CONTINUED PROGRAM MANAGEMENT OF SH 365 PROJECT**

2. Nature of Request: (Brief Overview) Attachments: Yes No

Consideration and approval of a Work Authorization Number 6 for continued Program Management of SH 365 Project.

3. Policy Implication: Board Policy, Local Government, Texas Government Code, Texas Transportation Code, TxDOT Policy

4. Budgeted: Yes No N/A

Funding Source: Loop Fund

Maximum amount payable	\$5,000,000.00	100%
Work Authorization No. 1	(\$ 909,960.63)	-18.19%
Work Authorization No. 2 (cancelled)	(\$ 0.00)	0%
Work Authorization No. 3	(\$ 57,750.00)	-1.16%
Work Authorization No. 4	(\$ 891,814.61)	-17.84%
Supplemental No. 1 to WA No. 4	\$ 197,458.76	3.95%
Work Authorization No. 5	(\$ 832,369.93)	-16.64%
<u>Work Authorization No. 6 (proposed)</u>	<u>(\$ 689,834.33)</u>	<u>-13.80%</u>
Maximum fee balance	\$1,815,729.26	36.32%

Total authorized for WA 1, 3, 4 & 5	\$2,509,436.41
<u>Payments to date for WA 1, 3, 4 & 5</u>	<u>(\$2,227,854.94)</u>
Work Authorization balance	\$ 281,581.47

5. Staff Recommendation: **Motion to recommend approval of Dannenbaum Work Authorization Number 6 in the amount of \$689,834.33, leaving a maximum fee balance of \$1,815,729.26.**

6. Program Manager's Recommendation: Approved Disapproved None

7. Planning Committee's Recommendation: Approved Disapproved None

8. Board Attorney's Recommendation: Approved Disapproved None

9. Executive Director's Recommendation: Approved Disapproved None



Memorandum

To: Ricardo Perez, Chairman – Planning Committee
From: Pilar Rodriguez, PE, Executive Director
Date: December 10, 2012
Re: **Dannenbaum Engineering Work Authorization Number 6**

At the October 27, 2011, regular meeting, the Board of Directors awarded a professional service agreement for general engineering and program management services to Dannenbaum Engineering in the maximum payable amount of \$5,000,000. Subsequently, the Board has approved Work Authorizations No. 1, 3, 4 and 5 in the amounts of \$909,960.63, \$57,750.00, \$891,814.61 and \$832,369.93 respectively.

Work Authorization No. 1 was to review prior engineering, surveying, environmental and permitting work provided to the Hidalgo County Regional Mobility Authority (HCRMA), Work Authorization No. 2 was cancelled by the HCRMA Board, Work Authorization No. 3 was to provide title reports for the SH 365, Work Authorization No. 4. was to update the new Executive Director, oversee the update of T&R study, oversee environmental clearance/preliminary design of SH 365 and oversee various other tasks related to SH 365 and IBTC Projects, and Work Authorization No. 5 was to continue Program Management for SH 365 and IBTC Projects.

Dannenbaum's tasks under Work Authorization No. 6 continue the Program Management for SH 365 and include the following:

- Coordinate with the Executive Director
- Attend meetings with the HCRMA, County Commissioners Court, TxDOT and MPO
- Coordinate with Hidalgo County Appraisal District on TRZ agreements
- Implement public outreach with 4 jurisdictions
- Revise the HCRMA Strategic Plan based on revised T&R Study
- Oversee environmental clearance of SH 365 and review schematics/drainage
- Oversee environmental clearance of US 281 and development of route study and schematics
- Provide the listed services for six (6) months (January to June 2013)

The engineer's level of effort to perform these tasks was also evaluated and calculated to equate to 13.80% of the maximum amount payable to Dannenbaum for program management and engineering. I have attached the engineer's proposed scope and level of effort for the proposed work order for your review and consideration.

Based on review by this office, **approval of Work Authorization No. 6 is recommended to Dannenbaum Engineering in the amount of \$689,834.33**, leaving a maximum fee balance of \$1,815,729.26.

If you should have any questions or require additional information, please advise.

HIDALGO COUNTY REGIONAL MOBILITY AUTHORITY

AGENDA RECOMMENDATION FORM

BOARD OF DIRECTORS	<u> </u>	AGENDA ITEM	<u> 2 </u>
PLANNING COMMITTEE	<u> X </u>	DATE SUBMITTED	<u> 12/10/12 </u>
FINANCE COMMITTEE	<u> </u>	MEETING DATE	<u> 12/18/12 </u>
TECHNICAL COMMITTEE	<u> </u>		

1. Agenda Item: **RECOMMENDATION ON UPDATE TO INTERNAL ETHICS COMPLIANCE MANUAL – EMPLOYEE CONDUCT MANUAL**

2. Nature of Request: (Brief Overview) Attachments: Yes No

Consideration and recommendation on updates to the HCRMA's Internal Ethics Compliance Manual – Employee Conduct Manual.

3. Policy Implication: Board Policy, Texas Government Code, Local Government Code, Texas Transportation Code, TxDOT Policy

4. Budgeted: Yes No N/A

Funding Source:

5. Staff Recommendation: **Motion to recommend updates to the Internal Ethics Compliance Manual – Employee Conduct Manual as presented.**

6. Board Attorney: Approved Disapproved None

7. Executive Director's Recommendation: Approved Disapproved None



Memorandum

To: Ricardo Perez, Chairman – Planning Committee
From: Pilar Rodriguez, PE, Executive Director
Date: December 10, 2012
Re: **Update to Internal Ethics Compliance Manual – Employee Conduct Manual**

Attached is a summary of revision to the Internal Ethics Compliance Manual – Employee Conduct Manual recommended by legal counsel Blakely Fernandez and Dan Rios.

Based on review by this office, **approval of the approval of the Updates to the Internal Ethics Manual – Employee Conduct Manual is recommended.**

If you should have any questions or require additional information, please advise.

**TUGGEY FERNANDEZ LLP
& LAW OFFICE OF DANIEL G. RIOS PC
CLIENT MEMORANDUM**

TO: PILAR RODRIGUEZ
FROM: BLAKELY FERNANDEZ and DAN RIOS
DATE: NOVEMBER 15, 2012
RE: EMPLOYEE CONDUCT MANUAL REVISIONS

The HCRMA is required under TxDOT's Ethics Compliance regulations to have an Employee Conduct Manual. This Manual was initially adopted in 2010 and is required to be reviewed from time to time. We have made some revisions to the Conduct Manual for the Board's consideration. These revisions are outlined below:

Section I. Confidential Information, (D) Personnel Files: Non substantive, grammatical revisions were made.

Section I. Confidential Information, (E) ~~Sexual~~ Harassment Information: This section has been broadened to include information related to all forms of harassment, not just sexual harassment.

Section II. Conflict of Interest, (E) Interest in a Project: The conflict of interest policy extends to the employee's immediate family, a modifier related to employee's parents was removed, making it clear that the policy regarding monetary interest in an HCRMA project includes a spouse, child, or parent of the employee even if they do not live in the same household.

Section III. Contracting and Purchasing, (A) Competitive Purchasing: Reference to the HCRMA's adopted purchasing guidelines was added and the reference to using historically underutilized businesses (HUB) for construction contracts was deleted, leaving the reference to meeting TxDOT HUB guidelines for all contracts.

Section V. Employee Conduct, (A) Driving Requirements: The requirement for employees to report a seatbelt violation or traffic ticket to a supervisor within five days of conviction was removed.

Section V. Employee Conduct, (K) ~~Sexual~~ Harassment: This section has been broadened to cover all forms of harassment, not just sexual harassment.

Section VII. Equal Opportunity, (B) Cultural Diversity Training: Non substantive, grammatical revisions were made.

Section VIII. Fraud, (A) Audit: Parties conducting internal and external audits was expanded to include consultants.

Section VIII. Fraud, (B) Fraud and Abuse Prevention Training: A clarification was included that training may be provided by a local partnering entity.

Section XI. Intellectual Property, (B) Employee Created Material: Non substantive, grammatical revisions were made.

Section XII. Records, (A) Destruction of Records and (B) Retention Schedule: The HCRMA's record management policy was changed from the policy of the LRGVDC to the policy of the City of McAllen.

Section XIV. Workplace Health and Safety, (A) Driving Record Checks: Annual driver's record checks were changed from a mandatory function to an optional function.

Section XIV. Workplace Health and Safety, (A) Substance Abuse Training: Non substantive, clarifications were made.

Additional changes were made to recognize that the HCRMA now has an Executive Director. In prior years, the Conduct Manual was amended to place certain management responsibilities with the Chairman or an unidentified party and those responsibilities have been restored to the Executive Director.

Section III. Contracting and Purchasing, (H) Purchasing Authority: The Executive Director may commit public funds and sign purchase orders.

Section XIII. Authority Owned Property, (E) Lost or Stolen Property: Lost or stolen property is to be reported to, investigated by, and disclosed to the Board Chairman by the Executive Director.

Exhibit A to the Conduct Manual was added: Harassment Policy.

In addition to the revisions above, we are highlighting the training requirements and other annual obligations under this Manual. These are aligned with TxDOT's requirements.

Training:

1. **Annual Compliance Training** – provided by General Counsel or partnering local entity
2. **Cultural Diversity Training** (required at least once) – provided by General Counsel or partnering local entity
3. **EEO & Sexual Harassment Training** (required at least once) – provided by General Counsel or partnering local entity

4. **Abuse, Waste and Fraud Recognition and Reporting Training** (required at least once) -- provided by General Counsel or partnering local entity
5. **Substance Abuse Training** (required at least once)

Obligations:

1. Each employee who signs purchase orders or issues procurements must have a signed conflict of interest statement on file.
2. Reports of alcohol or drug convictions, damaged property, lost or stolen property, harassment are required within specific time periods.

Finally, we bring to your attention that Section VI: Employment Issues only applies to employees directly employed by the HCRMA. Employees who are “loaned” to the HCRMA under an interlocal agreement with another public entity are subject to that entity’s employment rules related to evaluations, overtime, separation, times sheets, vacation, and work schedule.

* * * * *



HCRMA
HIDALGO COUNTY REGIONAL MOBILITY AUTHORITY

INTERNAL ETHICS AND COMPLIANCE MANUAL

Adopted December 10, 2009

Revised January 16, 2013

**HIDALGO COUNTY REGIONAL MOBILITY AUTHORITY
COMPLIANCE MANUAL**

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TAB 1
EMPLOYEE CODE OF CONDUCT

DRAFT

HIDALGO COUNTY REGIONAL MOBILITY AUTHORITY EMPLOYEE CONDUCT MANUAL

I. CONFIDENTIAL INFORMATION

A. Employee Responsibility

Employees may not disclose confidential or sensitive Authority business information without authorization. Employees having access to, or processing confidential information about employees and other persons, or handling sensitive Authority business information according to policy or law will ensure such information is protected, not released, and treated confidentially. Employees who are entrusted with such information and fail to treat it as sensitive and confidential are subject to disciplinary action including termination. Employees will not release any confidential personal or medical information or sensitive Authority business information unless authorized by their supervisor. Unauthorized release of such information may result in criminal prosecution and personal liability.

Employees who use confidential and privileged information must have a thorough knowledge of policies and procedures for handling this type of information. Employees entrusted with the administration of information resources are responsible for exercising due diligence for preventing unauthorized access, unauthorized modification, theft, or vandalism of data and equipment.

B. Medical Records

Only authorized employees who have an official, work-related, need-to-know, and legitimate reason to view or handle confidential medical information have a right to see this information.

C. Personal Gain

It is a breach of ethical standards for any employee or former employee knowingly to use confidential information for actual or anticipated personal gain for the employee or another person.

D. Personnel Files

Only authorized employees will be given access to personnel records for work-related purposes. Some records are restricted to a need-to-know, work-related basis. Some personnel records are subject to disclosure under the Public Information Act. Before gathering any records, employees should determine if there is current litigation related to the request. If so, employees must secure advice from the proper personnel or the General Counsel.

An employee or employee's representative may need to file a Public Information Act request to access personnel records. Employees or their representatives are not entitled access to FMLA or ADA records. Medical records, drug test results, and confidential employee information also have further restrictions. Employees will always use an

envelope marked “Confidential” to transfer personnel records.

E. Harassment Information

General Counsel is responsible for maintaining confidential records concerning any incidents of sexual or other harassment.

II. CONFLICT OF INTEREST

A. Conflict of Interest

Conflict of interest is a situation in which an employee’s private interest (usually financial or economic in nature) conflicts or raises a reasonable question of conflict with the employee’s public duties and responsibilities. An employee shall not engage in any activity that would create a conflict of interest or even the appearance of a conflict. Importantly, employees that violate a conflict of interest law may face civil and/or criminal charges, which could result in monetary fines or jail time being assessed.

B. Contracts with Former Employees

Former employees may not enter into consultant contracts, professional services contracts, or services contracts with the Authority until they have been separated from the Authority for 12 months.

C. Authority Transactions

Employees will not transact any Authority business with any business entity in which they are an officer, agent, member, or owner of a controlling interest.

D. Employee Responsibility

Employees are responsible for avoiding conflicts of interest or even the appearance of conflicting activities. Employees should contact their supervisor or General Counsel if they have questions about conflicts of interest.

E. Interest in a Project

Employees will not have, either directly or indirectly, any monetary interest in any contract or subcontract in connection with an Authority project. This prohibition extends to the employee’s immediate family, which includes those individuals related by kinship, adoption, or marriage, who are living in the same household; or foster children living in the same household and certified by the Texas Department of Family and Protective Services; or a spouse, child, or parent of the employee who does not live in the same household.

F. Outside Employment

An Employee shall not engage in outside business or professional activities or accept employment in private enterprises if the activities:

- interfere with the employee’s working hours or efficiency;
- create a conflict between the employee’s private interests and public

duties;

- use or appear to use information obtained in connection with the employee's official duties; or
- could be expected to impair the employee's independence of judgment in the performance of the employee's duties.

G. Owning Property Acquired for Right-of-Way

Employees must not directly or indirectly have any financial or other personal interest in any real property acquired for an Authority project. The only exception is if such interest is openly disclosed in the public records of the Authority, and the employee has not participated in such acquisition on behalf of the Authority.

H. Personal Investments

Employees will not make personal investments in any enterprise that will create a substantial conflict between their private interest and public duties.

I. Personal Relationships

Employees may not favor any individual or entity on the basis of any personal friendship or financial or social relationship.

III. CONTRACTING AND PURCHASING

A. Competitive Purchasing

The Authority will use competitive purchasing whenever possible pursuant the adopted purchasing guidelines.

The Authority will make a good faith effort to meet or exceed the goals established by the Texas Department of Transportation to assist Historically Underutilized Businesses in receiving a portion of the total purchase order value of all purchases that the Authority expects to award in a fiscal year.

B. Conflict of Interest

Each employee, agent, or consultant that signs purchase orders or issues procurements must have on file a signed Conflict of Interest Statement. The original signed statement will be filed in the employee's personnel file, and the employee will keep a copy. Upon discovery of an actual, potential, or perceived conflict of interest, an employee must promptly file a written statement of notification with the Authority. Additionally, if personally involved, the employee must withdraw from further participation in the transaction.

C. Employee Certification of Contract

An employee, agent, or consultant who executes a contract on behalf of the Authority is certifying that:

- Authorization has been obtained by the Hidalgo County Regional Mobility

Authority.

- Funds have been budgeted and are available for payment.
- The contract complies with all applicable federal and state laws, Authority regulations, and Authority Bylaws.
- The contract included all required applicable provisions.
- The signature authority for signing the contract has been properly delegated.

D. Financial Interests

An Employee may not have any monetary interest, whether direct or indirect, in any contract or subcontract in connection with an Authority project.

E. Negotiated Procurement Process

In the negotiated procurement process, several items, including costs, may be negotiated with a vendor or service provider before a contract is executed. In contrast, the competitive bid process requires the Authority to award a contract to the entity with the lowest price (bid) for the desired good or service.

F. Personal Gain

It is a breach of ethical standards for any employee or former employee, agent, or consultant to solicit, demand, accept, or agree to accept from another person any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service in connection with any purchasing activity.

G. Purchasing

An employee, agent, or consultant who signs a purchase order (PO) is certifying that the PO complies with all purchasing requirements.

H. Purchasing Authority

Only the Executive Director and employees with written purchasing authority may commit public funds or award, issue or sign purchase orders that obligate such funds.

IV. EMPLOYMENT ISSUES

The policies in this Section IV apply to employees of the Authority. Employees that loaned to the Authority under an interlocal agreement with another public entity are subject the employment guidelines of the public entity that directly employs them.

A. Employee Evaluations

Employee evaluations are designed to provide a formal system of two-way communication between employees and their manager or supervisor and are a tool to measure employees' job performance. Employees must consistently meet the performance standards of the job to remain employed.

B. Overtime

Employees may be compensated for work performed in excess of 40 hours in one week, or at times outside of their normal work schedules. Employees must obtain supervisory approval before working overtime. Failure of an employee to work overtime when instructed by a supervisor, or failure to obtain approval before working overtime, will subject an employee to disciplinary action.

C. Separation from Authority

Each employee must have an exit interview with his supervisor or General Counsel before their last working day. A reduction in force (RIF) involves involuntary separation from employment of employees whose positions have been eliminated. These reductions may be due to budgetary constraints, legislative mandates, cost benefit derived from outsourcing, or reorganizations of resources that alter or reduce the delivery of services, programs, or functions. Employees who fail to comply with conditions of employment, or do not return to work after certain types of absences, may be administratively separated.

D. Time Sheets

Employees must maintain a record of their total hours worked and leave taken each day. Time sheets represent an employee's invoice to the Authority for services performed and paid leave taken. They must be signed by employees to certify correctness. Falsification of time sheets is grounds for termination of employment.

E. Vacation Leave

Employees are entitled to paid vacation leave if it is accrued and used in accordance with the provisions set forth in this policy. Employees must work at least one hour during the month before vacation leave is accrued for that month. Vacation leave must be accrued before it may be used. Vacation leave accrual begins on the first day of employment and ends on the last day of duty. Employees must be employed by the Authority or its administrative agent for six continuous months, to the date, before they may use their vacation leave. Vacation leave is recorded and taken in whole hours. Upon separation from Authority employment, employees may elect either to remain on the payroll to use their vacation leave, or to be paid in a lump sum.

F. Work Schedule

All employees will observe assigned working hours, and avoid tardiness, abuse of break time, lingering, and abuse of sick leave. Changing assigned work schedules from day to day, week to week, or month to month is not considered reasonable. However, employees may make minor schedule changes on short notice with the supervisor's approval. Employees scheduled to work more than four hours per day will include at least a half-hour lunch break in their schedules at plus or minus an hour of the mid-point of the day's schedule.

V. EMPLOYEE CONDUCT

A. Driving Requirements

Employees who are authorized to drive for the Authority must have a valid regular or occupational driver license. It is the responsibility of employees to know whether their license is valid and to avoid driving on Authority business without a valid regular or occupational license. Employees who are authorized to drive for the Authority will immediately be removed from all critical duties if they receive an alcohol or drug-related driving offense, either on or off the job. Employees who are authorized to drive for the Authority will be suspended without pay for five working days if they fail to report an alcohol- or drug-related driving offense within one work day upon their return to work after receiving an alcohol- or drug-related driving offense.

B. Electronic Recordings

Employees will not make audio, video, or other types of electronic recordings of other employees without their prior knowledge and consent.

C. Falsifying Information

An employee must not knowingly falsify or destroy Authority information or make a false statement or representation when acting as a representative of the Authority.

D. Gambling and Related Activities

Employees will not participate in gambling or related activities at any time while on duty or use any type of Authority property in support of such activities.

E. Incident Reporting

All incidents resulting in any property damage or injury that involve Authority personnel, equipment, or operations must be reported to General Counsel. Employees who are involved in an incident regardless of the extent of the damage or injury while driving on Authority business or operating motorized equipment for Authority are required to report incidents to their supervisor immediately if not incapacitated. This requirement exists so that post-incident drug and alcohol tests can be conducted, if appropriate.

An employee who is involved in an incident which requires a written report under Texas law while driving a personal vehicle off duty shall report the incident to his/her supervisor within the first five workdays during which the employee is present for duty. Employees failing to report such incidents will be disciplined accordingly at the discretion of the board chair.

F. Media Contact

When contacted by a reporter, employees should be aware of Authority policy regarding media relations. Employees should confine responses and comments to areas of official responsibility and avoid speculating, commenting or expressing personal opinions regarding official policies and positions or related to subjects outside of an employee's area of job responsibility. If the questions fall outside of employee's areas of official responsibility, employees should refer the reporter to a source that can provide the

information requested.

G. Obscene Material

Obscene material, including pornography, is not allowed in or on property, vehicles, or equipment owned or leased by the Authority.

H. Professional Conduct

Employees will conduct themselves in a manner that reflects favorably on the Authority and should avoid even the appearance of unprofessional behavior. All employees will treat one another and the general public with respect and fairness. Employees will conduct themselves with courtesy and restraint at all times on the job and whenever they may be perceived in anyway as representing the Authority. Employees will be neat, personally clean, and wear clothing that is safe and appropriate for their assigned working environment.

I. Political Activities

Employees may not engage in any political activities while on duty and may not use any Authority property or resources for political activities. This prohibition extends to the use of Authority telephones, computers, typewriters, envelopes, postage, etc. The Authority may not use any money under its control, including appropriated money, to finance or otherwise support the candidacy of a person for an office in the legislative, executive, or judicial branches of local, state or federal government.

J. Romantic Relationships

It is not the intention of the Authority to interfere in the personal lives of employees or to discourage employees from developing close interpersonal relationships. However, when supervisors, managers, lead workers, or project leaders enter into romantic relationships with employees in their chain of command, then such supervisors or managers will be reassigned to positions where they do not have input into the salary, evaluation, promotion, or discipline of that subordinate. Such reassignments will be effective within 30 calendar days of disclosure and may result in a demotion.

K. Harassment

The Authority does not allow, condone, or tolerate harassment by anyone in the work place. Employees who witness any incident that appears to be a violation of the Authority policy on harassment (attached hereto as Exhibit A), or who feel they are being subjected to harassment by their peers or co-workers or agents or consultants of the Authority should report the incident as directed by the policy. Employees who report harassment are protected against retaliation by state and federal laws.

L. Solicitation

Employees will not attempt to sell products or services through uninvited personal contact on property that is owned or leased by the Authority.

M. Substance Abuse

All employees are subject to alcohol and drug testing. Employees are subjected to

administrative and disciplinary actions if, while on duty, including when operating or riding in an Authority vehicle, they are in possession of an open container of alcohol, consume or are under the influence of alcohol, inappropriately use or are under the influence of inhalants, possess, use, or are under the influence of drugs, are under the influence of prescription or over-the-counter drugs, if performance is impaired, have a positive drug test or alcohol test result of .04 or greater, or refuse to take a drug or alcohol test.

Employees are subjected to administrative and disciplinary actions if, while on duty or off duty they sell, distribute, transport, or manufacture drugs or possess drugs with the intent to sell, distribute, transport, or manufacture them, or receive an alcohol- or drug-related driving offense.

N. Violence Prevention

The Authority does not allow, condone, or tolerate harassment, threats of or physical aggression or endangerment, threats of violence, or violence from employees while on duty, on Authority premises, or while operating an Authority vehicle. Employees who engage in these behaviors will be disciplined, up to and including termination, depending on the severity of the behavior. Employees who engage in this behavior off Authority premises may also be subjected to discipline for issues that originate in the workplace or are related exclusively to workplace relationships.

O. Weapons

Employees will not carry or keep firearms or any other weapons on Authority property or at any time while working for or representing the Authority. This includes firearms or other weapons kept in vehicles that are parked on Authority property.

VI. ENVIRONMENTAL PROTECTION

A. Natural Resources

The Authority is committed to improving the quality of the environment in Hidalgo County and reducing pollution's effect on public health and safety.

B. Road Construction Environmental Management System - Policy Statement

The Authority is committed to compliance with all applicable environmental laws and regulations, minimizing pollution and associated risks to the environment, and supporting an ongoing process for continual improvement in Authority's environmental performance.

VII. EQUAL EMPLOYMENT OPPORTUNITY

A. Compliance Training

Equal opportunity compliance training will be provided by General Counsel or a partnering local governmental entity on an annual basis.

B. Cultural Diversity Training

Employees shall attend cultural diversity training designed to inform employees how to recognize and address diversity issues and familiarize them with Authority's policies dealing with diversity situations provided by General Counsel or a partnering local governmental entity.

C. Recruiting, Hiring, Promotion

The Authority uses affirmative action practices to promote and ensure Equal Employment Opportunity (EEO) and nondiscrimination in employment practices. The Authority makes reasonable efforts to achieve its affirmative action goals through recruiting, hiring, and promotion opportunities. The Authority will make reasonable efforts to ensure that all protected classes and underutilized groups have equal access to employment.

D. Sexual Harassment and Grievances Training

The Authority provides training, through its General Counsel or through a partnering local governmental entity, to inform employees of EEO laws, directives, regulations, and Authority policies and procedures prohibiting sexual harassment. All new employees must complete this training.

E. Work Environment

Employees will not direct degrading or abusive conduct toward other people in the work environment. The Authority considers such conduct unacceptable in the workplace. The Authority considers any behavior that degrades another's race, color, religion, sex, national origin, disability, or age a serious violation of the Authority's policy. The Authority will take timely corrective action as each behavior occurs. Such behavior includes, but is not limited to, offensive name calling, jokes, slang, and posting offensive materials on Authority property.

VIII. FRAUD

A. Audit

General Counsel, the Executive Committee, and consultants of the Board conduct internal and external audits. Internal audits focus on Authority operations and procedures to ensure they are functioning as intended. Internal audit activities include investigating reported occurrences of fraud, theft, embezzlement, waste, etc., and recommend controls to prevent or detect such occurrences. Auditors also verify the existence of assets and ensure proper safeguards for their protection. External audits focus on reimbursement/negotiated contracts external to the Authority to ensure that the costs billed are reasonable and necessary, allowable under the contract and applicable Federal cost principle guidelines, and in compliance with governing laws and regulations.

Suspicion of impropriety should be reported to General Counsel or the Board Chairman. Confidentiality of reporters will be maintained.

B. Fraud and Abuse Prevention Training

The Authority, through its General Counsel or a local partnering entity, provides training on abuse, waste, and fraud to increase employees' awareness and how to properly report abuse, waste, or fraud as a method of prevention. All new employees must complete this training.

IX. GIFTS

A. Honoraria

An honorarium is a payment in the form of money or other thing of value offered in exchange for services rendered voluntarily, and is not a gift, benefit, or favor. Employees shall not accept an honorarium other than reimbursement for food, travel, or lodging for appearing at an official, Authority-related event (such as a conference, workshop, seminar, or symposium), or a meal served at the event.

B. Gifts meant to Influence Decisions

It is a breach of ethical standards for any person to offer, give, or agree to give any employee, former employee or employee's relatives a gratuity or an offer of employment in connection with influencing a purchasing activity.

C. Gifts to Authority

The Authority or Board may accept a donation if the gift or donation will further the Authority's responsibilities. However, when the donor is interested in or likely to become interested in any contract, purchase, payment, claim with or against the Authority, subject to regulation or oversight, or a party to a contested case before the Authority, a specific finding must be made by the Authority that the donation would provide a significant public benefit, and would not influence or reasonably appear to influence the Authority in the performance of its duties. Employees cannot accept gifts or donations on behalf of Authority without approval from General Counsel or the Board. Gifts or donations may be accepted by the Authority under certain conditions. A request for approval to accept gifts or donation must be submitted to General Counsel. In some instances, a resolution by the Board and an agreement may need to be signed depending on the amount or type of gift.

X. INFORMATION SECURITY AND TECHNOLOGY

A. Computer Access and Passwords

Users of Authority information resources must ensure that access passwords meet specified requirements, are not shared, and are properly protected. Users must protect their access capabilities by signing off a computer when not using it and securing the resource when not in use.

B. Computer Software

All software installed on Authority networks or computer systems must be approved and installed in accordance with the software license. Third party copyright information or

software that Authority does not have specific approval to store and/or use, must not be stored on Authority systems or networks. System administrators will remove such information and/ or software upon discovery. Third party software in the possession of Authority must not be copied unless such copying is consistent with relevant license agreements, or copies are being made for contingency planning purposes.

C. Information Security and Confidentiality

The Authority takes measures to protect information resources assets against unauthorized access, disclosure, modification or destruction whether accidental or deliberate as well as to assure the availability, integrity authenticity and confidentiality of information. Use of Authority information resources can only be used for the intended Authority purposes. Users must never disclose confidential or Authority restricted information to anyone without the permission of the office of primary responsibility.

D. Personal Files, Games, Screen Savers

Personal or other unauthorized files or applications cannot be kept on Authority networks or workstations. Computer games may not be installed or used on Authority networks or workstations. Downloadable or individual screen savers that do not come with Authority approved operating systems cannot be used if they cause technical problems with workstations/servers, or are considered offensive.

E. Use of Authority Owned Information Resources

Information resources consists of all the electronic components involved in the collection, processing, storage, transmission, display, retrieval, access, dissemination, and disposition of information. All Authority-owned information resources are used for official Authority purposes only. Compliance with laws and Authority policies, procedures, and practices governing the security of information resources is a condition of continued employment. Violators may be disciplined in accordance with Authority's human resources policies and procedures or prosecuted under appropriate law.

XI. INTELLECTUAL PROPERTY

A. Background

Authority intellectual property consists of works such as databases, software, machinery, publications, audiovisual works, architectural works, sound recordings, maps, systems design, or other proprietary information in any tangible form or medium. Property ownership may be claimed through a copyright, trademark, or patent.

B. Employee Created Material

An employee shall not copyright or patent any work the employee produces or develops as part of his or her employment with the Authority when the work is related to an Authority goal, project, or concern. Intellectual property is the exclusive property of the employee if it is not related to the employee's employment responsibility or to an Authority goal, project, or concern; a result of activities performed on Authority time; developed with support by public funds; and developed using Authority facilities.

C. Printing of Copyrighted-Material

Under no circumstances will employees process copyrighted material at Authority's expense without prior written permission from the copyright owner on Authority equipment.

D. Use of Copyrighted Material without Approval

Third party copyrighted information or software that the Authority does not have specific approval to store and/or use, must not be stored on Authority systems or networks. System administrators will remove such information and/or software upon discovery. Third party software in the possession of the Authority must not be copied unless such copying is consistent with relevant license agreements, or copies are being made for contingency planning purposes.

XII. RECORDS

A. Destruction of Records

The Authority will follow the Records Management Policy of the City of McAllen, such policy details specific policies and procedures that must be followed for destroying confidential and non-confidential records, logging destruction, and archiving records.

B. Litigation Holds

When a lawsuit is filed or is reasonably anticipated to be filed against Authority, General Counsel may determine that it is necessary to issue a litigation hold notice to Authority employees and contractors as one of the steps to ensure that all information potentially relevant to the suit is preserved. When a litigation hold is in place, employees must take steps to ensure that any potentially relevant information will not be destroyed inadvertently pursuant to document retention schedules or by routine computer operations or common computer settings, such as the automated deletion of emails.

C. Open Records Requests

Most, but not all information produced by the Authority is public information. In order to acquire this information, a member of the public must make a written request. Employees who receive a written request for information should give this request to General Counsel immediately, as the Authority has only 10 days to respond to the request.

D. Retention Schedule

The current, approved Authority records retention schedule is attached hereto as Exhibit B. The retention schedule indicates the required minimum length of time Authority must retain official (record copy) records before destruction or archival preservation.

XIII. AUTHORITY OWNED PROPERTY

A. Bulletin Boards

Only material that is directly related to Authority activities may be placed on official bulletin boards.

B. Damaged Property

Employees must report any damage or destruction of Authority equipment to their supervisor or General Counsel. When damage or destruction of Authority equipment is reported, the supervisor will gather necessary and appropriate information to determine if it was the result of a negligent act by any Authority employee.

C. Expectation of Privacy

Employees do not have an expectation of privacy when using Authority information technology equipment, Authority telephones, or other Authority equipment. This means that all computer files and telephone records are subject to requests for public information (“open records requests”) and discovery in litigation, and the contents of an employee’s computer hard drives and files stored on servers, including email and Internet files (even those that have been deleted), are subject to examination by supervisors and managers. To avoid the chance that private computer data and emails will be subjected to public inspection under the Public Information Act or released to an opposing party in an Authority-related lawsuit, employees using home computers are urged to maintain separate folders, directories, and drives for Authority-related business.

D. Internet, Electronic Mail, and Office Equipment

Employees will use the Internet, electronic mail, and office equipment, including personal computers and laptops, for Authority purposes only.

E. Lost or Stolen Property

Lost or stolen property must be reported. When an item is reported as missing or stolen to the Executive Director, the Executive Director should investigate the circumstances and attempt to find the property. The police must be contacted for any property suspected as having been stolen. If the property cannot be found within 72 hours, the Executive Director will prepare a report of the situation for the Board Chairman.

F. Misuse of Authority Property

Property owned or leased, or provided to the Authority may only be used for Authority purposes except as provided in this policy. Any misuse or unauthorized use of Authority property, including information system resources, is subject to disciplinary action. Misuse of Authority property may also result in criminal prosecution.

G. Personal Mail

Employees will not send or receive personal mail at Authority offices.

H. Purchase of Authority Owned Property

Employees will not purchase equipment, buildings, or any other property owned or formerly owned by the Authority, including buildings to be moved in connection with right-of-way acquisitions.

I. Authority Vehicles

Employees will use Authority vehicles only for official Authority business. They may not

use Authority vehicles for any political campaign or for any personal activities.

J. Telephones

Employees may make brief personal calls on Authority telephones if no charges are made to the Authority.

K. Use of Equipment for Jury Summons

Employees may use duty time and Authority equipment such as telephones, computers, fax machine, copier, or the internet to handle jury duty summons.

XIV. WORKPLACE HEALTH AND SAFETY

A. Driving Record Checks

Annual drivers' record checks may be conducted on employees who drive for the Authority.

B. Substance Abuse Training

Substance abuse training will be provided to all employees.

**Exhibit A:
Harassment Policy**

**HCRMA POLICY AND PROCEDURES FOR PREVENTING AND
ELIMINATING HARASSING CONDUCT IN THE WORKPLACE**

1. **Purpose.** This Policy is intended to assure that the Hidalgo County Regional Mobility Authority (HCRMA) is taking all necessary steps to prevent sexual harassment and other forms of harassing conduct in the workplace, and to correct harassing conduct that does occur before it becomes severe or pervasive.
2. **The Definition of Harassing Conduct.** For the purposes of this Policy, harassing conduct is defined as any unwelcome verbal or physical conduct based on any characteristic protected by law when:
 - A. The behavior can reasonably be considered to adversely affect the work environment; or
 - B. An employment decision affecting the employee is based upon the employee's acceptance or rejection of such conduct.

3. **Policy Against Harassing Conduct.**

The HCRMA does not permit harassing conduct by anyone in the workplace. It is the policy of the HCRMA to maintain a work environment free from the harassing conduct described above.

The HCRMA has determined that the most effective way to limit harassing conduct is to treat it as misconduct, even if it does not rise to the level of harassment actionable under Title VII of the Civil Rights Act of 1964, as amended. A hostile environment claim under Title VII usually requires showing a pattern of offensive conduct. The HCRMA will not wait for such a pattern to emerge. Rather, the HCRMA will act before the harassing conduct is so pervasive and offensive as to constitute a hostile environment. In the usual case, a single utterance of an ethnic, sexual, or racial epithet that offends an employee would not be severe enough to constitute unlawful harassment in violation of Title VII; however, it is the Authority's view that such conduct is inappropriate and must be stopped. The HCRMA will not tolerate retaliation against any employee for making a good-faith report of harassing conduct under this or any other policy or procedure, or for assisting in any inquiry about such a report. Complaints of such retaliation shall be handled pursuant to the procedures in this Policy. The HCRMA will not tolerate retaliation against any employee for making a good-faith report of harassing conduct under this or any other policy or procedure, or for assisting in any inquiry about such a report. Complaints of such retaliation shall be handled pursuant to the procedures in this Policy.

4. **Procedures and Responsibilities.**

A. **Procedures Applicable to Employees**

1. Each employee shall be responsible for:
 - a. Acting professionally and refraining from harassing conduct;
 - b. Becoming familiar with the provisions of this Policy, complying with all requirements of the Policy, and cooperating with any inquiry under this Policy; and
 - c. Promptly reporting, pursuant to procedures set forth herein, any incident of harassing conduct that he or she experiences before it becomes a pattern of misconduct so pervasive and offensive as to constitute a hostile environment. The HCRMA cannot correct harassing conduct if the conduct is not known. When an employee unreasonably fails to take advantage of this procedure and does not promptly report an incident of harassing conduct as set forth herein, the HCRMA reserves the right to raise this failure to report as a defense against a suit for harassment, in accordance with federal case law.

B. Responsibilities of Supervisors and Managers

1. All supervisors and managers shall be responsible for:
 - a. Acting promptly and appropriately to prevent harassment in the workplace, and retaliation against those who complain of harassment;
 - b. Reporting, pursuant to procedures set forth herein, any incident of harassing conduct that they witness or is otherwise brought to their attention;
 - c. Receiving and handling allegations of harassing conduct promptly and appropriately, utilizing the procedures set forth herein;
 - d. Providing interim relief to alleged victims of harassment pending the outcome of the investigation to ensure that further misconduct does not occur; and
 - e. Using the procedures set forth below, taking prompt and appropriate corrective and disciplinary action, up to and including removal, against personnel who have engaged in harassing conduct or who have not carried out their responsibilities under this Policy.

C. Responsibilities of the Chief Administrative Officer

1. The Chief Administrative Officer shall be responsible for:

- a. Disseminating the policy statement annually to all employees;
- b. Ensuring that employees are informed of this Policy and the procedures to follow in connection with reporting harassing conduct;
- c. Providing technical assistance and support, to assure compliance with this Policy;
- d. Receiving allegations of harassment under this Policy;
- e. Providing advice to managers and supervisors on taking disciplinary actions for conduct that violates this Policy;
- f. Conducting or overseeing fair and impartial inquiries into allegations of harassing conduct;
- g. Advising supervisors and managers on the provision of interim relief to the alleged victims of harassing conduct pending the outcome of the investigation to ensure further misconduct does not occur; and
- h. Advising the Executive Committee of the Board of Directors or other persons who need to know of allegations of harassment and the resolution of those allegations under this Policy.

D. Responsibilities General Counsel

General Counsel shall be responsible for providing legal advice to management concerning the implementation and interpretation of this Policy. If the Chief Administrative Officer is involved in the harassment complaint, General Counsel shall be substituted for Chief Administrative Officer in subsection C above.

5. **Reporting Harassment.** The procedures for reporting incidents of harassing conduct are as follows:
 - A. Any person who believes that he or she has been the subject of an incident of harassing conduct in violation of this Policy should report this matter: to anyone in the complainant's supervisory chain.
 - B. All information will be maintained on a confidential basis to the greatest extent possible. Such information, however, may have to be disclosed to defend the HCRMA in any litigation to which the information may be relevant and necessary. Further, information may need to be disclosed to those officials and employees within the HCRMA with a need to know in order to carry out the purpose and intent of this Policy.

6. Inquiries into Allegations of Harassing Conduct.

- A. A supervisor or manager who receives an allegation or witnesses harassing conduct shall immediately:
 - 1. Inform the Chief Administrative Officer and General Counsel and seek guidance as to further actions;
 - 2. Take action to stop any harassing conduct and prevent further harassment while the allegations are being investigated, including granting of appropriate interim relief to the alleged victim of harassing conduct; and
 - 3. Document the allegation received and his or her efforts to address it.
- B. Where an investigation is necessary, a written summary of the investigation shall be prepared by the individual conducting the inquiry, in consultation with General Counsel. (The summary may be brief, depending on the complexity and seriousness of the case.) The summary shall be prepared promptly after completion of the inquiry and shall be submitted to Chief Administrative Officer and the supervisor who would be responsible for taking disciplinary action against the alleged harasser, if the allegations are true.
- C. The summary of the investigation or other documentation prepared under this procedure shall be kept confidential, to the extent possible. Such information, however, may have to be disclosed to defend the HCRMA in any litigation to which the information may be relevant and necessary. Further, information may need to be disclosed to those officials and employees within the HCRMA with a need to know in order to carry out the purpose and intent of this Policy.

7. Action to Be Taken upon Completion of the Inquiry.

- A. Upon completion of the inquiry, and in consultation with General Counsel, HCRMA management shall promptly evaluate the evidence and determine the appropriate action to take. This responsibility normally shall rest with the first line supervisor of the employee alleged to have engaged in the harassing conduct unless such supervisor is involved in the allegation. The Chief Administrative Officer shall be informed of this decision, including a decision not to act.
- B. Where the inquiry establishes that an employee did engage in harassing conduct under this Policy, he or she shall be subject to appropriate corrective action, disciplinary or otherwise, up to and including removal.
- C. Where the inquiry establishes that a manager or supervisor did not properly carry out the responsibilities provided for under this Policy, he or

she shall be subject to appropriate corrective action, disciplinary or otherwise, up to and including removal.

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**Exhibit B:
City of McAllen Document Retention Policy**

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Exhibit B: Required Employee Training

HCRMA employees are required to complete the following trainings:

- Equal Opportunity / Non-discrimination
- Cultural Diversity
- Sexual Harassment
- Fraud & Abuse
- Substance Abuse

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Texas Administrative Code

<u>TITLE 43</u>	TRANSPORTATION
<u>PART 1</u>	TEXAS DEPARTMENT OF TRANSPORTATION
<u>CHAPTER 10</u>	ETHICAL CONDUCT BY ENTITIES DOING BUSINESS WITH THE DEPARTMENT
<u>SUBCHAPTER B</u>	OTHER ENTITIES' INTERNAL ETHICS AND COMPLIANCE PROCEDURES
RULE §10.51	Internal Ethics and Compliance Program

(a) Various sections of this title require an entity to adopt and enforce an internal ethics and compliance program. To comply with that requirement, the entity must certify to the department that the entity:

(1) has adopted an internal ethics and compliance program that:

(A) is designed to detect and prevent violations of the law, including regulations, and ethical standards applicable to the entity or its officers or employees; and

(B) satisfies all requirements of this section; and

(2) enforces compliance with its internal ethics and compliance program.

(b) An entity's internal ethics and compliance program must be in writing and must provide compliance standards and procedures that the entity's employees and agents are expected to follow. At a minimum, the program must provide that:

(1) high-level personnel are responsible for oversight of compliance with the standards and procedures;

(2) appropriate care is being taken to avoid the delegation of substantial discretionary authority to individuals whom the entity knows, or should know, have a propensity to engage in illegal activities;

(3) compliance standards and procedures are effectively communicated to all of the entity's employees, including members of the governing board if the entity has a governing board, by requiring them to participate in periodic training in ethics and in the requirements of the program;

(4) compliance standards and procedures are effectively communicated to all of the entity's agents;

(5) reasonable steps are being taken to achieve compliance with the compliance standards and procedures by:

(A) using monitoring and auditing systems that are designed to reasonably detect noncompliance; and

(B) providing and publicizing a system for the entity's employees and agents to report suspected noncompliance without fear of retaliation;

(6) consistent enforcement of compliance standards and procedures is administered through appropriate disciplinary mechanisms;

(7) reasonable steps are being taken to respond appropriately to detected offenses and to prevent future similar offenses; and

(8) the entity has a written employee code of conduct that, at a minimum, addresses:

(A) record retention;

(B) fraud;

(C) equal opportunity employment;

(D) sexual harassment and sexual misconduct;

(E) conflicts of interest;

(F) personal use of the entity's property; and

(G) gifts and honoraria.

(c) The department may, at its discretion, request that the entity provide the department with written evidence of the entity's internal ethics and compliance program.

TAB 2

**TEXAS ADMINISTRATIVE CODE
INTERNAL ETHICS & COMPLIANCE PROGRAM**

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TAB 3

**PUBLIC OFFICERS:
TRAPS FOR THE UNWARY**

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TAB 4
OPEN MEETINGS ACT MADE EASY

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TAB 5
TXDOT CONFLICT OF INTEREST REGULATIONS
&
CONFLICT OF INTEREST LAWS MADE EASY

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TAB 6
ETHICS, GIFT & HONORARIUM
LAWS MADE EASY

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**REFERENCE:
TAB A
BYLAWS**

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REFERENCE
TAB 1
GOVERNANCE GUIDELINES

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REFERENCE
TAB C
POLICIES AND PROCEDURES GOVERNING
PROCUREMENTS AND PURCHASING

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REFERENCE
TAB D
CONFLICT OF INTEREST CERTIFICATE

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