



Travis County Commissioners Court Agenda Request

Meeting Date: April 12, 2012 Work Session

Prepared By: Randy Nicholson **Phone #:** 854-4603

Division Director/Manager:

A handwritten signature in black ink, appearing to read "Steven M. Manilla".

Department Head: Steven M. Manilla, P.E., County Executive-TNR

Sponsoring Court Member: Commissioner Davis, Precinct One

Commissioner Gomez, Precinct Four

AGENDA LANGUAGE: Review and discuss the DRAFT Colorado River Corridor Plan and recommended amendments.

BACKGROUND/SUMMARY OF REQUEST:

The Commissioners Court approved an Interlocal Agreement with the City of Austin and the Lower Colorado River Authority to develop a long range comprehensive plan for the development of the Colorado River Corridor between Austin and the Travis/Bastrop county line. A DRAFT plan was completed with assistance from the planning firm Bosse Pharis Associates, Inc. and presented to court.

Staff held a public meeting and received comments which were posted on the County's web page. Staff review and recommended plan amendments are noted in Exhibit 1 and 2.

The Court held a public hearing on March 27th and received public comment.

This plan is part 2 of a three part strategy to enhance the growth process along the Colorado River Corridor. Part 1 entailed the permitting of TXI's mining and the Tri-party agreement which details short term strategies for the private sector, City of Austin, and Travis County to work toward mutually agreeable goals. Part 3 is the environmental monitoring program aimed to provide baseline data for the air, water, and noise in the area.

The purpose of the Corridor Plan is to coordinate regional and local planning and private sector investment to facilitate the preservation and enhancement of valuable environmental, economic, recreational, and cultural resources of the plan area over the next 25 to 30 years. The Corridor Plan includes objectives for improved protection of local bio-diversity, preservation and restoration of floodplains and natural areas; the creation of parks, open spaces and greenways; enhancement of Corridor quality of life through the long-term restoration and reclamation of mined sites; and enhancement of mobility through capital project development and new design alternatives.

Plan implementation requires private sector and intergovernmental cooperation since multiple government entities are responsible for the various aspects of transportation, natural resource conservation, and environmental protection in the Corridor. The Corridor Plan is designed to improve collaboration at the regional and local level, and to enhance the knowledge and understanding of the valuable resources of the Colorado River.

STAFF RECOMMENDATIONS:

N/A

ISSUES AND OPPORTUNITIES:

Planning involves a certain amount of risk-taking. When we engage in planning, we are attempting to shape the future, in some desired way, but there can never be an assurance that planning will achieve what we hope it will achieve. We are continually aware of the possibility of failure. The risk elected officials take with specific planning initiatives are obvious and should not be underestimated.

***Implementation**

A single project or action rarely transforms a community. To be the best it can be, to create an identity and sense of place, the plan calls for sophisticated strategies, a call for actions and initiatives on a number of different fronts and in different geographic areas.

The plan is intended to be used as the basis for making choices. It's about where development should and should not occur, and about the types of development that are appropriate in different areas. There is little doubt, in this day and age, that we will have to be extremely creative and enterprising in identifying sources of public and private funding to implement the plan, and in coming up with innovative way for paying for proposed projects and improvements.

***Court Support and Commitment**

One of the most important ingredients for the Corridor Plan is for the community to believe that planning matters. Taking the time to try to think through and envision the kind of places we want our communities to be in the future is important, and that time spent developing plans aimed at fulfilling our aspirations is not wasted. If we are skeptical about the likelihood that projects and improvements envisioned in plans will ever be realized, we are much less likely to take planning seriously. When we don't take the plans we prepare seriously, we undermine the ability of planning to bring about positive change. An inability to believe in planning, and in the possibilities for translating plans into reality, can become a major impediment to successful planning. The plan outlines several strategies to be implemented over the next two years, strategies that are ongoing and longer term items that may not be addressed for 5 years or more. It is our hope to be able to look back in 20 years and realize that

something outstanding has been accomplished by this planning effort, something greater than we thought possible at the outset.

*City of Austin Roles

City of Austin Watershed Protection Department staff provided a briefing of the draft Colorado River Corridor Plan to the Environmental Board August 17, 2011. The Board recommended the adoption of the plan. COA staff provided a briefing to the Planning Commission on October 11, 2011. The Planning Commission recommended that a briefing also be provided to the Zoning and Platting Commission, the Waterfront Advisory Board, and the Parks Board. COA staff provided a briefing to the Zoning and Platting Commission on November 1, 2011, to the Waterfront Advisory Board on November 14, 2011, and to the Parks Board on December 6, 2011. Staff provided a memo to the City Council summarizing the Colorado River Corridor Plan, and advising them of the proposed schedule for adoption by the Travis County Commissioners Court.

*The Plan

The Colorado River Corridor Plan (Corridor Plan) builds upon the extraordinary assets of the Corridor to address short, medium, and long term transportation, parks, and environmental needs. The Corridor Plan integrates the civic qualities of parks and greenbelts and urbanized vibrancy throughout the Corridor. It aims to create locations for future cultural destinations, introduce a mix of uses, revitalize mineral extraction areas, establish a new "eco-corridor" and transform the Corridor's experience.

The Corridor Plan presents a vision that accommodates new development while protecting the character and environmental quality of the Corridor. New urban areas are sited along major highways (SH 130, SH 71, FM 973 and FM 969 nodes). This relationship is aligned with the CAMPO 2035 "activity centers" concept.

Transportation corridors in the Corridor Plan have been developed with new multi-modal mobility opportunities that currently do not exist within the Corridor. Roadways that accommodate bike lanes and sidewalks and a regional trails network are proposed to seamlessly connect throughout the area. People living and raising families within the Corridor will find it an inviting place to live, work, and shop, while still moving motorists, cyclists and pedestrians throughout the Corridor.

It is envisioned that transit will be fully integrated within the Corridor and have connectivity to the Austin Bergstrom International Airport and the City of Austin's future Urban Rail stations. Congested roadways are planned to be improved and new connectivity created. FM 969 will become a focal "rural parkway" providing mobility as well as highlighting the visual character of the Colorado River Corridor.

Arterials that front along greenways will take advantage of the rural character that defines the Corridor. New connectivity is also highlighted in the Concept Plan, especially from residential areas east of SH 130. For example, new connections from Austin's Colony to FM 973 are planned as well as a new regional arterial that crosses the Colorado River connecting FM 969 with SH 71.

The envisioned corridor-wide parks and greenway system – centered on the Colorado River, Onion Creek, Gilleland Creek, and other smaller creeks – weaves together developed and undeveloped lands. The intent is to provide the growing population of the Corridor with opportunities to enjoy recreational and natural resources close to where they live and to mitigate the environmental impacts of increased impervious cover in watersheds. Recreational facilities will be built at destination parks; boat ramps will be constructed at FM 973 and SH 130 river crossings and at the confluence of Onion Creek with the Colorado River; and long distance hike and bike trails will be developed along the length of the linear greenways. Bottomland woods, grasslands, and wetlands will serve to capture and filter stormwater, recharge ground water, and mitigate flood damage.

With these land patterns, new transportation opportunities, and corridor-wide parks and greenway system, people living and raising families within the corridor will find it an inviting place to work, live, and shop.

The foundation of the Corridor Plan is the analysis of the following key elements outlined below:

1. Land Use
2. Drinking Water and Well Water Supply
3. Transportation
4. Water Quality and Stormwater
5. Parks and Land Conservation

1. Land Use

The Corridor Plan evaluated over 30,000 acres and 32 Colorado River miles. The current population in the Corridor approximately 10,000 with anticipated population growth over 30,000 by 2035. This is double the CAMPO 2035 projected increase of 10,000.

The most dominant land uses in the Corridor are mining (resource extraction) estimated at 11,296 acres. TCAD does not list mining operations within a specific land use category; however, there are 6,549 acres of active and inactive mining operations.

The area is experiencing increased residential development. Current residential land area is 2,927 acres.

The conflict between these land uses (noise, traffic, visual impacts, etc.) is likely to continue in the near future as more residential and mining activity are planned in the Corridor.

The area in and around ABIA within the Corridor is heavily impacted by the airport noise contour overlay. Land in this area is being actively purchased or mitigated by the City of Austin. There is a potential to work with the City to develop proper land use control in this area that increases open space and "re-brands" the front door to our city for many tourists and residents.

There is opportunity to plan the progression of land uses. Reclamation of 2,130 acres along SH 130 has been announced by TXI, known as Rio de Vida. The area is expected to have a population of 12,000 to 16,000. These new uses can be anticipated to need orderly transition to accommodate transportation, parks, and storm water facilities. Over half of the acres are proposed to be set aside for green space.

There is opportunity to reduce total greenhouse gas emissions by improving bike and pedestrian infrastructure, incentivizing the growth of the number of bicycle and pedestrian commuters, create highly walkable pedestrian-only areas, and introduce new innovative forms of public space such as community gardens, wind energy, and underpass parks.

Rio de Vida and the Water's Edge developments have potential for future annexation with the City of Austin.

2. Drinking and Well Water Supply

Private wells in the Corridor are numerous and the ability to quantify the quality, exact quantity and map the location of these wells has improved as part of the study.

There is an opportunity through the infrastructure planned for future development (ie., Rio De Vida, Water's Edge, Austin Colony) projects to increase the water, electric and wastewater services in the area.

The County/City/LCRA joint support for establishing baseline well water data in the Corridor is underway.

There is opportunity to leverage existing grey water infrastructure to improve water efficiency measures and use of appropriate plant species in public landscapes, enable grey water reuse for landscapes.

3. Transportation

Expanse and flood plain of Colorado River limits number of potential crossings and north/south connectivity. Flood Plain crossings drive transportation costs up.

Mining lands will preclude potential of a robust roadway network, extraction methods, and material movement will mix industrial and residential traffic.

The Corridor relies heavily on two roadways, FM 969 and SH 71, for access and mobility; these same highways provide mobility to developing areas north and south of the Corridor as well as Bastrop County.

Limited public transit service is provided by Capital Area Rural Transportation Service.

CAMPO's 2035 future land use traffic modeling may have under estimated traffic demands.

Improvements are planned for FM 973 and FM 969, and additional roadway connections were approved in the 2011 Bonds for Gilbert Lane.

There is opportunity to provide major regional north/south arterial connectivity from SH 71 East to the north by providing an additional Colorado River crossing.

There is opportunity to provide a significant amount of hike, bike, and pedestrian facilities along roadways and greenways helping to reduce vehicle trips.

4. Stormwater and Water Quality

Of the 30,500 acres in the corridor, approximately 13,000 acres currently lie within the 2008 FEMA 100 year floodplain.

Floodplain reclamation and modification standards that "retain the integrity of in stream channel stability and ecology, protect riparian areas and minimize damage to the physical and biological characteristics of such areas" need to be considered for land in the corridor.

Water Quality Protection Zones can provide linear spaces that can be incorporated into a comprehensive trail and greenway system.

There is opportunity with the resource extraction process to provide topographic relief that presents opportunities for various micro climates that foster various plant and wildlife development.

There is an opportunity for parks to capture and store water, turning them into green water treatment systems.

There is also an opportunity for the increases use of bioswales near transportation systems and add permanent green corridors.

5. Parks and Land Conservation

The Corridor Plan adds to on the County's initiative to build greenways along Onion and Gilleland creeks beginning in 2005 with voter-approved bond funds.

A funding of land acquisition in the Corridor was approved in the Fall bond election program.

Historically, initiatives for land conservation for non-park purposes in the Corridor and eastern Travis County have not been aggressive. The 2011 Texas State Legislature has given the County new authority to purchase conservation easements. The Corridor is a candidate for the use of this conservation program.

Both the City and the County are exploring improved creek protections that will strengthen opportunities for greenway systems.

The provision of an attractive physical environment, including parks for residents and visitors, as well as providing necessary services and facilities, will attract new residents and businesses to the area.

There is opportunity to develop resiliency plans for the plant and animal life within parks and greenways including the introduction of wildlife corridors and drought-tolerant plants.

FISCAL IMPACT AND SOURCE OF FUNDING:

ATTACHMENTS/EXHIBITS:

- Exhibit 1 Public Comment and Staff Response
- Exhibit 2 Recommended Draft Plan Amendments

REQUIRED AUTHORIZATIONS:

Cynthia McDonald	Financial Manager	TNR	854-4239
Steve Manilla	County Executive	TNR	854-9429

CC:

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0501 - Comprehensive Planning-

EXHIBIT 1 Colorado River Corridor Plan
Public Comment and Staff Response
November 28, 2010

#	Public Comment	Staff Comment	Amend
	WHAT ARE THE MOST CRITICAL ISSUES OR CHALLENGES FOR THE CORRIDOR?	While participants cite transportation and natural resource-related issues and challenges most often as the most critical for the corridor there are concerns about parks and land conservation as well: participants want to preserve natural corridors as an amenity for future residents in the area, improve Austin's Colony parks, and have "24/7" access to all trails.	
110	Absorbing population growth and related development.	No Comment	
80	In my opinion, the most critical issues or challenges for the corridor have to do with water quality and quantity. Water quality in all tributary creeks and the Colorado River from Bluestein eastward to the county line is not comparable to water quality in the rest of the Travis County. It would also be very beneficial for those who depend on groundwater in the eastern county be informed of how the aquifer is recharged and how much water is in the aquifer.	Under the Ground Water Supply section of the plan is a discussion of the aquifer's recharge and the estimated annual quantity available (6000 acre-feet). Water quality is not comparable to the remainder of Travis County for physical reasons (Blackland Prairie, erosive soils in the Corridor, in contrast to rockier terrain and naturally clear streams in the Hill Country) and due to differing state regulations. For instance, discharges of wastewater are prohibited by State law and TCEQ regulations in the Barton Creek Watershed and Edwards Aquifer Recharge Zone.	
78	Prioritize eliminating pollutants from wastewater treatments plants discharged into the Colorado River.	This comment matches the intent of the federal Clean Water Act, to make our nation's rivers and lakes fishable and swimmable. Since the passage of the CWA in 1972, discharges from municipal wastewater treatment facilities have steadily improved in quality, through technological advancements that have been mandated as treatment techniques to reduce pollutant loads. State monitoring data over the course of time since 1972 show that the Colorado River has greatly improved in dissolved oxygen and other measurable ways that have improved aquatic life. We can expect that requirements will continue to become more stringent and near elimination of pollutant effects to occur.	
31	Critical Issues - River access	Participants identified river access and access to and development of the City's Morrison Ranch park property as critical issues.	
32	Critical Issues - Park access for City Morrison Metro Park	This use will be discussed when more detailed park site plans are developed. The Planning Team encourages you to stay involved with all aspects of infrastructure planning within the Corridor area.	
33	Critical Issues - Park development for City Morrison Metro Park	This use will be discussed when more detailed park site plans are developed. The Planning Team encourages you to stay involved with all aspects of infrastructure planning within the Corridor area.	
	Providing for the future citizens in Central Texas places like this natural corridor that remain natural enough to provide an amenity to the region.	One goal of the CRCP is to conserve and protect natural resources -- including undeveloped, natural areas -- for future generations	
1	Lack of viable park space around Austin's Colony subdivision, especially along the Colorado River. Could the City of Austin or Travis County approach the owners of the "City of Austin Colony Park", Phase III Austin's Colony HOA and Qualico (developers of Austin's Colony RiverCreek HOA) to see if they would sell these parks to them so we can get these (2) parks maintained and improved? "City of Austin Colony Park" on your Plan map is not the correct name - these are 2 different adjacent parks owned by 2 different entities (HOAs) and there is no consistent maintenance and there is a big problem with dumping. These parks could easily be turned into real parks. This section of the river is just beautiful. Connect this park to Harold Green Rd.	Travis County and the City of Austin are committed to building a comprehensive park system in the Colorado River corridor that will connect to the Austin's Colony subdivision. Travis County is currently committed to buying land on Onion Creek, Gilleland Creek, and the Colorado River with 2005 park bond funds, and will continue to buy parkland in this area with County's Proposition 2 funds earmarked for this purpose. The City of Austin's Park label will be corrected.	*
2	Bike/Pedestrian trails should connect between activity centers including transit centers, residential areas, commercial centers, ABIA, parks.	The CRCP proposes a bike/pedestrian trail system -- including park trails -- that connects transit centers, residential areas, neighborhoods, commercial centers, and public schools. Bike/pedestrian connection to ABIA will be provided along on-road bike I	
3	Trail access should be 24/7, including park trail access.	Travis County closes parks at dark for operational and public safety reasons. Insert COA park trail policy. On-road bike and pedestrian trails and sidewalks are accessible "24/7".	
	WHAT DO YOU LIKE MOST ABOUT THE CONCEPT PLAN?	Participants cited parks and recreation-related aspects of the CRCP most often when asked what they like most about the plan. They particularly like the proposed expansion of the parks, greenways, and trail systems and improved access to the river for recreation.	
81	The things that I like best about the concept plan have to do with the goals of protecting and restoring water quality and attempting to minimize modification of the 100 year floodplain.	It is agreed that these are very important elements of the plan.	
77	Runoff/wastewater improvements	Both Travis County and City of Austin are required to implement storm water management programs to reduce pollution from runoff. Each program has specific permit requirements that regulate the discharges from industry and most forms of development. Both entities must self-regulate municipal and county operations so we do not pollute our waterways. This includes adhering to stringent requirements for sewage collection, treatment, and discharge. Further improvements in sewage management in the Corridor may require conversion from the use of private septic tank systems to a centralized wastewater collection network. This usually occurs as more density or incorporation make such networks more cost effective and feasible.	
76	Conservation objectives.	No Comment	
95	The indication that major development) will occur in the SH130 corridor.	No Comment	
96	Control of the reclamation of existing and future mining operations.	No Comment	

EXHIBIT 1 Colorado River Corridor Plan

Public Comment and Staff Response

November 28, 2010

#	Public Comment	Staff Comment	Amend
97	The extensive riparian corridors.	No Comment	
4	Concentration on parks & greenways.	No Comment	
5	The trail concept that utilizes the river and stream corridors.	No Comment	
6	What I like most is amount of trails.	No Comment	
7	Proposed trail network along the river that will link others (such as the Armstrong Bike Trail.)	No Comment	
8	River access points to allow/facilitate recreational use of the river for paddlers, anglers, etc.	No Comment	
9	Allowances for undeveloped green spaces/open space.	No Comment	
10	Overall, increasing the availability of public land for recreational use.	No Comment	
11	What I like most is amount of trails. I think the critical issue is ensuring that the plan is carried out. As a long-time Austin resident I've seen many high-minded plans come and go with little relation to what real estate interests actually do.	No Comment	
12	Lack of viable park space around Austin's Colony subdivision, especially along the Colorado River. Could the City of Austin or Travis County approach the owners of the "City of Austin Colony Park", Phase III Austin's Colony HOA and Qualico (developers of Austin's Colony RiverCreek HOA) to see if they would sell these parks to them so we can get these (2) parks maintained and improved? "City of Austin Colony Park" on your Plan map is not the correct name - these are 2 different adjacent parks owned by 2 different entities (HOAs) and there is no consistent maintenance and there is a big problem with dumping. These parks could easily be turned into real parks. This section of the river is just beautiful. Connect this park to Harold Green Rd.	No Comment	
13	I would like to propose that you include, as an additional stakeholder in this plan, two (2) wheeled motorized Off Highway Vehicles (OHV's), aka: motorcycles.	To specific a use for the Concept Plan. This use will be discussed when more detailed site plans are developed. The Planning Team encourages you to stay involved with all aspects of infrastructure planning within the Corridor area.	
14	The City Park (Emma Long) Motorcycle trails are currently the only public trails in the Austin area in which motorcycle enthusiasts and their families are allowed to enjoy their sport. The motorcyclists that use these trails have shared the trails with mountain bikers and endangered bird species successfully for many years.	To specific a use for the Concept Plan. This use will be discussed when more detailed site plans are developed. The Planning Team encourages you to stay involved with all aspects of infrastructure planning within the Corridor area.	
15	Many motorcyclists who participate in their sport, do so with their families (Including myself). The City Park Motorcycle trails can be very challenging (almost impossible) to some of the younger riders and those just starting off in the sport and the park is very small.	To specific a use for the Concept Plan. This use will be discussed when more detailed site plans are developed. The Planning Team encourages you to stay involved with all aspects of infrastructure planning within the Corridor area.	
16	I would like to propose that the reclaimed mining areas, as well as some of the wooded areas, be included in the Colorado River Corridor Plan for motorcycle enthusiast families to enjoy their sport.	To specific a use for the Concept Plan. This use will be discussed when more detailed site plans are developed. The Planning Team encourages you to stay involved with all aspects of infrastructure planning within the Corridor area.	
17	The inclusion of two wheeled motorized OHV's in the Colorado River Corridor Plan would provide additional public trails in the Austin area for motorcyclists of all skill levels and their families to enjoy their sport.	To specific a use for the Concept Plan. This use will be discussed when more detailed site plans are developed. The Planning Team encourages you to stay involved with all aspects of infrastructure planning within the Corridor area.	
18	If provided with this opportunity, the off-road motorcycle community would provide volunteer hours to build and maintain these trails and general riding areas as they do for the Emma Long trail park.	To specific a use for the Concept Plan. This use will be discussed when more detailed site plans are developed. The Planning Team encourages you to stay involved with all aspects of infrastructure planning within the Corridor area.	
19	I would like to suggest that you open part of the reclaimed areas of the Colorado River Corridor to off-road motorcycles. Riding areas in the Austin area are limited, and a new one would bring not only locals, but also riders from up to 2 hours away. Much of the trail creation could be done by volunteers, and you could look to places like the Sam Houston National Forest or the local Emma Long City park trails for maintenance ideas.	To specific a use for the Concept Plan. This use will be discussed when more detailed site plans are developed. The Planning Team encourages you to stay involved with all aspects of infrastructure planning within the Corridor area.	
20	I would like to propose that you include, as an additional stakeholder in this plan, two (2) wheeled motorized Off Highway Vehicles (OHV's), aka: motorcycles.	To specific a use for the Concept Plan. This use will be discussed when more detailed site plans are developed. The Planning Team encourages you to stay involved with all aspects of infrastructure planning within the Corridor area.	
26	Concept Plan shows existing trail on County land adjacent to the jail. Is there a trail there?	There isn't an existing trail on the Travis County jail property. This is a "Proposed Trail". The concept plan will be corrected.	*
27	Trail for cyclists in populated areas should be 10—12' wide with separate paths for pedestrians.	Travis County and the City currently don't build single-use trails because of the extra cost of building multiple trails. Design standards for new primary trails in County greenway parks are 12' wide.	
28	Germany has wells along bicycle paths with shallow pools of water where cyclists can cool off.	To specific a use for the Concept Plan. This use will be discussed when more detailed site plans are developed. The Planning Team encourages you to stay involved with all aspects of infrastructure planning within the Corridor area.	
30.00	What are some of your concerns?	Participants' concerns are varied and listed below.	
30.10	Concept Plan shows existing trail on County land adjacent to the jail. Is there a trail there?	Duplicates #26	
30.20	Bikers need to be separated from hikers	Travis County builds separate single-track primitive trails for hikers.	
30.30	Prohibit dogs	Travis County allows leashed dogs in its parks.	

EXHIBIT 1 Colorado River Corridor Plan

Public Comment and Staff Response

November 28, 2010

#	Public Comment	Staff Comment	Amend
30.40	High speed jet boats (+60 mph) are a problem; limit to specified zones	The Texas Water Safety Act prohibits local governments from establishing "speed limits" on public waterways. Regarding limits on size or horsepower, LCRA does not discriminate on the boat itself but we do hold the boat operator responsible for their behavior. Section 31.094 of the Water Safety Act prohibits reckless or negligent operation of a boat and Section 31.095 prohibits excessive speed, which includes that no person may operate a boat at a speed greater than is reasonable and prudent, having due regard for the conditions and hazards, actual and potential, then existing, including weather and density of traffic, or greater than will permit him, in the exercise of reasonable care, to bring the boat to a stop within the assured clear distance ahead. Both of these laws are class B misdemeanors. If violations of these laws are observed, recommend calling the LCRA Ranger Dispatch at 866-527-2267.	
30.50	Eliminate juniper; protect woodlands and grasslands	It is Travis County and City policy to preserve and restore woodlands, grasslands, prairies, and riparian areas in the natural areas of their parks, which may include the removal of ashes juniper.	
30.60	Preserve large natural areas (5,000 acres) to meet TPWD ecosystem standards – maybe funding is available	The CRCP proposes preserving about 6,000 acres (approximately 20% of the corridor) as park and natural areas.	
30.70	How much of the 30,000 acres in the corridor dedicated to parks, open space	See comment above.	
30.80	How will trails be built on privately owned land such as properties on the river in the Imperial Valley area?	Right-of-Ways will be acquired from land owners	
30.90	Would like to have access to Morrison Ranch for hiking from the nearby Texas Rivers School's nearby camp.	This use will be discussed when more detailed park site plans are developed. The Planning Team encourages you to stay involved with all aspects of infrastructure planning within the Corridor area.	
30.10	How will the City handle putting trails in the water quality protection zones?	Trails are an allowed use in the Critical Water Quality Zone.	
34	Like Most - More parkland and future river access	No comment	
35	What would you Change - Concern about multi-use trails and conflicts between bikes and dogs. Separate Trails?	Travis County (and COA?) currently doesn't (don't) build single-use trails because of the extra cost of building multiple trails.	
36	What would you Change - Horse power limit on river for jet boats	The Texas Water Safety Act prohibits local governments from establishing "speed limits" on public waterways. Regarding limits on size or horsepower, LCRA does not discriminate on the boat itself but we do hold the boat operator responsible for their behavior. Section 31.094 of the Water Safety Act prohibits reckless or negligent operation of a boat and Section 31.095 prohibits excessive speed, which includes that no person may operate a boat at a speed greater than is reasonable and prudent, having due regard for the conditions and hazards, actual and potential, then existing, including weather and density of traffic, or greater than will permit him, in the exercise of reasonable care, to bring the boat to a stop within the assured clear distance ahead. Both of these laws are class B misdemeanors. If violations of these laws are observed, recommend calling the LCRA Ranger Dispatch at 866-527-2267.	
37	What would you Change - Limit for black bass fishing to maintain fish population	The Texas Parks and Wildlife Dept regulates fishing and set s limits.	
38	What would you Change - Would like to see greenway connection down through Bastrop County	No comment	
98	What would you Change-Move commerce to where existing homes, NOT TXI land where no homes exist.	The Plan shows an area of Urban Intensity at Hunters Bend and FM 969.	
99	(You have forgotten) Wildlife studies.	Staff consulted previous studies on the issue including Discovering the Colorado A Vision for the Austin Bastrop River Corridor. Link: http://ci.austin.tx.us/water/downloads/coloradofinal2.pdf	
39	What would you Change - Would like woodland and grassland restoration (hardwood)	It is Travis County and City policy to preserve and restore woodlands, grasslands, prairies, and riparian areas in the natural areas of their parks.	
40	While meandering trails are appreciated, there is also benefit from direct trails including one that minimizes the distance from US 183 to Webberville County park.	FM 969 between US 183 and Webberville is planned to include a 12' multi-use trail and sidewalk that will provide direct access between these two points.	
41	(add) Sidewalks – Webberville, Hunter's Bend	New collector or arterial roadways are to be designed and constructed with bike lanes and sidewalks or a multi-use trail. A sidewalk project is being planned for Hunters Bend Road from Austin's Colony Blvd. to Red Tails Drive.	
42	I would like to see this plan include as much transit options as possible. Do we have development nodes with mixed use planned for this area? If so, the developer should include a plan for transit options.	The CRCP envisions urban intensity nodes near Garfield and SH 71, Watersedge, Interport, Rio de Vida, along SH 71 across from ABIA, along US 183, and FM 969 west of SH 130. Amend plan to show a future transit node in Rio de Vida near SH 130 and Harold Green Blvd. Location would provide future connection to proposed City of Austin Urban Rail node at ABIA.	*
43	Problems with 18-wheelers in residential areas. Please include in the plan a way to address 18-wheelers in neighborhoods.	Currently truck traffic in the area is restricted to Dunlap Road since there are "no through truck" restrictions on Hunters Bend Road between Dunlap Road and Austin's Colony Blvd. If trucks are using other roadways in the Austin Colony subdivision, contact Danthia Joyce at the Travis County Sheriff's Office (854-9776) and report the location and type of truck.	

EXHIBIT 1 Colorado River Corridor Plan

Public Comment and Staff Response

November 28, 2010

#	Public Comment	Staff Comment	Amend
44	Lack of public transportation from unincorporated areas into Austin.	Currently, the area of the Corridor outside the incorporated limits of the City of Austin is not served by Capital Metro. This area is served by the Capital Area Rural Transit Service (CARTS) and provides transportation services for persons living within the Corridor. Capital Metro is supported by a 1% sales tax, levied in the communities it serves. Membership in the Authority must be approved by voters within each jurisdiction.	
45	Additional bike/pedestrian (and service) bridges should be considered over the river (away from other major bridges, e.g. SH130, US 183, Caldwell Lane.)	Separate crossings for different modes would not be cost effective. Due to the expansive size of the floodplain and the costs associated with construction, selected areas have been identified to cross that incorporate the appropriate travel modes.	
46	New arterials should include on-street and/or off-street (i.e. trail) bike and pedestrian facilities.	Cross Sections for arterials and collectors have been developed for the Colorado River Corridor. See Appendix D: Concept Plan Models.	
47	If Caldwell lane is built across the river it should have an adjacent off-street trail that serves bike/pedestrian traffic.	Having a separate structure for bike/pedestrian traffic would not be cost effective. The structure will use current AASHTO standards.	
48	Direct roadway connections from currently populated area of Austin's Colony to FM973 and to HWY 71 (Gilbert Extension just feeds back into FM969 and doesn't really address the current problems).	A goal of the CRCP is to provide for additional opportunities or alternatives to single occupant vehicles. Envisioned are modes that include a network of pedestrian and bike trails, transit and roadway improvements. Improvements in connectivity lead to the main arterials (SH 71, FM 969 and FM 973) serving the Corridor. Future added capacity improvements to these main arterials coupled with other travel opportunities will help reduce congestion within the Corridor.	
49	Problems with 18-wheelers in residential areas. Please include in the plan a way to address 18-wheelers in neighborhoods.	Duplicate #43	
50	Lack of public transportation from unincorporated areas into Austin.	Duplicate #44	
51	Page 27 contradicts itself – it says how a much larger percentage of lower income expenses go to transportation, leaving less for food, housing, etc, then proposes to raise gas tax and vehicle registration!	The Corridor has limited options for commuting. A goal of the plan is to provide for additional opportunities other than single occupant vehicles that may be more cost effective for families with limited incomes.	
52	Page 27 - Inadequate Road Capacity Truck traffic from the mining project exacerbates the inadequate road capacity. This negatively affects local residents and commuters by contributing to traffic congestion and extended travel times.	<u>Include as bullet under Inadequate Road Capacity in Existing Conditions. Also, comment forwarded to Traffic Safety Division of TNR. The Planning Team encourages you to stay involved with all aspects of infrastructure planning within the Corridor area.</u>	*
53	Page 27 -Safety It must be stressed that truck traffic is dangerous for local resident and commuter traffic on rural roads. The mining activity will contribute to and increase dangerous traffic for local residents and commuters. **Please note: I have reviewed the "open space acquisition and development agreement" which addresses the two concerns stated above. However, I have additional issues with the aforementioned agreement that I will not address at this time.	<u>Page 27, Under Safety, recommend revision to "The mix of local traffic, commuting traffic and truck traffic is another major challenge within the Corridor."</u>	*
54	Page 27 - Bicycle and Pedestrian Existing Conditions Bicycle and pedestrian modes are currently very limited. The plan points out that the area's current and forecast conditions allow for bicycle and pedestrian modes as viable means for transportation. The effects of mining however may contradict the viability for modes which expose the commuter to the threat of truck traffic and harmful air quality.	Providing for alternative modes allows for more choice in how residents can travel. Off-road, multi-use trails that accommodate bicycles as well as pedestrians and are separated from traffic by buffers are being planned for roadways within the Corridor. See Appendix D: Concept Plan Models.	
55	Page 28 - Transportation Funding Constraints New Section-Effect of Mining Project Increased traffic is a result of the mining project's use of trucks for transporting materials and employees. Additional roadways and roadway maintenance is necessary to accommodate the traffic increase. The mining project creates an increased burden on transportation investments and scarce funding resources.	Increase in traffic are cumulative and not tied to one specific use in the area.	
56	New Section-Strain on Resident and Commuter Economic Resources In order to fund the transportation projects, the plan proposes a few strategies which include raising the gas tax, including a local options sales tax, a vehicle miles traveled fee in lieu of a fuel tax increase, and toll roads. All of these options affect local residents and commuters by creating a strain on their economic resources.	As new funding options are being discussed, financial impacts on users will need to be considered. By providing for more travel opportunities and the development of mixed use center or nodes where Corridor residents can live and work, commute trips may be lessened thereby decreasing the percentage of income needed for transportation.	
57	SH 130 ROW has space reserved for a trail. Consider best location for the trail – in the ROW or adjacent to pavement?	<u>The CRCP Concept Plan accommodates a trail along SH 130 through a portion of the Corridor. Recommend amending the Plan to show the SH 130 trail extending to SH 71 East.</u>	*
58	Interested in the off-site trails system, like the connectivity. Do the all roads have bike and pedestrian facilities?	See Appendix D: Concept Plan Models. Arterial and collector roadways have accommodations for bicycles and pedestrians.	
59	Will not vote for the upcoming Travis County Bond due to the Austin Colony Secondary access project. Will actively be seeking others to vote no on Proposition One. Thinks that it has been represented that all home owner associations are supportive of the project.	Current alignment of the project is conceptual. After receiving funding for the project, Travis County staff will be working area residents to analyze future alignments of the project.	
60	Homeowner associations south of Hunters Bend Road are not supportive of project	Current alignment of the project is conceptual. After receiving funding for the project, Travis County staff will be working area residents to analyze future alignments of the project.	
61	Do not think there is a need for project, planned improvements of providing left turn lanes onto FM 969 will ease traffic problems.	Current alignment of the project is conceptual. After receiving funding for the project, Travis County staff will be working area residents to analyze future alignments of the project.	

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62	Will cause speeding along Austin Colony Blvd. south of the proposed project.	Current alignment of the project is conceptual. After receiving funding for the project, Travis County staff will be working area residents to analyze future alignments of the project.	
63	School district now allows school traffic to access school during morning and afternoon drop-offs.	Information will be incorporated into the analysis of the project's design.	
64	Can the bond project be revised to provide connectivity to FM 973, possibly at Harold Green Blvd?	Current alignment of the project is conceptual. After receiving funding for the project, Travis County staff will be working area residents to analyze future alignments of the project. However, connectivity to Harold Green Blvd. would require additional funding that has not been identified in the current Bond program.	
65	Are there truck restrictions along Hunters bend Road? Followed a truck from FM 969, along Hunters Bend Road and onto Dunlap Road that went down to the river that was carrying concrete pipe.	Currently truck traffic in the area is restricted to Dunlap Road since there are "no through truck" restrictions on Hunters Bend Road between Dunlap Road and Austin's Colony Blvd. If trucks are using other roadways in the Austin Colony subdivision, contact Danthia Joyce at the Travis County Sheriff's Office (854-9776) and report the location and type of truck.	
66	What can I do when I see a truck in the subdivision, who do I call?	Contact Danthia Joyce at the Travis County Sheriff's Office (854-9776) and report the location and type of truck.	
67	What is the timeframe of constructing the road that crosses the Colorado River?	The crossing of the Colorado River will be Burleson Manor Road is currently included in the CAMPO 2035 long range transportation plan. The road is planned to be a 2-lane minor arterial and is expected to be constructed between the years 2020-2025.	
68	We need more access to the east to provide additional ways out of the subdivision, the FM 969 project will help a little, but there needs to be more routes out of Austin Colony.	Connectivity west from Austin's Colony is complicated by the limited crossing opportunities caused by SH 130. The concept plan shows additional routes that connect to FM 973 via Harold Green Blvd. and crossing under the SH 130 bridge at the Colorado River.	
69	I heard there is going to be a connection to the airport at Rio de Vida, where will it be located?	<u>Amend plan to show a future transit node in Rio de Vida near SH 130 and Harold Green Blvd. Location would provide future connection to proposed City of Austin Urban Rail node at ABIA.</u>	*
70	Don't live in the Corridor, is TXDOT still planning on realigning FM 969 near Webberville?	The CRCP Concept Plan includes a conceptual re-alignment for FM 969. The project is included in the CAMPO 2035 long range transportation plan from US 183 to Webberville as a future 4-lane divided arterial. The project is expected to be constructed between the years 2026-2035. Alignments for the project will be evaluated as the project is developed.	
71	Page 26 - Natural and Man-made Barriers-Mining Pits Additional roadways are needed in the near future to accommodate the area's growing population. However, land use will be obstructed by underlying construction materials for the mining project. This does not benefit the residents of the area. It does however benefit the mining project.	No comment	
72	How to protect the Colorado River and its tributaries. Residents of Central Texas and its downstream neighbors will benefit from the water quality requirements and this should/could a beautiful destination recreation area.	The Water Quality section of the plan discusses many of the water pollution challenges this urbanizing area faces. Travis County, City of Austin, and LCRA, as well as state agencies including TCEQ, will continue to implement existing water quality protection programs. Depending on the agency, the programs include control of storm water and wastewater discharges, regulating development, and enforcing the program requirements through surveillance and compliance programs. County and city staff have implemented rule making initiatives to enhance protection of stream corridors. We continue to partner with TCEQ and others to develop and implement pollution reduction plans to address identified problems.	
73	How to preserve our riparian corridors! We need to protect our headwaters with setbacks from drainage creeks and streams of smaller areas that feed our named waterways.	Both Travis County and City of Austin are proposing to establish wider setbacks to separate development from our waterways, including setbacks to protect headwater areas susceptible to erosion when alterations are too close. Adoption of these requirements is scheduled for 2012.	
74	Direct roadway connections from currently populated area of Austin's Colony to FM973 and to HWY 71 (Gilbert Extension just feeds back into FM969 and doesn't really address the current problems).	Duplicate #48	
75	Maintaining and enhancing water quality in the face of increased development and usage.	You will note a discussion in the Surface Water Quality section of the plan that we currently have measurable degradation of water quality (as assessed by TCEQ). Addressing these priorities will be a focus of local jurisdictions, under mandates from the TCEQ and USEPA. Travis County, City of Austin, and LCRA implement programs aimed at maintaining existing water quality so our rivers and streams do not degrade to an impaired status. Enhancement of "chemical" and "biological" water quality may prove difficult without also improving the integrity of the aquatic and riparian ecosystems. That is a serious challenge in the urbanizing forecast for the Corridor. Nonetheless, this plan includes specific land conservation strategies to achieve such a goal.	

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79	Having not had the time to study the plan it would be unfair for me to comment on the quality and likes and dislikes. Having skimmed the draft, the one thing that I think may be missing is any plan to preserve any excess water passing through the Corridor by setting land aside for percolation fields or injection wells to recharge the aquifer and not lose any water that is not needed down stream. With the long term forecast or more severe drought into the foreseeable future this should be, in my mind, paramount in the corridor planning.	<u>Recommend amending p. 20 to include statement: "As a part of implementation, planners could look at the viability of projects to enhance aquifer recharge." The Colorado River Alluvial Aquifer is recharged directly from the underflow of creeks and rivers in the Corridor. The plan's land conservation goal calls for acquisition of land to allow for more natural hydrologic processes that retard water velocity, spreads out flows into natural floodplains, and therefore, results in greater recharge. It also makes sense to analyze other alternatives such as man-made recharge enhancement.</u>	*
82	I heard a speaker at the community meeting say that "efforts" had been made to create a groundwater conservation district. According to my records, these "efforts" consisted of: First Planning Session (December 19, 2000) Commissioners Court Work Session (May 7, 2001) Commissioners Court Briefings (June 10 & 12) 2001 Manor High School Public Meeting (July 26, 2001) As you can see, these "efforts" only got out of the Courthouse one time, and that was at Manor High School north of US 290. There was very little effort made to publicize the meeting (the Manor Messenger). Of the few attendees, most were farmers who were from north of 290. Since this "effort" was made 10 years ago and the area has changed a lot, perhaps it might be time to try to educate the public about a groundwater conservation district in eastern Travis County, just like is being done in western Travis County.	In Southwest Travis County, State law requires that a Groundwater Conservation District (GCD) be formed, based on State-level planning determinations. In 2005, the TCEQ evaluated whether northern Travis County (including the Corridor area north of the Colorado River) should be declared a priority groundwater management area and therefore be subject to a GCD. The TCEQ determined it was not necessary, in consideration of future water supply sources forecasted. When the State-level planners determine a priority does not exist, that leaves local options requiring a petition process and voter approval of a taxing authority. The efforts referred to by the commenter investigated the feasibility and interest in formation of a GCD. Additional efforts by Travis County staff were undertaken in 2009 to discuss the interest with each of the water suppliers who serve the eastern parts of the county. The water suppliers registered confidence in their ability to supply municipal needs through a combination of groundwater wells and interconnections from surface water or imported groundwater. Our conclusion is there is not a very strong interest in a GCD at this time.	
83	Does mining cause nitrate-nitrogen in the water?	There is no evidence that mining in the Corridor area caused nitrates to become elevated in groundwater. The Ground Water Quality section of the plan describes the likely sources.	
84	What does it mean that Hornsby Bend and COA use surface water, and the rest use groundwater? (Page 18)	The statement is meant to convey that the COA drinking water source is "primarily" from the Colorado River water storage in Lake Travis and that Hornsby Bend is supplied by diversions of water from the Colorado River. <u>A correction will be made.</u>	*
85	Is surface water more susceptible to the effects of mining than groundwater?	Both are susceptible to effects from mining. A scientific study is underway to help us better understand the cause and effect relationship between this land use and the surrounding environment.	
86	Page 18 - Isn't our water supplier Monarch now, and not Hornsby Bend?	Yes, it is our understanding that Hornsby Bend is the commonly used name for the utility but that it was owned by Southwest Water and recently was either sold or had a name change to Monarch. A correction will be made.	
87	My apologies, but after I received your acknowledgment of my prior comments, I realized that I forgot to compliment you on objective #12: "Promote more optimal locations for wastewater treatment facilities through regionalization and use of post-effluent polishing treatment units."	This is a challenging objective and the support for it is appreciated.	
88	I have heard that the City of Austin plans for east Travis County to be one of it's "desired development corridors" but so far, that seems to be expressed only as the "desired development corridor for wastewater facilities". Not only are there existing COA facilities at Walnut Creek, the "South Austin" Regional Wastewater Plant, Hornsby Bend, and Wild Horse Ranch but there are also several private wastewater facilities that discharge into Elm Creek, Gilleland Creek and Wilbarger Creek. I have read that the City of Austin has purchased land near Taylor Lane and Decker Lane for a potential wastewater plant. Also, when Austin Energy received the o.k. to build the solar energy plant at Webberville, the City retained the rights to use the remainder of the land for a potential wastewater plant. So, regionalization and post-effluent polishing" seem to be a terrific idea.	The desired development zone is the area of Austin that includes the Colorado River Corridor area where growth is encouraged, as opposed to the drinking water protection zone, where development is more restricted in an attempt to protect Austin's drinking water supply and the Edward's Aquifer. It is difficult to research and speculate on private plans for wastewater management. The TCEQ regulates wastewater discharges both for the City's regional treatment plans and also for smaller private facilities that provide service outside of Austin's CCN.	
89	A question: What utility districts have been sought or formed within the corridor area in the past 5 years?	TXI's Rio De Vida proposal includes a Municipal Utility District.	
90	Concerns regarding the recent sewage spill at So. Austin Regional WWTF. How did it happen, what was the impact, will it happen again, did it or similar mishaps result in TCEQ enforcement?	The commenter inquired on the facts surrounding a sewage discharge 8/23/2011. The COA reported an accidental leak in its chlorination system used to disinfect wastewater at the So. Austin Regional Wastewater facility. This resulted in the discharge of partially treated wastewater into the Colorado River near Falwell Lane, north of SH 71. The sewage was treated through the entire plant, except for the final step of disinfection. Approximately 300,000 gallons of treated wastewater, that was not chlorinated, was discharged. The COA immediately took corrective action to repair the chlorination system. The potential consequence of this type non-compliance is elevated bacteria/pathogens may have been present in the river, with a risk of gastro-intestinal illness for swimmers if they had been in the river downstream from this facility on that day. It is not typical for TCEQ to fine or take enforcement action against a discharger for a one-time event, if appropriate actions are taken to mitigate and correct the problem. Enforcement usually results when a pattern of recurrent or unresolved violations occur.	
91	How reasonable is it to have a strategy for green spaces and trails along creeks that traverse TXI's mining areas. It was suggested that water flowing down Elm Creek will leave the bed/banks of the creek when flow rises and flow down into the abandoned mining pits up near SH 130. Is this a good place for a public creek-side trail?	The Concept Plan vision is for a natural and appealing area in the long term horizon.	
92	Silt washes out of the McMorris property as river "pulses" with water releases. Upstream, water is clear; downstream, muddy. Big job to correct. River at Decker Creek is also muddy.	Issue is beyond scope of the Concept Plan. State and Federal agencies may be involved.	

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93	<p>This is an impressive effort which shows cooperation among Travis County, City of Austin, and the LCRA and expertise developed over years of trial. Limiting mining to a temporary use and phasing it in and out without irreparable damage to the land is impressive. As a member of the Native Prairie Association who has worked for the past 20 years in plant restoration of my own property on the Pedernales River, I would of course support limiting disturbance as much as possible. I have found that it takes some backbone to push back against development interests. They will eventually respond to equal counter force. With aggregate mining, you are now several steps away from original forested bottomland interspersed with grassland. However, Travis County's restoration efforts are impressive; Hamilton Pool Preserve is a stellar example. Few landowners can compete with your expertise. Please remember that it takes years if ever for people to identify and understand plants and value wildlife. In my experience, they tend to think in terms of exploitation and react with fear to the natural world. Take a leadership role with residents.</p>	No comment	
94	<p>Don't bend to their uninformed prejudices as some preserves feel pressured to do. As you point out, "Protecting natural systems is critical to human, plant, and animal health and well-being." I would counter urbanization wherever possible. Pollution, loss of riparian areas, exotic species are unwanted side effects. We've lost too much of one of the most magnificent landscapes in the world. With drought, we must hold the line against those who would speed our state's destruction. Alternative transportation, bicycle lanes, hiking trails, connected greenways and greenbelts, your land ethics seem irrefragable. Again, as someone who has had to fight my whole community to keep them from cutting down vegetation on Pedernales riverbanks, I say hold to the natural vision. People will come around eventually. When it comes to plants and animals, the majority is almost always wrong. Finally, the concept of wildlife corridors is important to understand. The National Wildlife Federation defines plant and wildlife corridors as "crucial habitats that provide connectivity over different time scales, including seasonal or longer, among areas used by animal and plant species." All animals and plant life benefit from these corridors as connections to vital habitat and migration patterns. Our rivers are our lifeblood. Save Texas rivers as wildlife corridors and we can save Texas! Thank you for making Austin a viable and living city of the future. Please call on me if you need public support.</p>	No comment	
100	<p>I am most concerned with the mining off of Dunlap Road/Drive. I see that the County may put in extra lanes at Dunlap that will allow TXI trucks to turn on to Dunlap for their mining operations and at taxpayer's expense. I thought this was to be at TXI's expense NOT the taxpayers! After all of Austin Colony's and neighbors protests of TXI putting in this pit next to the housing, you are going to help them? Reclamation of these pits is a joke! What's the saying, too little, too late. This is what the City of Austin (since we are in their ETJ) and the County Commissioners failed to look for! Who's to suffer from all of this mining and the trucks on FM 969? US, the residents of this area!!!! We will move before any of this happens but you are truly too little, too late!!!!</p>	<p>The proposed Tri Party agreement requires that TXI fund and reconstruct Dunlap Road to a 30' cross section which includes two 12' traffic lanes with two 3' shoulders using sufficient base, sub-base and overlay to accommodate projected truck traffic from mining operations. Additional capacity improvements would be funded in the future as increased traffic warrants. Sources of funding for those improvements have not been identified.</p>	
101	<p>Mining is incompatible with residential areas and should not be a part of the vision for the future in the Colorado River Corridor Plan.</p>	<p>Current conditions are Mining 21.4% and Residential 9.6% of the Corridor. Sand and gravel mining will be a reality during the 25 years scope of the Corridor Plan. Currently the County does not have the land use authority to impede legal mining uses on private property. The Plan acknowledges this major use.</p>	
102	<p>Allowing mining contradicts the basic goals stated in the Plan, such as protecting natural resources and improving quality of life.</p>	<p>Current conditions are Mining 21.4% and Residential 9.6% of the Corridor. Sand and gravel mining will be a reality during the 25 years scope of the Corridor Plan. Currently the County does not have the land use authority to impede legal mining uses on private property. The Plan acknowledges this major use.</p>	
103	<p>Sand and gravel mining in this area will be detrimental to the health and safety of the people in this area, and will decrease property value in an already difficult economy.</p>	<p>Current conditions are Mining 21.4% and Residential 9.6% of the Corridor. Sand and gravel mining will be a reality during the 25 years scope of the Corridor Plan. Currently the County does not have the land use authority to impede legal mining uses on private property. The Plan acknowledges this major use.</p>	
104	<p>According to Central Texas Green print for Growth, the TXI Hornsby Bend East and West proposed mine site is categorized as being located in the highest priority area for protection. As a resident of Travis County, I would like to see this area protected, rather than mined.</p>	<p>The passing of the November 2011 bond initiative will allow for the County to begin purchase of open space conservation easements. The limiting factors will remain: 1) available funding, 2) market values of the property, and 3) willing sellers.</p>	
105	<p>This sand and gravel operation may cause harmful dust in the air that could lead to lung problems, and also may compromise our water quality and supply amongst other things. It is an important cause to me, and I want it to be known that people are concerned about this issue.</p>	No comment	
106	<p>Webberville passed ordinance limiting the amount of time that an aggregate mining pit can be left open.</p>	<p>The County does not currently possess the authority to limit this aspect of mining.</p>	
107	<p>Page 2 - Why Prepare the Colorado River Corridor Plan? In its current form, the plan does not adequately reflect residents' concerns. Residents concerns include the effects of the mining project on health, wellness, and overall quality of life. The plan should include statements which promote an environment that maintains and improves health. In its current form, the plan includes statements that may compromise residents' health, wellness, and overall quality of life.</p>	<p>This planning process cannot undo the past practices that so many residents in the Corridor area legitimately raise as concerns. However, effective implementation of the CRCP is a vehicle to improve quality of life.</p>	
108	<p>Reclamation of mining areas. Mines are in direct contradiction to the conservation/protection objective of the plan.</p>	No comment	

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109	I think the critical issue is ensuring that the plan is carried out. As a long-time Austin resident I've seen many high-minded plans come and go with little relation to what real estate interests actually do.	No comment	
111	I really like the Plan in general.	No change.	
112	Thanks to those involved for the opportunity to comment on the draft plan. I am in general quite impressed with the thought that has gone into this plan and would support it going forward to the extent any one citizen can do so. In particular the concept of zones of land use with most rural at the river to urban distal makes great sense as does overlapping the needs for park/natural areas with those more rural zones closest to the river.	THANKS	
113	I would change the roll-out for roads and green spaces to be sooner.	A significant number of road and green space improvements are anticipated in the first five years. A typical road project may take five or more years to realize.	
114	The people who both mine sand and gravel and the developers of residential and commercial benefit from our beautiful places. Require them to help us maintain their economic future by adhering to strict requirements to include Open Space, water quality and parkland/trail corridors.	Current City and County policies, given their regulatory authority, supports this statement.	
115	Are we asking developers to and mining operations to bear the full burden of their impact on this area. For example, what are the future costs to taxpayers of managing stream water runoffs, erosion of stream banks and restoration of property formally mined?	The Corridor Plan is a vision and is limited in its ability to address this type of concern.	
116	I know TXI is a sponsor of this plan, but please consider the existing people in this corridor when making/implementing a plan - we need things now, not after Rio De Vida is built. Consider road and park placement to be nearer to and to enhance the standard of life for the majority of people who are already living in the corridor - the people of Austin's Colony.	No comment	
117	Is there a method to guarantee mining companies will meet their obligations? Some kind of bonding?	The County requires posting of fiscal (bond) for erosion control and safety berm. The bond from TXI for Hornsby Bend totals \$311,270.	
118	I really like the Plan in general.	THANKS	
119	I would change the roll-out for roads and green spaces to be sooner. Duplicates #113	Duplication #113	
120	I know TXI is a sponsor of this plan, but please consider the existing people in this corridor when making/implementing a plan - we need things now, not after Rio De Vida is built. Consider road and park placement to be nearer to and to enhance the standard of life for the majority of people who are already living in the corridor - the people of Austin's Colony. Duplicates #116	Duplication #116	
121	I would like to start by saying a big thank you for giving the public an opportunity to participate in the Colorado River Corridor Plan.	THANKS	
122	Thank you for giving the public an opportunity to participate in the Colorado River Corridor Plan.	THANKS	
123	After viewing the Colorado River Corridor Draft Plan, I must say that I see some inconsistencies between what you say you want and what you are allowing to actually happen. As someone who lives in one of the areas that will be affected by TXI's mining operations, I cannot believe that you would allow mining to occur in a residential neighborhood! It is incompatible with the lifestyle that we want and SHOULD NOT be a plan for our future. When you allow mining to occur, it contradicts several of the goals stated in your plan such as 1) Conserve and Protect Natural Resources" (p. 36) and "Goal 2: Improve Quality of Life" (p.37).	The Corridor Plan is only a vision and not intended as a regulatory mechanism. Current conditions are Mining 21.4% and Residential 9.6% of the Corridor. Sand and gravel mining will be a continued reality during the 25 years scope of the Corridor Plan.	
124	If you truly want to "incorporate and reflect current public input about how local residents view their communities" as stated in the Colorado River Corridor Draft Plan on page 36, then you would not promote mining projects, as residents want to protect the health, safety, environment (including the Colorado River), history, and property value in their community.	The Corridor Plan is only a vision and not intended as a regulatory mechanism. Current conditions are Mining 21.4% and Residential 9.6% of the Corridor. Sand and gravel mining will be a continued reality during the 25 years scope of the Corridor Plan.	
125	Thank you for listening to the opinions of those who live in the corridor and will be affected by the decisions you make today and tomorrow	THANKS	
126	I want to provide my perspective on the Colorado River Corridor Plan. I have lived in Austin since 1988 and am concerned that the natural resources that give us the quality of life we all enjoy is not being cared for. Specifically, I think that mining is incompatible with residential areas and should NOT be a part of the vision for the future in the Colorado River Corridor Plan.	The Corridor Plan is only a vision and not intended as a regulatory mechanism. Current conditions are Mining 21.4% and Residential 9.6% of the Corridor. Sand and gravel mining will be a continued reality during the 25 years scope of the Corridor Plan.	
127	Allowing mining contradicts several of the basic goals stated in the Colorado River Corridor Draft plan, such as "Goal 1: Conserve and Protect Natural Resources" (p. 36) and "Goal 2: Improve Quality of Life" (p.37). If you want to truly "incorporate and reflect current public input about how local residents view their communities" as stated in the Colorado River Corridor Draft Plan on page 36, then you would NOT promote mining projects, as residents want to protect the health, safety, environment (including the Colorado River) and history of the community.	The Corridor Plan is only a vision and not intended as a regulatory mechanism. Current conditions are Mining 21.4% and Residential 9.6% of the Corridor. Sand and gravel mining will be a continued reality during the 25 years scope of the Corridor Plan.	
128	Property value will continue to decrease if mining is allowed, and this will be detrimental to the residents and community as a whole in an already difficult economy. Sympathizing with and accepting financial contributions from a mining company unfairly compromises the rights of residents in this area and destroys the integrity of the entire Colorado River Corridor Draft Plan.	No comment	
129	(1) I think some of the critical issues here are not well covered.	Not specific enough to respond.	
130	(A) I think that a lot of the draft proposal is aimed at providing TXI a foothold on the Rio De Vida project(if this project ever takes off). If anybody is foolish enough to believe that TXI is going to have a community center in this development that will be inclusive to the entire area, I think that they are wrong. It seems to me that the part this draft plan that discusses campo plans for servicing this area are based on the city of Austin annexing this area. Is TXI planning something with the city of Austin?	The master plan of Rio De Vida currently supports expansive open space and connectivity that can tie into the vision of the Corridor Plan. There may be confusion regarding the intention of a "center" at Rio De Vida. Currently, the Corridor Plan expresses an objective to explore the logistics of relocating and consolidating the two proposed CAMPO 2035 "Intermodal Centers" to Harold Green Road and SH 130. The City has no plans to annex Rio De Vida at this time.	
131	The proposed site for Rio De Vida, according to your draft plan will still be mined for 5 more years, yet in the latter part of the same plan you discuss starting the Rio De Vida project in less than 2 years.	Development of Rio De Vida may indeed begin on portions of the TXI site prior to the entire site being closed for mining. The discussed timing of such is taken into consideration by the Plan.	
132	Is Austin going to annex this area? When? If so, how would it change the draft plan?	The City has no plans to annex the large extent of Corridor area at this time.	

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133	I feel mining is incompatible with residential areas and should not be a part of the vision for the future in the Colorado River Corridor Plan. Allowing mining contradicts the basic goals stated in the Plan, such as protecting natural resources and improving quality of life. Sand and gravel mining in this area will be detrimental to the health and safety of the people in this area, and will decrease property value in an already difficult economy. According to Central Texas Greenprint for Growth, the TXI Hornsby Bend East and West proposed mine site is categorized as being located in the highest priority area for protection. As a resident of Travis County, I would like to see this area protected, rather than mined.	No comment	
134	I really don't understand why the Colorado River Corridor Draft Plan is sympathetic to mining, and even seems to promote it. Are corporate interests more important to the City, County and LCRA than the people? Isn't it your job to protect our lives and our futures? I live in Chaparral Crossing and will be surrounded on 2 sides by this mining. You are putting corporate interests before the health and safety of residents. Dust inhalation is dangerous and can cause permanent lung damage. Our water quality and quantity may be endangered. This is not right, and I can't believe this plan for our bright future includes mining in residential areas. Honestly, I think this entire plan needs to be done again, because I think the financial investment from TXI has blinded you to the rights of the people, and you are not only taking away their voice, but are endangering their lives and their health. We who live in this area have the right to have a say in what happens in our own community. I would like to know exactly how your are going to process and incorporate the comments that are being sent to you into the Colorado River Corridor Draft Plan. Is there any way I can find out more about that?	The Corridor Plan is only a vision and not intended as a regulatory mechanism. It is intended to help guide future regulatory decisions in the Corridor area.	
135	Page 36 - Mining contradicts all goals presented in this section	No comment	
136	Page 42 -Is there really any guarantee on Reclamation? How do we know this will really happen?	The Corridor Plan is only a vision and not intended as a regulatory mechanism. Current conditions are Mining 21.4% and Residential 9.6% of the Corridor. Sand and gravel mining will be a continued reality during the 25 years scope of the Corridor Plan.	
137	How can you plan parks and greenbelts when you don't really know what the effects of mining will be on the landscape, water and waterways of the area?	There are a handful of mandatory buffers and setbacks from drainages and waterway features that mines must consider.	
138	Page 52 - Says CAMPO center will be located in Rio de Vida. Rio de Vida doesn't exist, and there is no way of knowing if it will be built in the first place. How can you predict how many people will reside there when it doesn't even exist yet? I think this Plan again is giving something to TXI that would better serve the people elsewhere. Why is this being given to TXI by way of Rio de Vida? Right down the street, there is a huge concentration of people RIGHT NOW in Austin's Colony, Forest Bluff, Chaparral Crossing and more, and this area continues to grow. I think that this area would be a much more appropriate place for a transportation hub.	The master plan of Rio De Vida currently supports expansive open space and connectivity that can tie into the vision of the Corridor Plan. Currently, the Corridor Plan expresses an objective to explore the logistics of relocating and consolidating the two proposed CAMPO 2035 "Intermodal Centers" to Harold Green Road and SH 130.	
139	Mining is incompatible with residential areas and should not be a part of the vision for the future in the Colorado River Corridor Plan	The Corridor Plan is only a vision and not intended as a regulatory mechanism. Current conditions are Mining 21.4% and Residential 9.6% of the Corridor. Sand and gravel mining will be a continued reality during the 25 years scope of the Corridor Plan.	
140	If you want to truly "Incorporate and reflect current public input about how local residents view their communities" as stated in the Colorado River Corridor Draft Plan on page 36, then you would not promote mining projects, as residents want to protect the health, safety, environment (including the Colorado River) and history of the community.	The Corridor Plan is only a vision and not intended as a regulatory mechanism. Current conditions are Mining 21.4% and Residential 9.6% of the Corridor. Sand and gravel mining will be a continued reality during the 25 years scope of the Corridor Plan.	
141	Sympathizing with and accepting financial contributions from a mining company unfairly compromises the rights of residents in this area and destroys the integrity of the entire Colorado River Corridor Draft Plan	The Corridor Plan is only a vision and not intended as a regulatory mechanism. Current conditions are Mining 21.4% and Residential 9.6% of the Corridor. Sand and gravel mining will be a continued reality during the 25 years scope of the Corridor Plan.	
142	Sand and gravel mining in this area will be detrimental to the health and safety of the people in this area, and will decrease property value in an already difficult economy. Duplicates #103	Duplicates #103	
143	According to Central Texas Green print for Growth, the TXI Hornsby Bend East and West proposed mine site is categorized as being located in the highest priority area for protection. As a resident of Travis County and Chaparral Crossing, I would like to see this area protected, rather than mined. Duplicates #104	Duplicates #104	
144	Thank you for taking my comments into consideration. I would love to hear back from you with any answers/responses to my questions, and again, I am curious to know what the process will be to incorporate our comments into the Plan.	Comments received by the deadline are responded to by the planning team and included as an appendix to the Corridor Plan document. Additionally, the same information may be found on the project website at the following URL: http://www.co.travis.tx.us/tnr/CRCP	
145	I am VERY supportive of your attempt to be pro-active in planning for this area.	No change.	
146	Although it is not technically within your study area boundary, I ask that you include consideration of the City of Austin's 2500+ acre 'Webberville Tract'. It is located just north of 969, and the city's development on the site will have a dramatic impact on the Colorado River corridor. We need to be certain that the City of Austin's development on its site is appropriate, not destructive.	For this particular planning exercise, the northern limit is the southern boundary of FM 969. It is understood that the Webberville Tract may have overlapping effects within the Corridor Plan area, but the focus of this plan is centered along the Colorado River and easily discernable boundaries.	
147	Your plans mention adding another north-south arterial crossing the river, and show extension of Burleson Manor Rd. as a possible route. Wouldn't it make more sense to extend Taylor Lane southward as the river crossing? Extension of Burleson-Manor will NOT provide a complete connection from 71 to 290; an advantage of Taylor/Kimbrow is that it WILL provide a complete connection between 71 and 290.	The Burleson /Manor Road extension provides for connectivity between SH 71 E and US 290. The crossing also takes advantage of crossing at a narrow section of the Colorado River's 100 year flood plain. The Taylor Lane crossing has extensive 100 year flood plain near the intersection with FM 969 causing the Burleson/Manor Road to be more economically viable.	
148	As a general comment, although I assume you're already doing this: Please be certain that you are coordinating with other planning, such as the proposed new standards to require adequate water supply for new development. I reading your 'River Corridor' material again this morning I was struck by how much of it was relevant to citizen's concerns expressed at last evening's meeting about water supply regulations.	No comment	

EXHIBIT 1 Colorado River Corridor Plan

Public Comment and Staff Response

November 28, 2010

#	Public Comment	Staff Comment	Amend
149	The Colorado River Corridor Draft Plan is really disturbing. I hope you will reconsider. I live in east Austin and I don't think mining anywhere close to Austin is a reasonable idea. It will affect the value of homes in the area and is likely a health hazard.	No comment	
150	I am writing to convey my concern over the Colorado River Corridor Plan, namely the mining that is proposed to take place. I feel that this would be a grave error at best, and an extremely harmful, discriminatory action at worst. Given that there are neighborhoods nearby, it would be disastrous to introduce a mining operation into the area, which would undoubtedly negatively affect home values in an already extremely tenuous housing market recession, especially since this recession was so closely tied with falling home values. To actually bring about these declining values to a neighborhood through a conscious effort is simply reprehensible.	No comment	
151	From there, in addition to destroying local property values, it would certainly threaten quality of life (contradicting the Colorado River Corridor Draft Goal #2, "Improve Quality of Life") and would have undoubted harmful effects on the local environment (in contradiction with Goal #1, "Conserve and Protect Natural Resources." Indeed, there is no way to move forward with mining in the area and preserve either quality of life or the environment; the only thing protected in that scenario would be the incomes of special interests.	No comment	
152	Generally speaking, I believe it bodes extremely poorly that this idea was even considered in a neighborhood where families live. I will also go so far as to say that this would never happen in high income neighborhoods like central or west Austin; at the very least, the residents would have been given more of a say, more information, and more input onto the plan. The fact that this was not the case in this neighborhood makes the Planning Team seem solely money driven at best and discriminatory at worst. I hope you will take this into consideration moving forward, keeping in your awareness the lives you are affecting through this decision, and choose not to allow mining in this area.	Harvest of natural resources have be a mainstay in the Corridor since early settlement. Large-scale residential subdivisions are a relatively new land use. Current conditions are Mining 21.4% and Residential 9.6% of the Corridor. Sand and gravel mining will be a continued reality during the 25-year scope of the Corridor Plan.	
153	Page 8 - Residential Development Versus Aggregate Mining Resident concerns should be given a greater voice in the considered plans to "reduce truck traffic, mitigate visual impacts and establish baseline environmental monitoring conditions against which planners can evaluate future impacts".	The Planning Team encourages you to stay involved with all aspects of infrastructure planning within the Corridor area.	
154	I think that it is unlikely that "desired development" will occur when there are so many wastewater plants. I live on FM 969 near Gillelland Creek and on evenings when there is very little wind from the southeast, we can smell "effluent". We are unsure whether it is the "South Austin" plant or if Magna Flow has found another farm in the area to discharge "beneficial remediation".	No comment	
155	Can a copy of the TXI plans for reclamation of the Hornsby mine sites be posted for public review?	Final plans are not on file. Permit requires County to review and approval the final reclamation plan, after mining has occurred and before TXI closes out and leaves the sites. Preliminary information on Permit No. 11-2430 and 11-2431 can be viewed at TNR Central Files office 13th and San Antonio via Open Records Request. This can be filed online: http://www.co.travis.tx.us/tnr/pdffiles/open_records_request.pdf ; filed via email to: Open.Records@co.travis.tx.us ; or requested by telephone at 854-7683.	
156	Can we (the planning entities) offer to distribute paper copies of the plan for a cost? A handful of participants were interested in buying a copy.	The plan will be available for download on the project website at the following URL: http://www.co.travis.tx.us/tnr/CRCP	
157	Does not think there should be a Center identified at Rio de Vida, why were the Centers combined and move to the Rio de Vida location? Does moving the Center provide economic incentives to the developers of TXI? Believes Travis County staff is working with TXI to incent development at Rio de Vida at the expense of development occurring east of Rio de Vida.	The master plan of Rio De Vida currently supports expansive open space and connectivity that can tie into the vision of the Corridor Plan. Currently, the Corridor Plan expresses an objective to explore the logistics of relocating and consolidating the two proposed CAMPO 2035 "Intermodal Centers" to Harold Green Road and SH 130.	
158	By designating Rio de Vida as a Center and allowing mining to continue next to the Austin Colony subdivision, property values are being lowered and transferred to property owned by TXI.	No comment	
159	Believes that the Center would be more representative of placement at Austin Colony subdivision since growth is occurring at this location. How was it identified at Rio De Vida can it be moved there?	The master plan of Rio De Vida currently supports expansive open space and connectivity that can tie into the vision of the Corridor Plan. Currently, the Corridor Plan expresses an objective to explore the logistics of relocating and consolidating the two proposed CAMPO 2035 "Intermodal Centers" to Harold Green Road and SH 130. The consideration would involve assessment of the adverse impacts to natural resources and suitability of infrastructure.	
160	I really like the Plan in general.	THANKS	
161	Like: Providing for the future citizens in Central Texas places like this natural corridor that remain natural enough to provide an amenity to the region.	No comment	
162	Austin's Colony Phase V, Section 3 approved unrecorded Final Plat is not shown on the Concept Plan. Our concern is the Concept Plan has a rural arterial roadway running through the Plat without taking into account the approvals currently in place...	Amend Concept Plan to show the approved unrecorded final plat for Austin's Colony Phase V Section 3. A future rural arterial (Deaf Smith Blvd.) is aligned through this plat. Travis County will be required to negotiate with the owner to amend the unrecorded final plat to accommodate the alignment of the future arterial.	*
163	Austin's Colony Phase 6-14, approved unrecorded Preliminary Plat is not shown on the Concept Plan. Our concern is..... the Concept Plan has a rural arterial roadway running through the Plat without taking into account the approvals currently in place...	Amend Concept Plan to show Future Arterial C as a Rural Arterial (light blue). Amend Concept Plan to show future Arterial C north of Hunters Bend Road offset from Arterial C south of Hunters Bend Road. Alignment of Arterial C south of Hunters Bend Road remains as shown on Concept Plan. Amend Arterial C north of Hunters Bend Road to follow existing Hallday Avenue and extend northward to terminus at FM 969. Travis County will be required to negotiate with the owner Austin's Colony Phases 6A and 6B to accommodate the future alignment of Arterial C north of Hunters Bend Road.	*
164	Chaparral Crossing has approved site plan is accurately reflected on the base map.	No comment	

EXHIBIT 1 Colorado River Corridor Plan

Public Comment and Staff Response

November 28, 2010

#	Public Comment	Staff Comment	Amend
165	A proposed Neighborhood Collector running north and south to FM 969 from the proposed westward extension of Dunlap Rd S. runs through and adjacent existing subdivisions and various platted properties (Austin's Colony Sec 6B, 7B and Chaparral Crossing). While we are in support of the need for this collector, it is our responsibility to point out that it will affect previously approve plans, plats, and site plans.	See comment for #163.	*
166	The Plan reflects a proposed Rural Arterial from Dunlap Rd S. running west through the approved preliminary plan for Austin's Colony Phases 6-13. We are requesting that the alignment be adjusted per the preliminary plan. Further this same Rural Arterial affects the Austin's Colony Phase V, Sec 3.	Amend Concept Plan to show the approved preliminary plat for Austin's Colony Phases 6, 7, 8, 9, 10, 11, 12 and 13. Amend alignment of Deaf Smith Blvd to reflect alignment in Austin's Colony Phases 9, 10, 11 and 12. Amend Concept Plan to terminate Deaf Smith Blvd. at future Arterial C. Delete section of Deaf Smith Blvd. from Future Arterial C to Dunlap Rd. North. Se comment for #162 for alignment through Austin's Colony Phase V Section 3.	*
167	At the Town Hall meeting on 9/22 ...there was no discussion of the extension of Westall St past Hound Dog Trail. We question the need for this extension as it runs near and parallel to the Austin's Colony Secondary Access Rd to Gilbert Lane. This roadway is included in the 2011 Travis County Bond Election.	Amend Concept Plan to show current alignment of Austin Colony Secondary Access project that was included in 2011 voter approved bond election. Amend extension of Sandifer Street to parallel Elm Creek flood plain. A roadway parallel to the floodplain visually integrates the greenspace into the neighborhood and puts more eyes on the greenway users which improve safety. Also, amend roadway classification of future Sandifer Street extension from Minor Arterial to Neighborhood Collector (green). With limited options for east/west connectivity to FM 973 and expected high volumes of traffic connecting to work destinations in the Urban Core, Transportation and Natural Resources staff have identified the need to study the use of roundabouts as a traffic safety measure to calm traffic. As plans develop for Rio de Vida, future collector level intersections would offer an opportunity apply this traffic calming technique especially for collector intersections west of Austin's Colony subdivision.	*
168	The approved TXI Site Plans for Hornsby Bend West and Hornsby Bend East are not reflected on the Concept Plan. We feel strongly that both projects should be reflected in the Concept Plan as they have been approved.	No change recommended. The plan reflects the long range vision. TXI plans are short term uses.	
169	In the body of the CRCP there is a section titled Existing Transportation System (p. 22) which contains a map labeled Development. This map shows Subdivisions, Preliminary Plats and Emerging Developments. It would be useful addition to the Concept Plan to have this information included on the base map so that proposed roadways are reflected per previous approvals.	Recommend change. Agree the Concept Plan should reflect the proposed land use intensity shown on page 22.	*
170	Bill Carson with Native Texas Nursery submitted a letter to Judge Biscoe noting concerns with mining's impact on ground water their agricultural wells.	The County, City, and LCRA are jointly funding the monitoring of nearby wells.	
PUBLIC HEARING MARCH 27, 2012			
1	What was the fees paid to Bosse and Associates by TXI?	Staff is not knowledgable of the contract scope and fees with these to private entities.	
2	What fees were paid to Bosse and Associates by the County?	Bosse and Associates contract was for \$98,095. Travis County's portion of the contract is \$72,095.	
3	What was the relationship of Bosse and TXI during plan preparation?	Bosse provide analysis and feasibility of redevelopment of existing TXI legacy mining land.	
4	Why is the CAMPO Center, which is eligible for future transportation funds located on TXI Property and not near existing residential commercial area at Hunters Bend and FM 969?	CAMPO policy sets aside 50% of future funds to Centers. The DRAFT plan recommendation is to locate the center along SH 130 between FM 969 and the river. The intensity of uses envision in the Centers concept is not suitable along FM 969 at Hunters Bend. Significant internal connectors and pedestrian/vehicular movements could negatively impact the existing abutting neighbors. Additionally, the Concept Plan encourages the redevelopment of legacy mining rather impacts to undeveloped land areas.	
5	EMAIL. Correct maps with regards to land ownership of land shown as parks along the Colorado River at Austin Colony	Staff will correct.	*
6	Concurrent reclamation, is that recommendation part of the Tri-party agreement?	Staff recommends that the agreement will seek to include concurrent mining concept.	
EMAILS Since 3-27-12			
7	How exactly has the draft Plan changed as a result of the citizen input that you discussed in court? I'm not the only one who wants to know..	Staff recommended changes are found on the web.	
8	What services, projects, infrastructure etc might be denied the people that live in the corridor now if the Campo 2035 Village Center is changed to where Rio de Vida is as per plan dictates.	Staff is not aware of any services that might be denied. Staff has recommended transit be evaluated to serve the area which generally feasible when higher intensive of uses and thus users increase.	

EXHIBIT 1 Colorado River Corridor Plan

Public Comment and Staff Response

November 28, 2010

#	Public Comment	Staff Comment	Amend
9	What have the neighbors priority item was accedentally left off the info passed out to the neighborhood meeting been told about this since the priority item was accedentally left off the info passed out to the neighborhood meeting	Although the item was inadvertently left off the public meeting handout, the online Draft and all other information has not change until the Court to make changes. The Center relocation remains and has always been a part of the Draft Plan proposal.	

EXHIBIT 2

Colorado Rivers Corridor Plan

January 10, 2012

RECOMMENDED DRAFT PLAN AMENDMENTS

Plan Narrative

1. Page 18. Second paragraph. Delete ~~Of these providers, the City of Austin and Hornsby Bend are the only retail providers from surface water sources.~~ Insert Of these providers, two primarily obtain water from surface water sources. The City of Austin obtains drinking water from storage in Lake Travis and Hornsby Bend diverts water from the Colorado River.
2. Page 20. Under Opportunities include statement: As a part of implementation, planners could look at the viability of projects to enhance aquifer recharge.
3. Page 27. Under Inadequate Road Capacity add bullet: Truck traffic from the mining project exacerbates the inadequate road capacity. This negatively affects local residents and commuters by contributing to traffic congestion and extended travel times.
4. Page 27. Under Safety, revise sentence: The mix of local traffic, commuting traffic and ~~through truck~~ traffic along FM 969 is another major challenge within the Corridor.
5. Page 47 Parks and Greenways Objective, change strategy: Provide opportunities for the community to vote for funding of land acquisition of critical lands along the river” to 5-15 time frame. Voters approve an initial level of funding in November 2011.
6. Page 51. Mobility Objective, delete safety strategy: ~~Construct two left turn lanes at Hunters Bend Road to FM 969. Work has been completed by TXDOT.~~
7. Page 51 Mobility Objective , delete safety strategy: ~~Seek funding to provide alternative collector access to Hornsby-Dunlap Elementary School and Dailey Middle School Approved by voters in November 2011.~~
8. Page 53. Bicycles/Ped Objective delete strategy: ~~Seek funding to complete sidewalk gap along Hunters Bend Road from Austin Colony to Red Tails. Approved by voters in November 2011.~~

Concept Map

1. Remove pathway shown adjacent to the Travis County Jail.
2. Add a future pathway along SH 130 to connect to SH 71 East.
3. Add a future transit node at Harold Green Rd and SH 130.
4. Correct label location for City of Austin's Colony Park.
5. Page 22. In the body of the CRCP there is a section titled Existing Transportation System (p. 22) which contains a map labeled Development. This map shows Subdivisions, Preliminary Plats and Emerging Developments. The Concept Plan should reflect the proposed land use intensity shown on page 22.
6. Amend Concept Plan to show the approved unrecorded final plat for Austin's Colony Phase V Section 3. A future rural arterial (Deaf Smith Blvd.) is aligned through this plat. Travis County will be required to negotiate with the owner to amend the unrecorded final plat to accommodate the alignment of the future arterial.
7. Amend Concept Plan to show Future Arterial C as a Rural Arterial (light blue). Amend Concept Plan to show future Arterial C north of Hunters Bend Road offset from Arterial C south of Hunters Bend Road. Alignment of Arterial C south of Hunters Bend Road remains as shown on Concept Plan. Amend Arterial C north of Hunters Bend Road to follow existing Hallday Avenue and extend northward to terminus at FM 969. Travis County will be required to negotiate with the owner Austin's Colony Phases 6A and 6B to accommodate the future alignment of Arterial C north of Hunters Bend Road.
8. Amend Concept Plan to show the approved preliminary plat for Austin's Colony Phases 6, 7, 8, 9, 10, 11, 12 and 13. Amend alignment of Deaf Smith Blvd to reflect

EXHIBIT 2
Colorado Rivers Corridor Plan
January 10, 2012

alignment in Austin's Colony Phases 9, 10, 11 and 12. Amend Concept Plan to terminate Deaf Smith Blvd. at future Arterial C. Delete section of Deaf Smith Blvd. from Future Arterial C to Dunlap Rd. North. See comment for #162 for alignment through Austin's Colony Phase V Section 3.

9. Amend Concept Plan to show current alignment of Austin Colony Secondary Access project that was included in 2011 voter approved bond election. Amend extension of Sandifer Street to parallel Elm Creek flood plain. A roadway parallel to the floodplain visually integrates the greenspace into the neighborhood and puts more eyes on the greenway users which improve safety. Also, amend roadway classification of future Sandifer Street extension from Minor Arterial to Neighborhood Collector (green).

With limited options for east/west connectivity to FM 973 and expected high volumes of traffic connecting to work destinations in the Urban Core, Transportation and Natural Resources staff have identified the need to study the use of roundabouts as a traffic safety measure to calm traffic. As plans develop for Rio de Vida, future collector level intersections would offer an opportunity apply this traffic calming technique especially for collector intersections west of Austin's Colony subdivision.

10. Recommend change. Agree the Concept Plan should reflect the proposed land use intensity shown on page 22.
11. Amend Concept Plan to show separate park parcels along the Colorado River, 1) City of Austin Parcel and 2) Austin Colony Home Owners Association (HOA) parcel.



Travis County Commissioners Court Agenda Request

Meeting Date: April 12, 2012 Work Session

Prepared By/Phone Number: David A. Salazar 854-4107

Elected/Appointed Official/Dept. Head: Sherri E. Fleming,
County Executive for Health and Human Services and Veterans Service

Commissioners Court Sponsor: Judge Samuel T. Biscoe

AGENDA LANGUAGE:

Consider and Take Appropriate Action Regarding Update on Travis County Indigent Burial Program:

- a. Proposed Changes to Chapter 73 of the Travis County Code (Indigent Burial Policy);
- b. Proposed Changes to Chapter 100 of the Travis County Code (Policy for Operation and Maintenance - Travis County Cemeteries);
- c. Possible Amendments to Contracts for Burial Services; and
- d. Other Related Issues.

BACKGROUND/SUMMARY OF REQUEST AND ATTACHMENTS:

This item is a follow-up to the update received during the July 12, 2011, Voting Session where the Court directed staff to draft changes to the Burial Policy, explore options to alleviate space concerns, and the briefing on February 21, 2012, where the Court authorized the purchase of capital equipment and the construction of a pavilion at the Travis County Cemetery on Wells School Road.

In March and July of 2011, Staff provided a briefing to the Court detailing the space issues at the Travis County International Cemetery and obtained the Court's approval to move forward with a Request for Proposal to acquire additional cemetery space to service the program in addition to exploring other space and cost saving measures associated with indigent burial.

AGENDA REQUEST DEADLINE: All agenda requests and supporting materials must be submitted as a pdf to Cheryl Aker in the County Judge's office, Cheryl.Aker@co.travis.tx.us by Tuesdays at 5:00 p.m. for the next week's meeting.

Since then, the Court has acquired land, the Travis County Cemetery on Wells School Road, which has been prepared with the intent to handle burials in lieu of the current Travis County International Cemetery.

STAFF RECOMMENDATIONS:

Staff proposes modifications to current Travis County Code, Chapters 73 and 100 and seeks direction from the Court regarding the issuance of a Request for Services for Funeral and Cremation Services should the Court approve proposed modifications to existing County Policy.

ISSUES AND OPPORTUNITIES:

During the last briefing, staff reported that Travis County's Cemetery at Wells School Road was ready to be utilized and in-house plans are in place to design and build a pavilion at the site. HHS&VS staff has included the following:

- a. Presentation on Burial/Disposition and Cemetery Policies;
- b. Information regarding other Indigent Burial Programs across the State;
- c. Chapter 711 of the Texas Health and Safety Code (General Provisions Relating to Cemeteries);
- d. Chapter 100 of the Travis County Code (Policy for Operation and Maintenance - Travis County Cemeteries);
- e. Chapter 73 of the Travis County Code (Indigent Burial Policy); and
- f. Chart illustrating year-to-date services provided through 2010.

FISCAL IMPACT AND SOURCE OF FUNDING:

Approving this request will not increase the County's current budget.

REQUIRED AUTHORIZATIONS:

Mary Etta Gerhardt, Assistant County Attorney

Travis County Indigent Burial/Disposition and Cemetery Policies

Discussion and Proposed Changes



Objectives today...

- ▶ Consider modifying Chapter 73, Travis County Indigent Burial Policy, to include Cremation
- ▶ Discussion of Chapter 100
- ▶ Consider future action to direct the Purchasing Agent to issue a Request for Services (RFS) for Funeral and Cremation services
- ▶ Other related items



Indigent Burials FY07 – FY12

Source: Case Management & Benefits Administration System (CABA)

<u>YEAR</u>	<u>TOTAL</u>
▶ 2007	108
▶ 2008	128
▶ 2009	147
▶ 2010	148
▶ 2011	145
▶ 2012	81



Family Support Services Division
 Indigent Burials FY07 thru FY12 March 31, 2012

Source: Case Management and Benefits Administration System (CABA)
 Adhoc and Assistance by Service/Fund Report

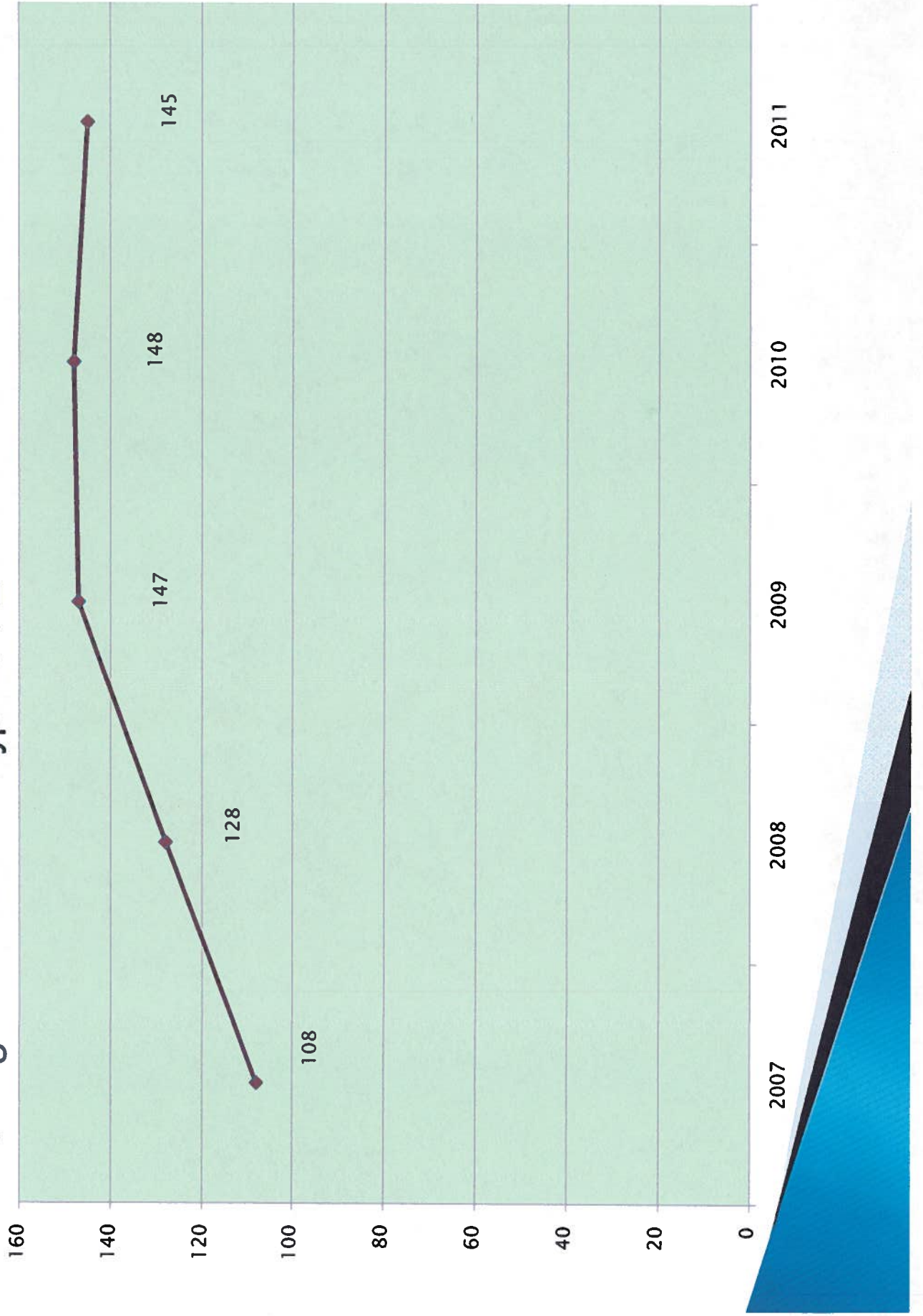
FY	Type	Count	County Expenditure
2007	BURIAL	51	\$41,240.15
2007	BURYDEF	30	\$25,500.00
2007	BURYwKin	81	
2007	BURYNOK	27	\$22,950.00
2007	Total	108	
2008	BURIAL	51	\$44,100.00
2008	BURYDEF	36	\$29,700.00
2008	BURYwKin	87	
2008	BURYNOK	41	\$35,000.00
2008	Total	128	
2009	BURIAL	71	\$57,526.03
2009	BURYDEF	56	\$46,493.29
2009	BURYwKin	127	
2009	BURYNOK	20	\$16,550.00
2009	Total	147	

Family Support Services Division
 Indigent Burials FY07 thru FY12 March 31, 2012
 Source: Case Management and Benefits Administration

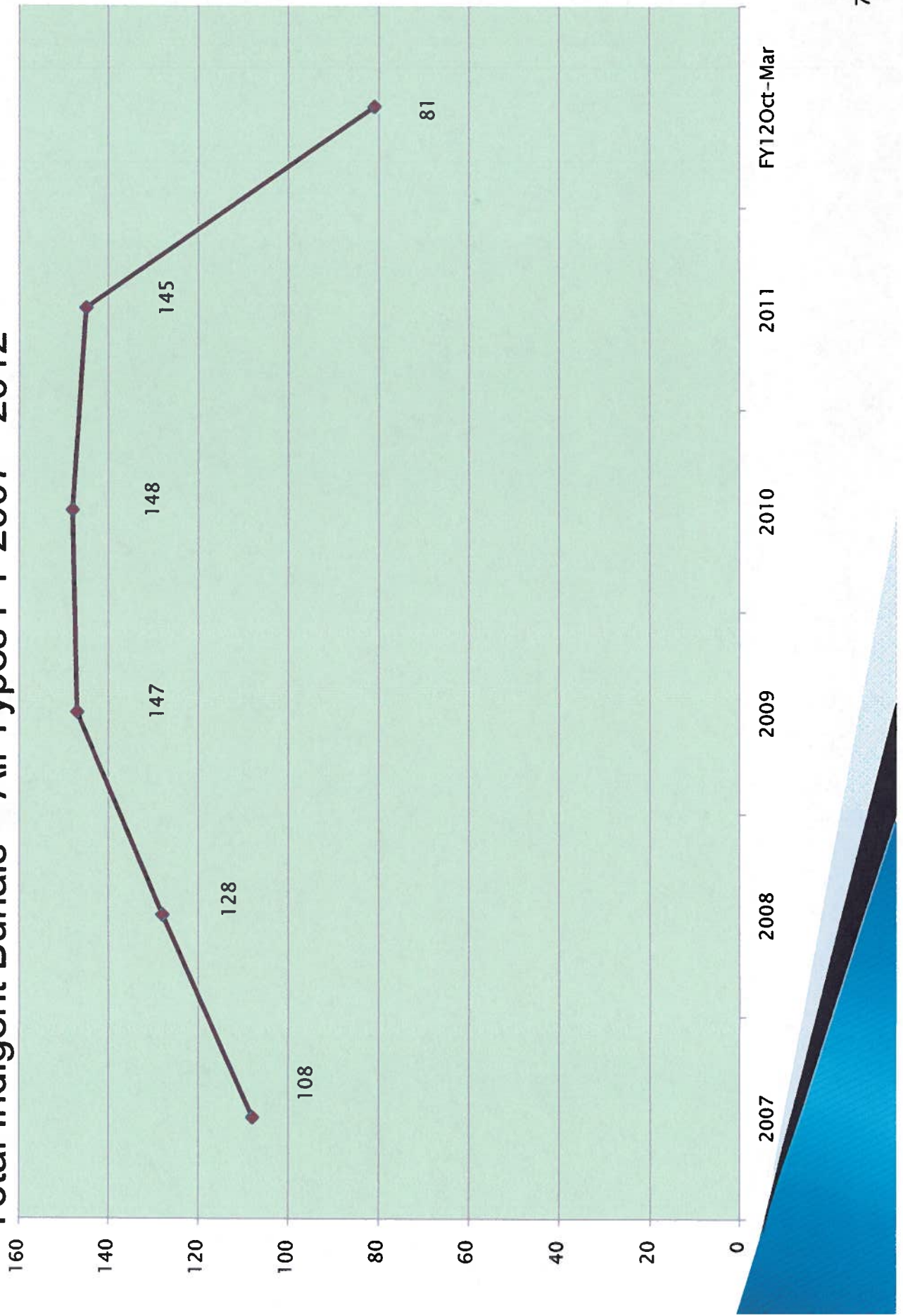
System (CABA)
 CONTINUED - Adhoc and Assistance by Service/Fund Report

FY	Type	Count	County Expenditure
2010	BURIAL	74	\$62,150.00
2010	BURYDEF	57	\$48,450.00
2010	BURYwKin	131	
2010	BURYNOK	17	\$14,600.00
2010	Total	148	
2011	BURIAL	52	\$46,422.66
2011	BURYDEF	69	\$61,430.74
2011	BURYwKin	121	
2011	BURYNOK	24	\$22,109.00
2011	Total	145	
2012	BURIAL	19	\$15,850.00
2012	BURYDEF	43	\$36,700.00
2012	BURYwKin	62	
2012	BURYNOK	19	\$16,300.00
2012	Total	81	

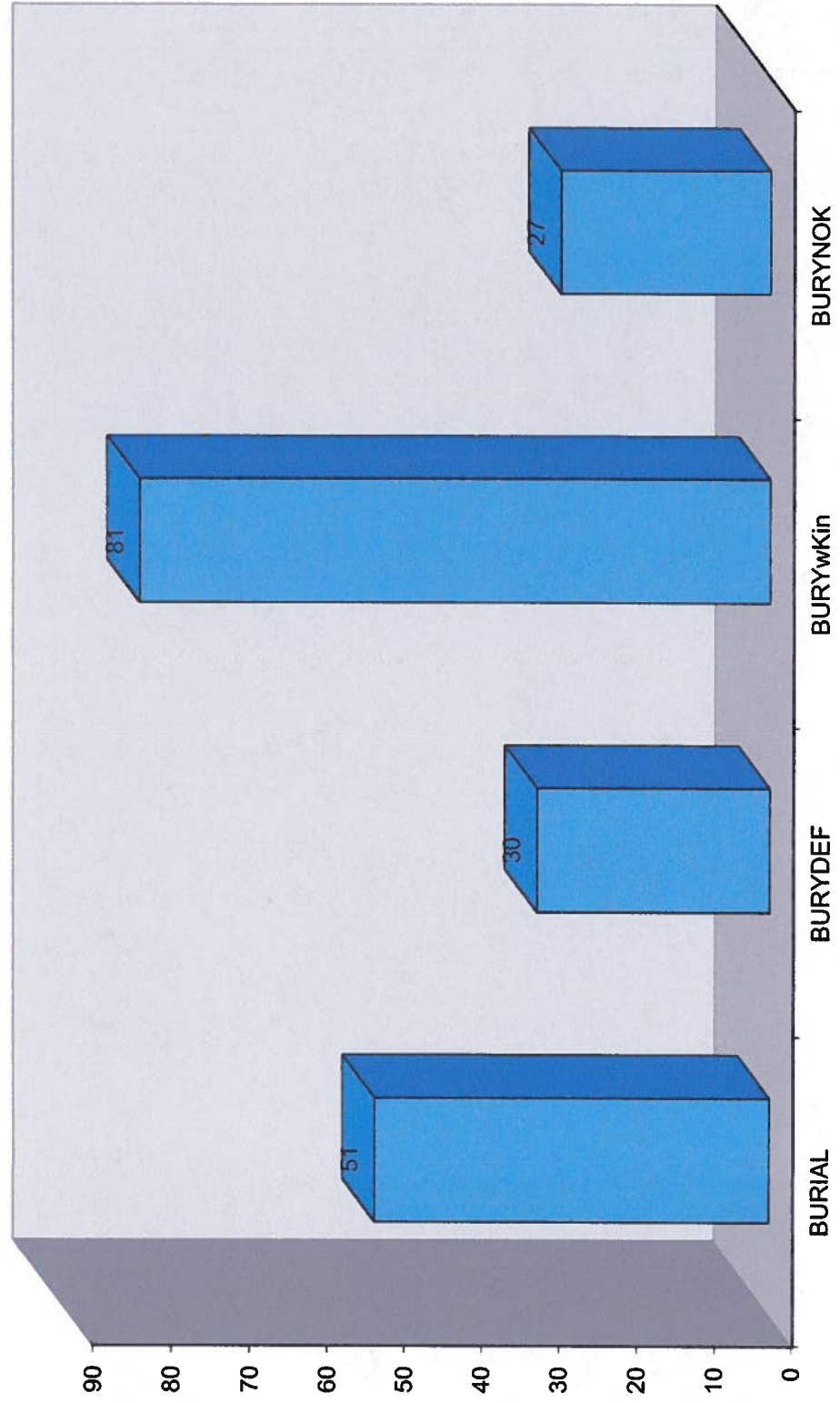
Total Indigent Burials – All Types FY 2007 - 2011



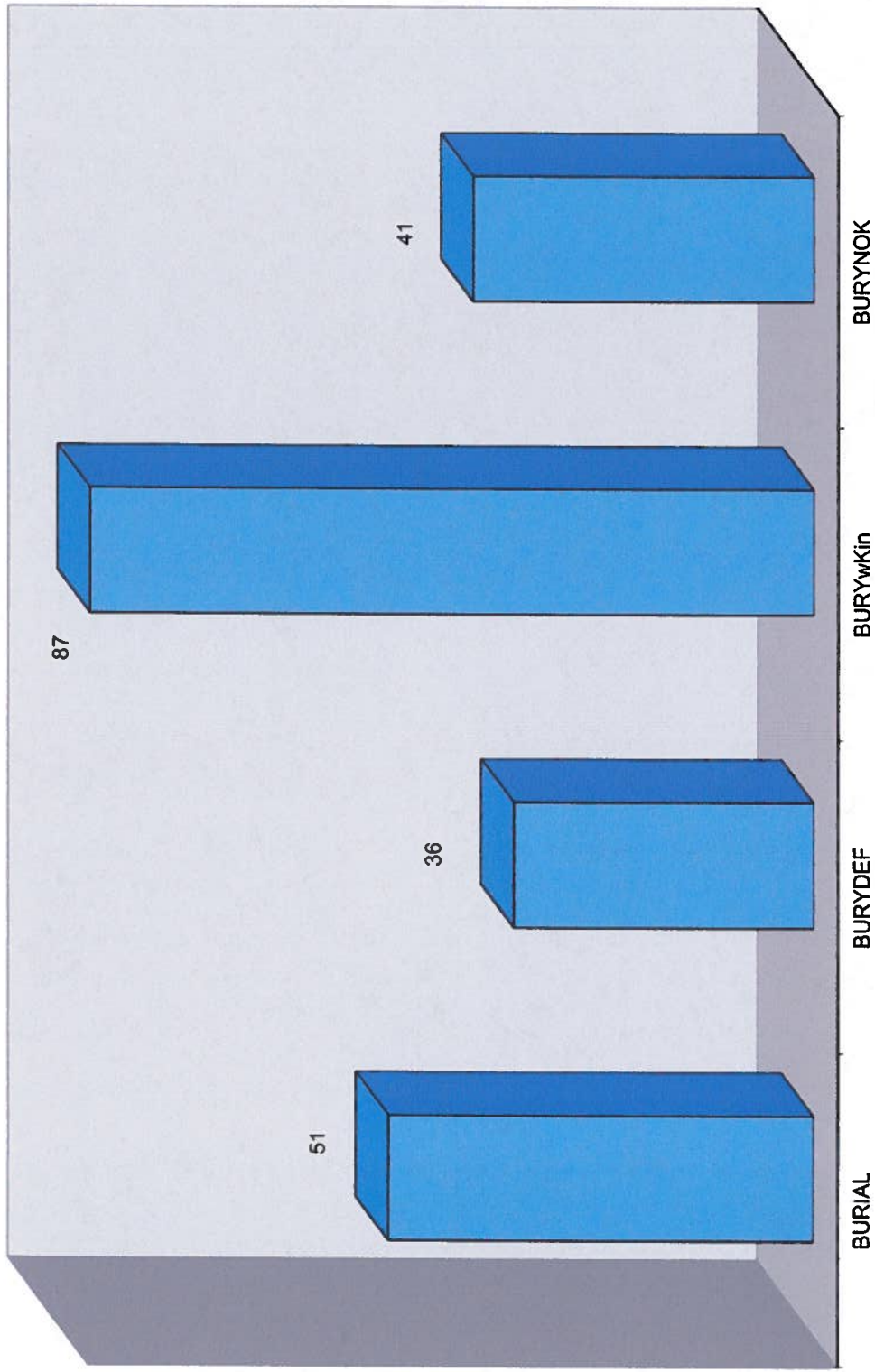
Total Indigent Burials – All Types FY 2007 - 2012



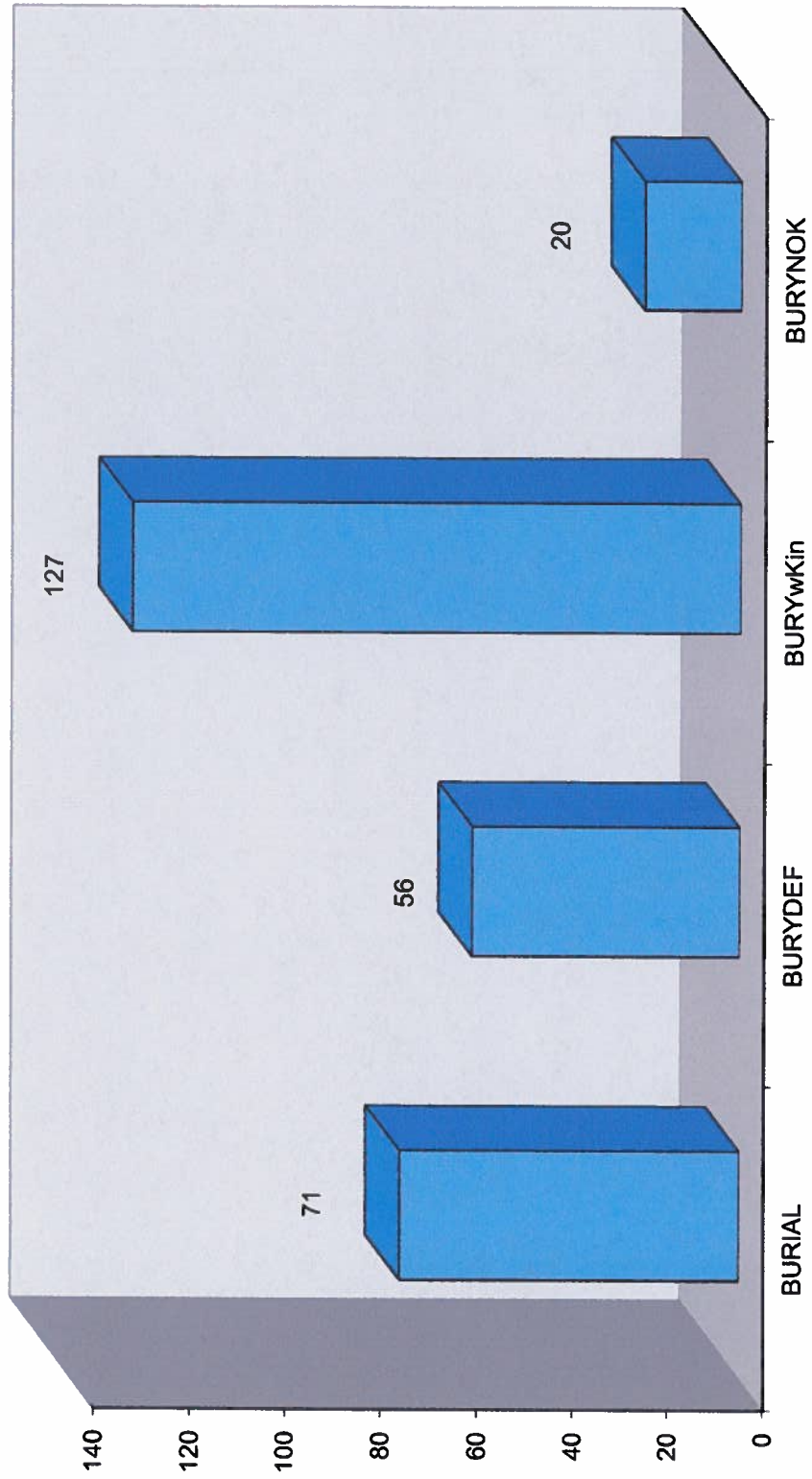
Indigent Burials - 2007



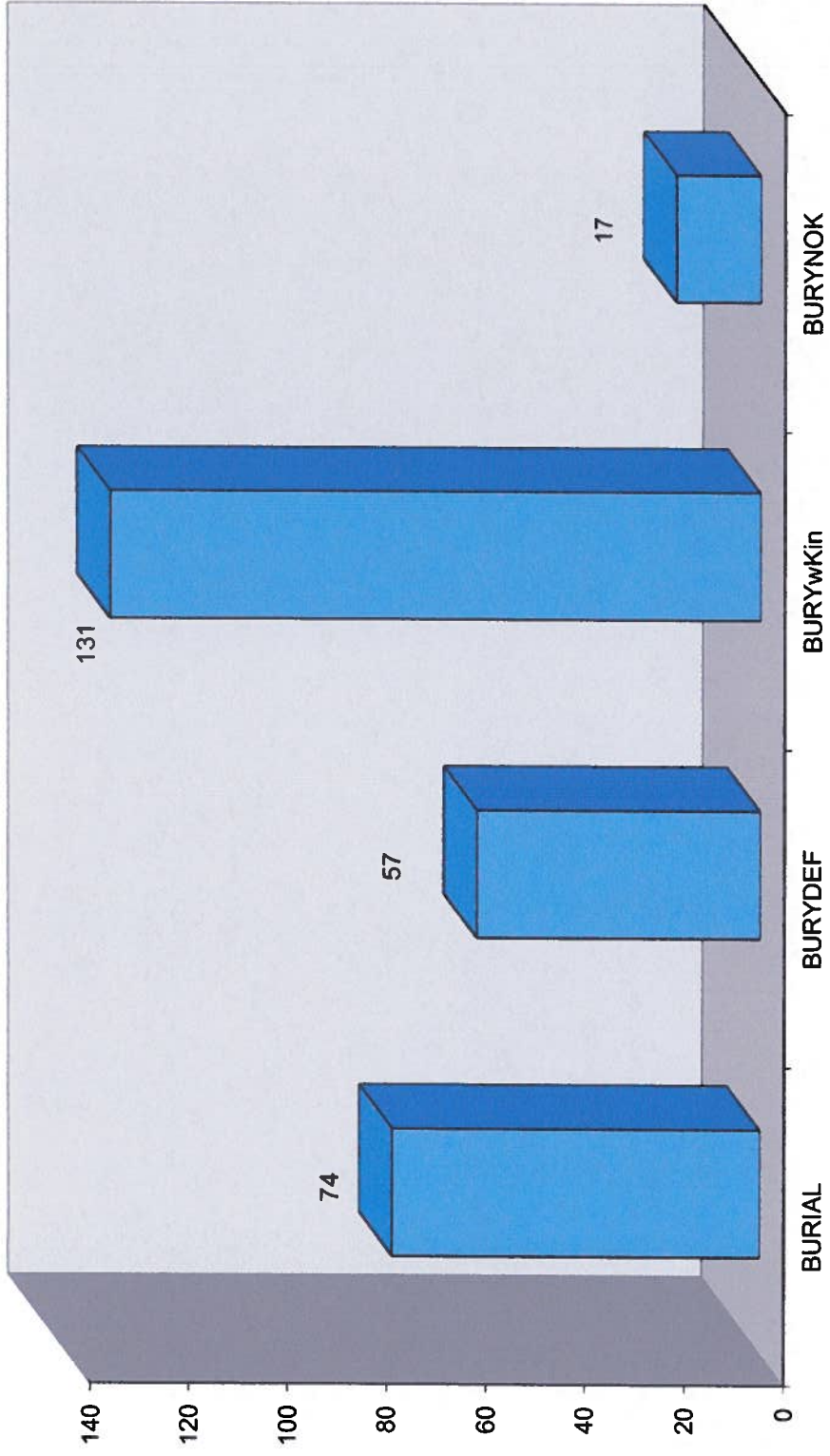
Indigent Burials - 2008



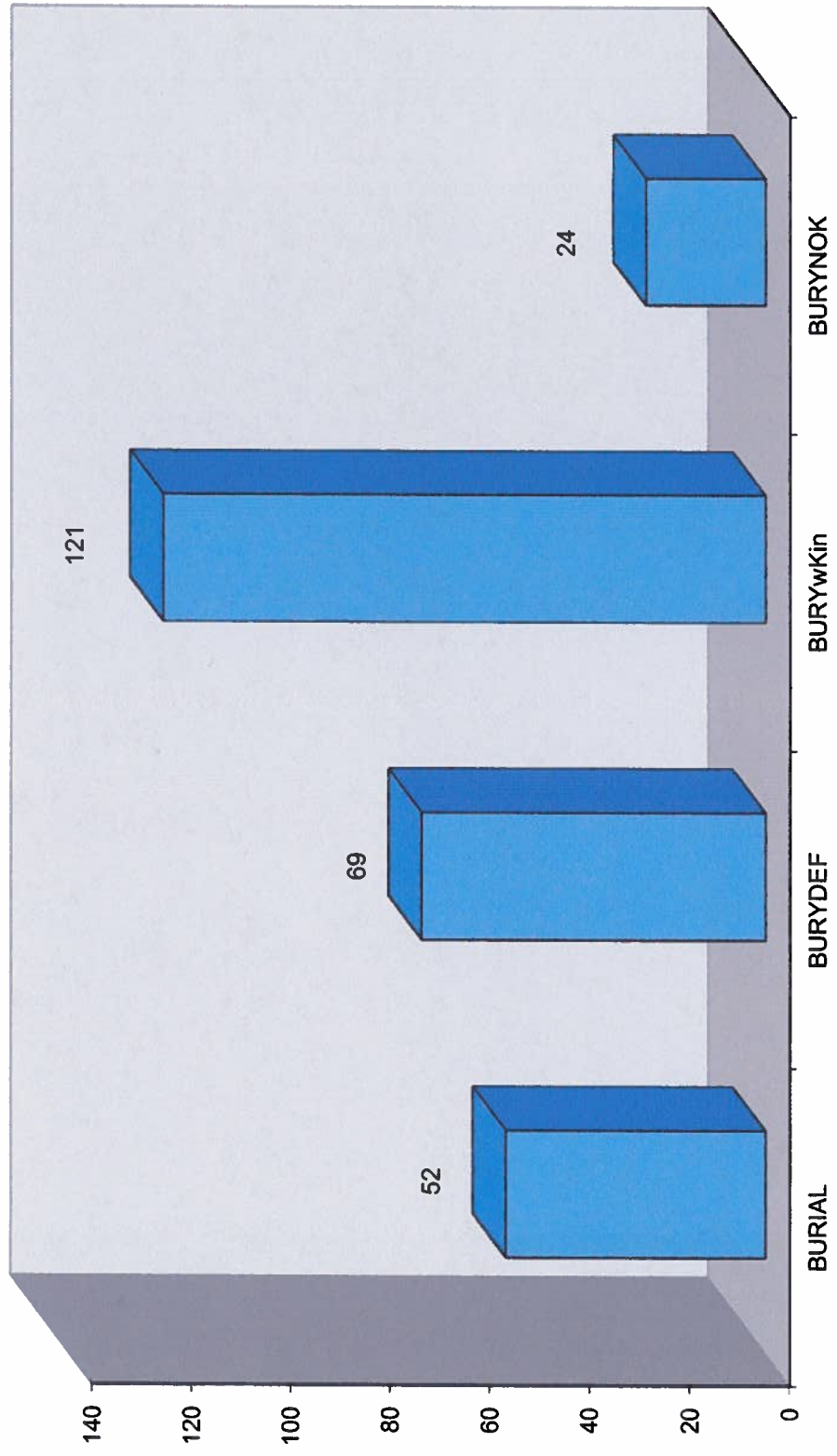
Indigent Burials - 2009



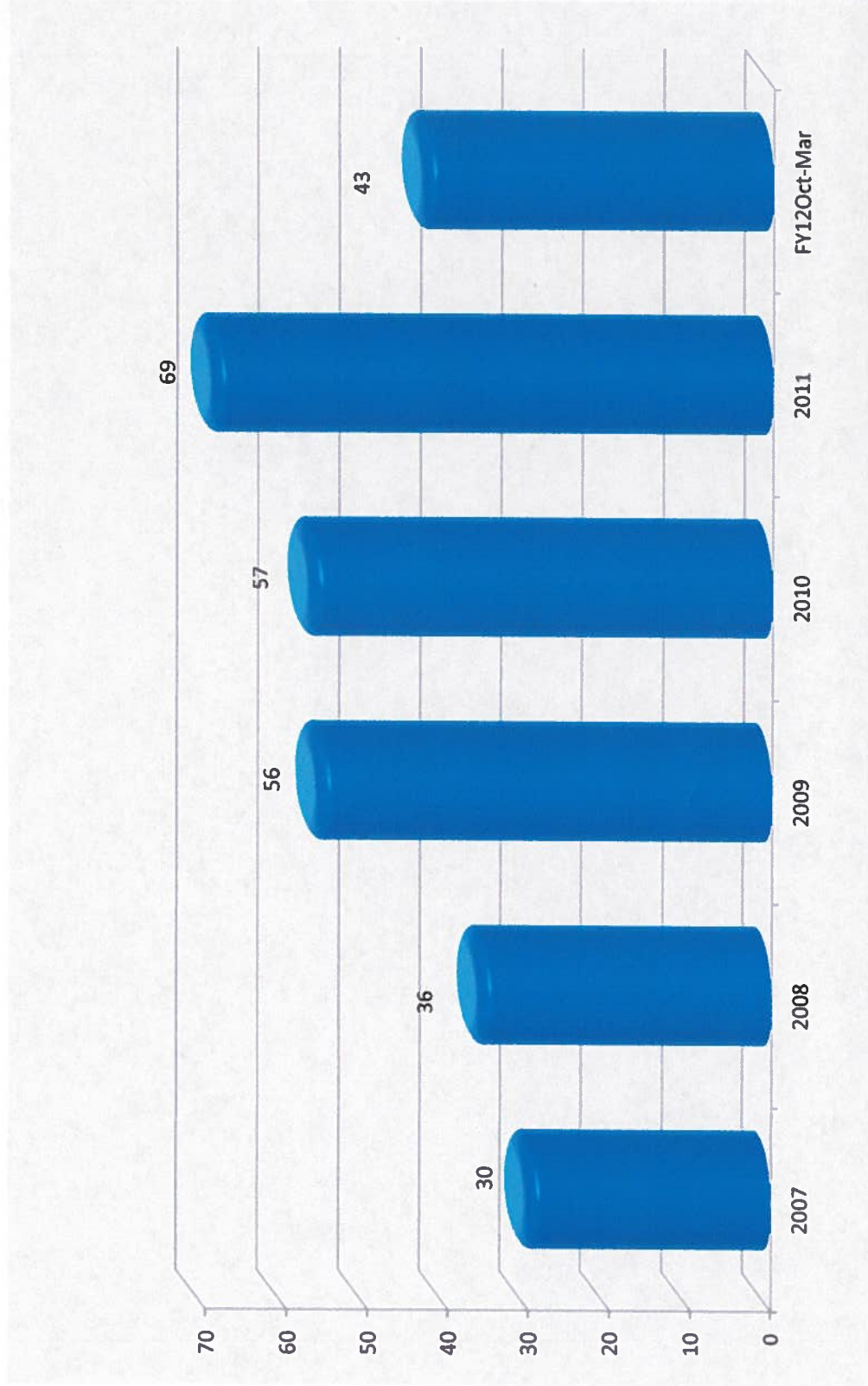
Indigent Burials - 2010



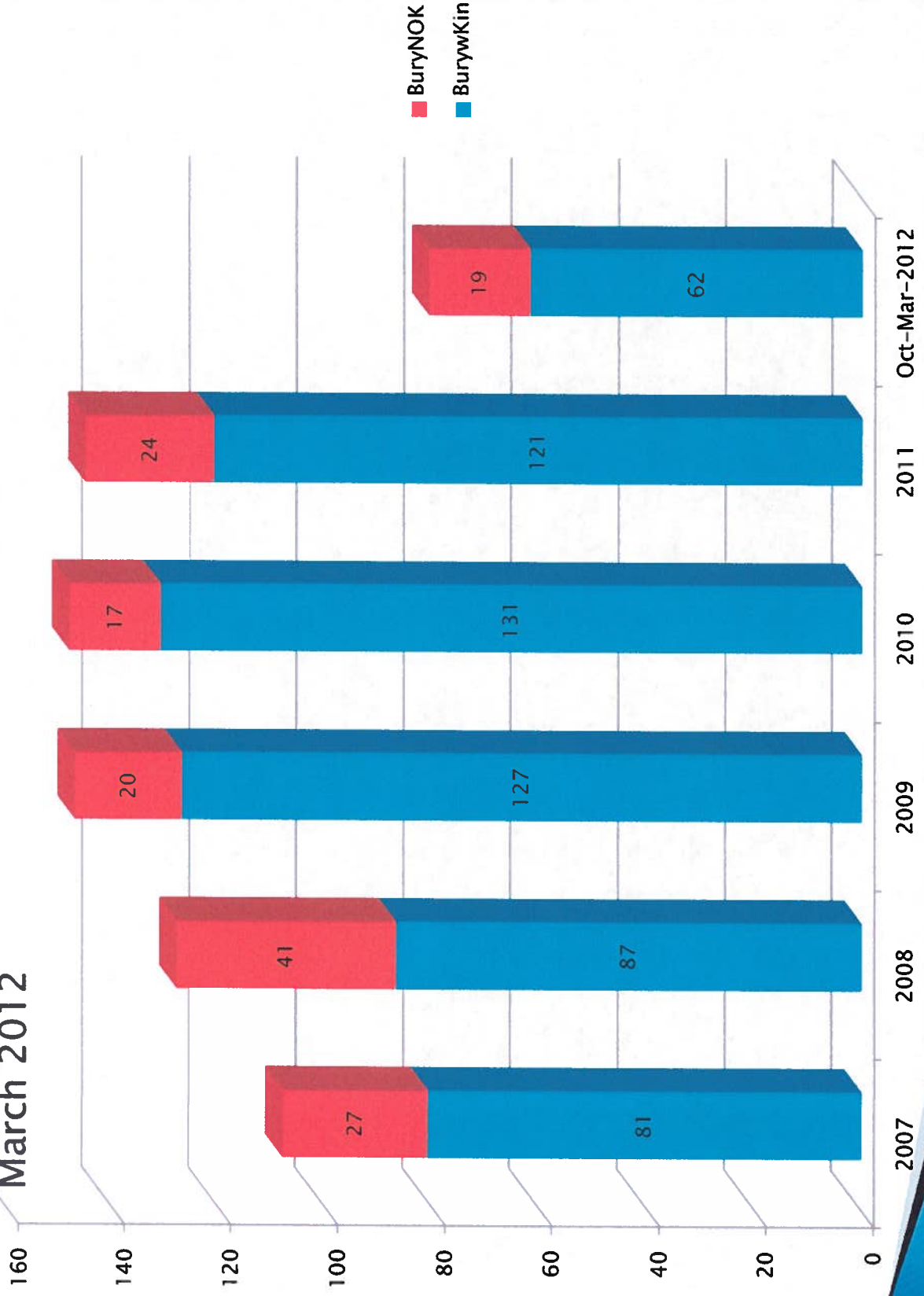
Indigent Burials - 2011



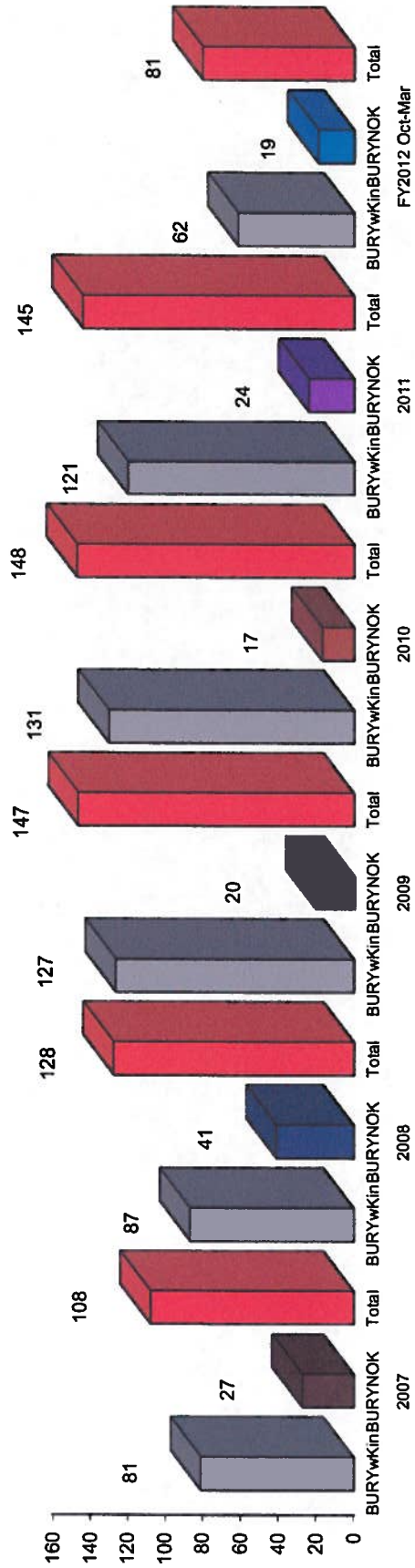
5.5 Fiscal Year Trend for Total Relinquishments



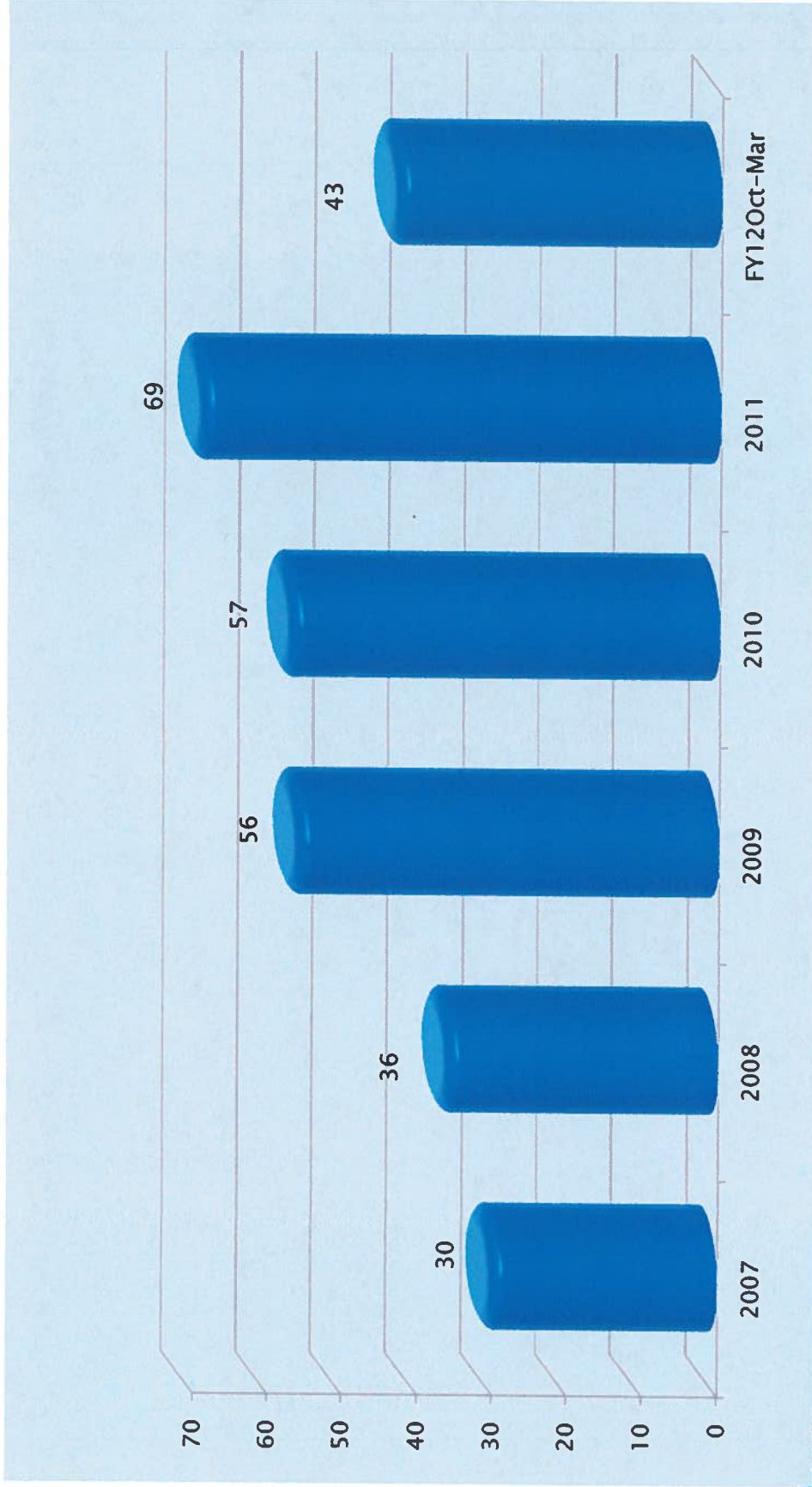
Comparison – Kin and No Next of Kin FY 2007 – March 2012



Burials with Kin & No Kin – FY 2007 - March 2012



5.5 Fiscal Year Trend for Total Relinquishments



Other Counties and Cremation

- ▶ Tarrant County conducted a survey of Texas counties between 11/13/09 and 07/19/10
- ▶ Email invitations sent to 206 county judges and 48 counties received mail surveys
- ▶ 92 responses received
- ▶ The survey collected data on counties who have funeral, burial and cremation services



Other Counties and Cremation

- ▶ 83 counties reported that they fund a cremation and/or a burial program
- ▶ 61 indicated they fund cremation
- ▶ 56 indicated that they fund burials

- ▶ (In 2010 - costs ranged from \$200 to \$1,500)



Proposed Cremation Policy

- ▶ Cremation only performed when statutory requirements are met, including, the required next of kin authorizations
- ▶ Crematory will secure all necessary documentation for proof of authorization as required by law or business policies and practices
- ▶ Crematory will provide policies and practices to the County during the contracting process and prior to any cremations being performed



Proposed Cremation Policy

- ▶ No Cremation will be provided where the Decedent is unidentified or where the required authorizations have not been secured and documented by the crematory
- ▶ Crematory will provide a container for storage
- ▶ Crematory may release the remains to the next of kin
- ▶ In the case of no next of kin or next of kin does not accept the remains, they may be buried at the Travis County cemetery



Proposed Cremation Policy

- ▶ The Crematory Establishment will create and maintain accurate records related to all cremations, including the name of the Decedent, names of Next of Kin, originals of the authorizations, and other documentation as may be required by the County
- ▶ Copies of the above will be provided to the County upon request for payment



Who can “legally” authorize burial or cremation?

- ▶ the person designated in a written instrument signed by the decedent;
- ▶ (2) the decedent's surviving spouse;
- ▶ (3) any one of the decedent's surviving adult children;
- ▶ (4) either one of the decedent's surviving parents;



Who can “legally” authorize burial or cremation?

- ▶ (5) any one of the decedent’s surviving adult siblings;
- ▶ Or (6) any adult person in the next degree of kinship in the order named by law to inherit the estate of the decedent.



Other key points

- ▶ No prior approval for burial or cremation is permitted by policy
- ▶ Viewing will be permitted at the discretion of the Funeral home
- ▶ County may accept donations from family
- ▶ Internment of all remains will be at a Travis County cemetery unless the burial is to occur at a military cemetery or in an existing and paid for family plot.
- ▶ Families may request death certificates through the TX Dept. of State Health Services



Who qualifies?

- ▶ Persons whose household income is at or below 100 percent of the Federal Poverty Income Guidelines for the past 30-day period
- ▶ Must be a Travis County resident*
- ▶ Must have died in Travis County
- ▶ Must meet the income requirements
- ▶ No assets or resources more than \$2000



Who qualifies?

- ▶ Families must make initial contact with Funeral home to determine burial options
- ▶ Funeral homes refer families to the program
- ▶ Persons whose next of kin do not wish to participate in the disposition of the decedent; and who, in a written statement, relinquish their rights.

Referrals also come from the Travis County Medical Examiners office.





14510 Wells School Road

Cemetery Property Newly acquired in FY 2011

Chapter 100 –

- ▶ Chapter 100 is a proposed policy regarding acceptance and maintenance of non-county cemeteries...
- ▶ TNR will provide an overview.



Next steps...

- ▶ Staff would like to preview the policy to current contractors and allow feedback
- ▶ Staff recommends a public hearing on the policy as is the Court's practice
- ▶ Staff requests the Court's support on staffing requests to establish a Burial Unit in response to demand
- ▶ Direct the issuance of an RFS for funeral and cremation services
- ▶ Other items as directed by the Commissioners Court



TRAVIS COUNTY HEALTH AND HUMAN SERVICES AND VETERANS SERVICE

2012 ANNUAL FEDERAL POVERTY GUIDELINES

EFFECTIVE DATE: JANUARY 26, 2012 FOR ALL GRANT PROGRAMS

FPIG 2012 Annual Income

H/H SIZE	50%	100%	125% CEAP, EACO E/D, Home Repair, LIHEAP WAP	200%	250%	300%
	EACO	Burial	ARRA, Atmos Energy, CAPS, DOE WAP, Emergency Food and Shelter Program (EFSP)/FEMA, Project CARE, TXU	PEC	Aircheck	
1	\$5,585	\$11,170	\$13,963	\$22,340	\$27,925	\$33,510
2	\$7,565	\$15,130	\$18,913	\$30,260	\$37,825	\$45,390
3	\$9,545	\$19,090	\$23,863	\$38,180	\$47,725	\$57,270
4	\$11,525	\$23,050	\$28,813	\$46,100	\$57,625	\$69,150
5	\$13,505	\$27,010	\$33,763	\$54,020	\$67,525	\$81,030
6	\$15,485	\$30,970	\$38,713	\$61,940	\$77,425	\$92,910
7	\$17,465	\$34,930	\$43,663	\$69,860	\$87,325	\$104,790
8	\$19,445	\$38,890	\$48,613	\$77,780	\$97,225	\$116,670
For each additional h/h member add:						
	\$1,980	\$3,960	\$4,950	\$7,920	\$9,900	\$11,880

Rates in compliance with USHHS website in Federal Register 1/26/12.

FPIG 2012 Monthly Income

H/H SIZE	50%	100%	125% CEAP, EACO E/D, Home Repair, LIHEAP WAP	200%	250%	300%
	EACO	Burial	ARRA, Atmos Energy, CAPS, DOE WAP, Emergency Food and Shelter Program (EFSP)/FEMA, Project CARE, TXU	PEC	Aircheck	
1	\$466	\$931	\$1,164	\$1,862	\$2,328	\$2,793
2	\$631	\$1,261	\$1,576	\$2,522	\$3,153	\$3,783
3	\$796	\$1,591	\$1,989	\$3,182	\$3,978	\$4,773
4	\$961	\$1,921	\$2,401	\$3,842	\$4,803	\$5,763
5	\$1,126	\$2,251	\$2,814	\$4,502	\$5,628	\$6,753
6	\$1,291	\$2,581	\$3,226	\$5,162	\$6,453	\$7,743
7	\$1,456	\$2,911	\$3,639	\$5,822	\$7,278	\$8,733
8	\$1,621	\$3,241	\$4,051	\$6,482	\$8,103	\$9,723
For each additional h/h member add:						
	\$165	\$330	\$413	\$660	\$825	\$990

Texas Indigent Burial & Cremation Program Survey Conducted by Tarrant County Department of Human Services

Purpose of Survey

- Determine how counties across the state handle indigent burial and cremations
- Help Tarrant County make decisions about how we operate our current program
- Help inform county government decisions throughout the state

Survey Methodology

- Survey instrument: 32 total questions; asked about administrative policies for burials and for cremations separately
- Email invitation to participate sent via email to 206 county judges on 11/13/09; Remaining 48 counties received paper invitation/survey via U.S. mail; Survey available online or in paper format
- 92 responses collected between 11/13/09 and 07/19/10; 36% response rate
- Respondents were asked to provide their county name and contact information
- On several questions, participants could choose more than one answer ("Check all that apply"). Results for these questions reflect percentages based on the number of counties that chose each option. These responses may total more than 100%.

Respondents

County	2008 Population
Andrews County	13,645
Aransas County	24,900
Austin County	26,851
Bastrop County	73,491
Bell County	285,084
Borden County	593
Brazos County	175,122
Brooks County	7,549
Callahan County	13,533
Camp County	12,666
Carson County	6,251
Coke County	3,480
Collin County	762,010
Colorado County	20,734
Comal County	109,635
Crane County	4,017
Dallam County	6,267
Dallas County	2,492,850

Deaf Smith County	18,501
Denton County	636,557
Donley County	3,850
El Paso County	742,062
Falls County	16,900
Fannin County	33,229
Fort Bend County	556,810
Franklin County	11,001
Galveston County	288,239
Garza County	4,628
Glasscock County	1,212
Gregg County	117,528
Guadalupe County	117,172
Hall County	3,400
Hansford County	5,280
Hardeman County	3,984
Harris County	3,984,349
Hays County	149,476
Hockley County	22,205
Hood County	50,573

Houston County	22,698	Palo Pinto County	27,486
Howard County	32,537	Panola County	23,084
Hunt County	82,805	Potter County	120,918
Hutchinson County	21,512	Randall County	114,546
Irion County	1,699	Red River County	12,955
Jackson County	14,146	Roberts County	833
Jefferson County	243,090	Rockwall County	77,633
Jim Wells County	41,069	Runnels County	10,273
Kaufman County	100,527	Sabine County	10,062
Kerr County	48,269	San Jacinto County	24,882
Kinney County	3,233	San Patricio County	68,399
Lampasas County	21,197	Schleicher County	2,819
Lavaca County	18,652	Shelby County	26,529
Limestone County	22,192	Sherman County	2,930
Loving County	42	Smith County	201,277
Lubbock County	264,418	Somervell County	7,942
Marion County	10,544	Starr County	62,249
Martin County	4,513	Sterling County	1,257
Matagorda County	37,265	Stonewall County	1,440
McCulloch County	7,943	Swisher County	7,654
McLennan County	230,213	Tarrant County	1,750,091
Midland County	129,494	Taylor County	126,791
Mitchell County	9,230	Titus County	29,793
Montgomery County	429,953	Tom Green County	107,864
Navarro County	49,456	Travis County	998,543
Nueces County	322,077	Wheeler County	4,772
Oldham County	2,062	Wood County	42,461

Source: Population Division, U.S. Census Bureau; Table 1: Annual Estimates of the Resident Population for Counties of Texas: April 1, 2000 to July 1, 2008 (CO-EST2008-01-48); Release Date: March 19, 2009

County Population	Number	Percent
0-1,000	1	1%
1,001-5,000	18	20%
5,001-20,000	20	22%
20,001-100,000	26	28%
100,001-500,000	19	21%
500,001-1,000,000	5	5%
1,000,001-2,000,000	1	1%
2,000,001-4,000,000	2	2%

Total population of participating counties: 16,737,261 (69% of total Texas population)

Population Range: 42 – 3,984,349

91% were between 1,000 – 500,000

Number of Counties That...	Number	Percent
Fund a cremation AND/OR burial program	83	90.2%
Fund cremations	61	73.5%
Fund burials	56	68.3%

Has county considered offering ONLY cremations (no burials)?	Number	Percent
<i>Considered it & now offer ONLY cremations (no burials)</i>	22	40.7%
<i>Currently considering dropping burials</i>	7	13.0%
<i>Considered dropping burials in the past but decided against it</i>	8	14.8%
<i>Never considered offering ONLY cremations</i>	13	24.1%
<i>Don't know</i>	4	7.4%

Findings: Costs

	Cremations		Burials	
	Number	Percent	Number	Percent
<i>County specifies maximum amount that can be paid</i>	49	84.5%	44	83.0%
<i>Approximate average cost for adult cremation or burial (funeral home only)</i>				
Under \$200	1	1.7%	4	7.8%
\$201 - \$500	21	36.2%	7	13.7%
\$501- \$750	21	36.2%	13	25.5%
\$751 – \$1,000	13	22.4%	16	31.4%
\$1,001 - \$1,250	0	0%	2	3.9%
\$1,251 - \$1,500	2	3.4%	8	15.7%
More than \$1,500	0	0%	1	2.0%

	Cremations		Burials	
	Number	Percent	Number	Percent
<i>Additional costs allowed for special services (death certificate fees, crash bags, etc.)</i>	17	26.1%	19	31.1%

	Cremations	Burials
<i>Maximum amount that can be paid</i>		
Range	\$300-\$1,000	\$100-\$1,870
Average	\$655	\$927
Median	\$600	\$950

Findings: Administrative Policies

3. Does your county currently fund a cremation AND/OR burial program for indigent residents?		
Value	Count	Percent
Yes	83	90.2%
No	9	9.8%
Total Responses:	92	100.0%

4. Does your county currently fund cremations for indigent residents?		
Value	Count	Percent
Yes	61	73.5%
No	22	26.5%
Total Responses:	83	100.0%

5. Does your county designate a maximum amount that can be paid for each cremation? If yes, what is the maximum?		
Value	Count	Percent
No	8	13.8%
Yes	49	84.5%
Don't Know	1	1.7%
Total Responses:	58	100.0%

27 "Yes" responses specified amount: ranged from \$300 - \$1,000

Average \$ 655

Median \$ 600

Comment: Yes-Interlocal agreement with UT Southwestern- When not used for the advancement of medical science - \$300 per cremation up to 250 pounds. Additional charge of \$1.00 per pound per each pound over \$250. Infant cremation payment based on vendor quotes through standard requisition and purchase order process.

6. What is the approximate average cost your county authorizes for an adult cremation?		
Value	Count	Percent
Under \$200	1	1.7%
\$201-500	21	36.2%
\$501-\$750	21	36.2%
\$751-\$1,000	13	22.4%
\$1,251-\$1,500	2	3.4%
Total Responses:	58	100.0%

7. Does your county allow any additional costs for special services? (Please check all that apply.)		
Value	Count	Percent
No additional charges are allowed	48	82.8%
Death certificate fees	2	3.4%
Crash bags	3	5.2%
Charges based on size of the body	6	10.3%
Other (Please specify):	6	10.3%
<i>Amount is gross, regardless of what is spent on.</i>		
<i>the plot/lot, opening/closing of grave</i>		
<i>transportation of body to funeral home</i>		
<i>1 Death Certificate included in cost</i>		
<i>additional \$\$ for oversized caskets</i>		
<i>Refrigeration & Storage of Remains</i>		
Total Responses:	58	

8. Is any type of memorial service usually offered to families for cremations?		
Value	Count	Percent
Yes	8	14.0%
No	29	50.9%
Sometimes (Decision is made at the discretion of funeral home unless there will be an additional cost to the county.)	14	24.6%
Don't Know	6	10.5%
Total Responses:	57	100.0%

Comment: No-Families are provided information regarding cremains disposition location (memorial garden at UTSW and area within cemetery for infants.

9. Are family members permitted to receive the cremated remains?		
Value	Count	Percent
Yes	35	61.4%
No	2	3.5%
Sometimes (Decision is made at the discretion of funeral home unless there will be an additional cost to the county.)	9	15.8%
Don't Know	11	19.3%
Total Responses:	57	100.0%

Comment: No-unless family is located after body was considered unclaimed and disposition was made without prior family notification. Must be within 90 days of cremation or cremains will be interred in memorial garden.

10. How are the funeral homes selected in your county for cremations? (Please check all that apply)		
Value	Count	Percent
We regularly contract with only one funeral home	15	26.3%
We regularly contract with multiple funeral homes and a county employee chooses	2	3.5%
We regularly contract with multiple funeral homes and the choice is made using a rotation list	9	15.8%
We regularly contract with multiple funeral homes and the family chooses from that list	6	10.5%
Families choose any funeral home and the home completes an application for benefits	14	24.6%
Other (Please specify):	13	22.8%
<i>Only have one in the county.</i>		
<i>The County bids out burials and cremations and awards the bid to one contractor who is required to provide everything. The bid does not specify "services." We do burials, not funerals.</i>		

<i>If the deceased passes away in Bell County or is a resident of Bell County, we assist. They must meet certain qualifications, etc.</i>	
<i>Selection of funeral home is made by hospital, medical examiner, law enforcement, or others at the scene of death; depending on Funeral home with available transportation and/or county contract.</i>	
<i>Work with funeral home closest to family's residence.</i>	
<i>Currently contract with only one funeral home but will contract with more than one if all agree to the lowest offered pricing.</i>	
<i>Funeral homes are on a monthly rotation list with the police department or families can select the funeral home.</i>	
<i>Any home in county</i>	
<i>Funeral Home within Gregg County</i>	
<i>Families choose funeral home - then family completes application and returns it to County Judge for consideration.</i>	
<i>There is no formal contract with any funeral home, however, we work with any funeral home that agrees to our guidelines and charges.</i>	
<i>We contract with one funeral home but it is determined through bid process.</i>	
<i>Adults-Not performed through a funeral home. County has an interlocal agreement with UT Southwestern Medical Center to perform services. Infants-handled through standard requisition/purchase order process -- quotes obtained for potential vendors.</i>	
Total Responses:	57

11. Has your county considered offering ONLY cremations (no burials)?		
Value	Count	Percent
We considered it and now offer only cremations (no burials)	22	40.7%
We are currently considering dropping burials	7	13.0%
We considered dropping burials in the past but decided against it	8	14.8%
We have never considered offering cremations only	13	24.1%
Don't Know	4	7.4%
Total Responses:	54	100.0%

Comment: We considered it and now offer only cremations - exception is oversized decedents (>600 lbs) and unidentified decedents.

12. Does your county currently fund burials for indigent residents?		
Value	Count	Percent
Yes	56	68.3%
No	26	31.7%
Total Responses:	82	100.0%

Comment: Yes-limited to oversize (>600 lbs) and unidentified decedents.

13. Does your county designate a maximum amount that can be paid for each burial? If yes, what is the maximum?		
Value	Count	Percent
No	8	15.1%
Yes	44	83.0%
Don't Know	1	1.9%
Total Responses:	53	100.0%

28 "Yes" responses specified amount: ranged from \$100 - \$1,870

Average	\$	927
Median	\$	950

Comment: No - based on standard purchasing process (quotes, requisition, purchase order issued).

14. For adult burials, what is the approximate average cost your county authorizes for the FUNERAL HOME ONLY?		
Value	Count	Percent
Under \$200	4	7.8%
\$201-500	7	13.7%
\$501-\$750	13	25.5%
\$751-\$1,000	16	31.4%
\$1,001-\$1,250	2	3.9%
\$1,251-\$1,500	8	15.7%
More than \$1,500	1	2.0%
Total Responses:	51	100.0%

15. For adult burials, what is the approximate average cost your county authorizes for the CEMETERY ONLY?		
Value	Count	Percent
Under \$200	12	38.7%
\$201-500	4	12.9%
\$501-\$750	8	25.8%
\$751-\$1,000	4	12.9%
\$1,251-\$1,500	3	9.7%
Total Responses:	31	100.0%

Comment: We have all inclusive flat fee with the funeral home.

16. Does your county allow any additional costs for special services? (Please check all that apply.)		
Value	Count	Percent
No additional charges are allowed	42	84.0%
Death certificate fees	2	4.0%
Crash bags	1	2.0%
Concrete liners	2	4.0%
Oversize casket	6	12.0%
Other charges based on size of the body	3	6.0%
Other (Please specify):	5	10.0%
<i>Our contracts are all inclusive.</i>		
<i>Opening and closing hardware</i>		
<i>transportation of body to funeral home</i>		
<i>Plot and Opening & Closing of Grave</i>		
<i>Marker stones for grave-\$60 above cost allowed</i>		
Total Responses:	50	

17. What type(s) of containers are adult individuals buried in? (Please check all that apply.)		
Value	Count	Percent
Casket	37	74.0%
Body bag	4	8.0%
Other (Please specify):	10	20.0%
<i>don't know</i>		
<i>Wooden coffin with a cloth-like covering known in the industry as a "Fuzzy."</i>		
<i>What funeral home does</i>		
<i>Up to funeral home</i>		
<i>unknown</i>		
<i>up to the family</i>		
<i>Left to funeral home to make decision</i>		
<i>unknown</i>		
<i>Simple wooden casket</i>		
<i>Urn</i>		
Total Responses:	50	

18. Does your county allow multiple containers to be buried in a single grave space?		
Value	Count	Percent
Yes	3	5.8%
No	35	67.3%
Sometimes	1	1.9%
Don't Know	13	25.0%
Total Responses:	52	100.0%

19. Is any type of chapel or prayer service at the funeral home usually offered to families for burials?		
Value	Count	Percent
Yes	2	3.8%
No	23	43.4%
Sometimes (Decision is made at the discretion of funeral home unless there will be an additional cost to the county.)	24	45.3%
Don't Know	4	7.5%
Total Responses:	53	100.0%

20. Is any type of graveside service offered to families?		
Value	Count	Percent
Yes	17	31.5%
No	17	31.5%
Sometimes (Decision is made at the discretion of funeral home unless there will be an additional cost to the county.)	16	29.6%
Don't Know	4	7.4%
Total Responses:	54	100.0%

21. Are family members permitted to attend the burial?		
Value	Count	Percent
Yes	36	69.2%
No	4	7.7%
Sometimes (Decision is made at the discretion of funeral home unless there will be an additional cost to the county)	7	13.5%
Don't Know	5	9.6%
Total Responses:	52	100.0%

Comment: Because there is no funeral director involvement in our direct burials, we have been advised that no service can be held (legal reason).

22. Are open casket viewings offered to families?		
Value	Count	Percent
Yes	8	15.1%
No	17	32.1%
Sometimes (Decision is made at the discretion of funeral home unless there will be an additional cost to the county.)	17	32.1%
Don't Know	11	20.8%
Total Responses:	53	100.0%

Comment: No, no casket and no body preparation performed.

23. How are the funeral homes selected in your county for burials? (Please check all that apply)		
Value	Count	Percent
We regularly contract with only one funeral home	17	32.7%
We regularly contract with multiple funeral homes and a county employee chooses	3	5.8%
We regularly contract with multiple funeral homes and the choice is made using a rotation list	6	11.5%
We regularly contract with multiple funeral homes and the family chooses	7	13.5%
Families choose a funeral home and the home completes an application for benefits	13	25.0%
Other (Please specify):	10	19.2%
<i>We only have one.</i>		
<i>The County bids out burials and cremations and awards the bid to one contractor who is required to provide everything. The bid does not specify "services." We do burials, not funerals. Depending on the contractor "words" might be said over the grave site, but typically this occurs with or without family. Burials are about who we are not about who the buried is.</i>		
<i>Only 1 funeral home generally is willing to assist with pauper burials.</i>		
<i>Funeral homes are on a monthly rotation list with the police department or the family can select the funeral home.</i>		
<i>In county</i>		
<i>Funeral homes located in Gregg County that will accept the county amount of funds.</i>		
<i>Whoever is called - usually the nearest funeral home.</i>		
<i>We do not have a written contract with any funeral home, however, we work with any funeral home that agrees with our guidelines and charges.</i>		
<i>We contract with one funeral home but it is determined through bid process.</i>		
<i>No funeral home involvement.</i>		
Total Responses:	52	

24. What are the income eligibility requirements for the cremation and/or burial program in your county? (Please check all that apply.)		
Value	Count	Percent
Decedent does not have enough liquid assets to cover the cost of the service	35	44.9%
Decedent's family does not have enough liquid assets to cover the cost of the service	37	47.4%
Decedent's family income must be at or below specific income guidelines	15	19.2%
Other (Please specify):	17	21.8%
<i>We have not paid for a single cremation in a number of years. We offer the option of donating the body to science with remains returned from the medical school. Most people accept that option or come up with funding on their own.</i>		
<i>Technically, counties are responsible for burying folks who won't otherwise be buried. Income is the usual reason this occurs, but if the family refuses burial the county gets to do the job.</i>		
<i>Decedent has no family members to claim the body. If there are any family members who claim the body, we follow the state law that says those family members are responsible for disposal of the remains.</i>		
<i>If the deceased have no family members</i>		
<i>Decedent and/or family must have NO liquid assets to cover the costs of service. Consideration for funding on a case-by-case basis by County Judge only.</i>		
<i>Screening by funeral home director.</i>		
<i>Pauper Only.</i>		
<i>The funeral home we contract with determines if the family is indigent for us.</i>		
<i>Policy in place based on statute</i>		
<i>If a person has no assets and no family then they qualify.</i>		
<i>Currently this criteria in process of being changed to add Decedent's family income.</i>		
<i>Decedent AND all Decedent's family members do not have enough liquid assets to cover the cost of the service.</i>		
<i>Mainly based on discussion with funeral director by family.</i>		
<i>Decedent must meet indigent requirements (less than \$500 in total assets) and there must not be any relatives with the ability to pay for services.</i>		

<i>The deceased nor any person responsible for the deceased has any assets such as money, bank accounts, investments, insurance, property or any such assets, i.e., auto, social security for burial.</i>	
<i>"Pauper burials are approved on a case by case basis when a family can show no means of burying the deceased. The family cannot have any assets or resources that can be liquidated or any insurance policy on the deceased that covers burial."</i>	
<i>Decedent is unclaimed (no family located or family refuses to claim the body) or family self-reports insufficient resources to provide for disposition of the body.</i>	
Total Responses:	78

25. How does your county usually receive requests for cremation and/or burial program benefits? (Please check all that apply.)		
Value	Count	Percent
Family members	35	46.1%
Funeral homes	62	81.6%
Medical Examiner's Office	8	10.5%
Nursing homes/hospitals	16	21.1%
Other (Please specify):	6	7.9%
<i>All of the above. Mostly family members, followed by Funeral Homes and Medical Examiner. Nursing homes lesser so.</i>		
<i>citizens in the community</i>		
<i>caretakers of indigent persons</i>		
<i>Hospitals, Law Enforcement, Funeral Home or JP usually</i>		
<i>Have received requests from all of the above.</i>		
<i>Home Health Care Provides Hospices Community Agencies</i>		
Total Responses:	76	

26. What family members are recognized as an "authorized" party to approve burial or cremation? (Check all that apply.)		
Value	Count	Percent
Spouse	35	45.5%
Adult child	33	42.9%
Parent	33	42.9%
Friend	7	9.1%
Those allowed by statute	57	74.0%
Other (Please specify):	12	15.6%
<i>Funeral home if no one comes forward.</i>		
<i>Friends if family can't be found.</i>		
<i>Any relative</i>		
<i>We only offer to assist if there are no family members so the request usually comes from the nursing home or someone else in the community</i>		
<i>Caretakers of indigent persons</i>		
<i>A friend only on the rare occasion that there are not family members and only burial no cremation</i>		
<i>Application is made by the party at the Funeral Home. The Funeral Home then submits an affidavit for reimbursement to the County.</i>		
<i>McLennan County</i>		
<i>I sign as county judge</i>		
<i>See #24.</i>		
<i>We don't get involved in decisions regarding burial or cremation - don't know.</i>		
<i>It is a case by case process. The closest living relative may make the decision or if there is no living relative, we have allowed a friend to authorize cremation.</i>		
Total Responses:	77	

27. Are family members required to complete a formal application?		
Value	Count	Percent
Yes	46	60.5%
No	24	31.6%
Don't Know	6	7.9%
Total Responses:	76	100.0%

Comment: No-if family is known to us, they are asked to complete a form designating the decedent as unclaimed or "pauper".

28. Are family members or outside groups allowed to purchase special services once burial/cremation has been approved for payment? (For example, special caskets, chapel service, limousine, graveside amenities, etc.)		
Value	Count	Percent
Yes	5	6.6%
No, any money available must first be used to reimburse the county for burial/cremation expenses	61	80.3%
Don't know	10	13.2%
Total Responses:	76	100.0%

29. Does your county currently maintain a data summary of burial/cremation expenses?		
Value	Count	Percent
Yes	42	54.5%
No	28	36.4%
Don't know	7	9.1%
Total Responses:	77	100.0%

Comment: No-These costs are tracked within a line item in the Office of the Medical Examiner budget. The Commissioners Court is briefed annually regarding various aspects of the program, including volume and cost data.

30. Is your burial/cremation program governed by formal Commissioners Court policies?		
Value	Count	Percent
Yes	58	72.5%
No	18	22.5%
Don't Know	4	5.0%
Total Responses:	80	100.0%



Bexar County Pauper Burial Program
233 N. Pecos, Suite 590
San Antonio, Texas 78207
(210) 335-3666

Effective June 1, 2009

The contractors for the Bexar County Pauper Burial Program are the following:

Funeral	Burial
M. E. Rodriguez Funeral Home	First Memorial Park Cemetery
511 Guadalupe St.	20567 State Hwy 16 South
San Antonio, Texas 78207	Von Ormy, TX 78073
(210) 226-6111	(210) 624-2840

The next of kin must call Bexar County at (210) 335-3666 to schedule an appointment for assistance. Once you have completed your application for assistance Bexar County can provide the following:

Funeral Services	Burial Services	Cremation
Retrieval of the body	All Adults are buried three to a plot	Retrieval of the body
Preparation of the body	All infants and children will be buried in single plots	Direct Cremation only – no viewing or services
Simple Casket	Opening and closing of the grave	Cremains can be given to the family
Viewing or services for up to 2 hours	Brief gravesite service allowed	Cremains can be placed in a plot
Body transported to the cemetery	Granite headstone provided	Granite headstone provided with plot

If a family wishes to have a religious service during the two hour viewing time, this is allowed. You must arrange for your own religious person to perform your services during your designated time.

The next of kin will be charged a \$21.00 Death Certificate fee payable to the contracted funeral home.

All honorably discharged veterans or eligible spouses will be buried at Ft. Sam Houston National Cemetery when possible.

The Pauper Burial program provides a very simple and dignified service. The following services are **NOT** provided under this program:

BEXAR COUNTY DOES NOT PROVIDE	
Limousine or transportation for families	Flowers, prayer cards or guest books
Obituary	Viewing for cremations
Police escort	Urn for cremated remains
A Funeral Procession to the cemetery	Tent or chairs at cemetery

HEALTH AND SAFETY CODE

TITLE 8. DEATH AND DISPOSITION OF THE BODY

SUBTITLE C. CEMETERIES AND CREMATORIES

CHAPTER 711. GENERAL PROVISIONS RELATING TO CEMETERIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 711.001. DEFINITIONS. In this chapter:

(1) "Burial park" means a tract of land that is used or intended to be used for interment in graves.

(1-a) "Campus" means the area:

(A) within the boundaries of one or more adjacent tracts, parcels, or lots under common ownership;

(B) on which the principal church building and related structures and facilities of an organized religious society or sect are located; and

(C) that may be subject to one or more easements for street, utility, or pipeline purposes.

(2) "Cemetery" means a place that is used or intended to be used for interment, and includes a graveyard, burial park, mausoleum, or any other area containing one or more graves.

(2-a) "Cemetery element" means a grave, memorial, crypt, mausoleum, columbarium, or other item that is associated with the cemetery, including a fence, road, curb, wall, path, gate, or bench and the lighting and landscaping.

(3) "Cemetery organization" means:

(A) an unincorporated association of plot owners not operated for profit that is authorized by its articles of association to conduct a business for cemetery purposes; or

(B) a corporation, as defined by Section 712.001(b)(3), that is authorized by its certificate of formation or its registration to conduct a business for cemetery purposes.

(4) "Cemetery purpose" means a purpose necessary or incidental to establishing, maintaining, managing, operating, improving, or conducting a cemetery, interring remains, or caring

for, preserving, and embellishing cemetery property.

(5) "Columbarium" means a durable, fireproof structure, or a room or other space in a durable, fireproof structure, containing niches and used or intended to be used to contain cremated remains.

(6) "Cremated remains" means the bone fragments remaining after the cremation process, which may include the residue of any foreign materials that were cremated with the human remains.

(7) "Cremation" means the irreversible process of reducing human remains to bone fragments through extreme heat and evaporation, which may include the processing or the pulverization of bone fragments.

(8) "Crematory" means a structure containing a furnace used or intended to be used for the cremation of human remains.

(9) "Crematory and columbarium" means a durable, fireproof structure containing both a crematory and columbarium.

(10) "Crypt" means a chamber in a mausoleum of sufficient size to inter human remains.

(11) "Directors" means the governing body of a cemetery organization.

(12) "Entombment" means interment in a crypt.

(13) "Funeral establishment" means a place of business used in the care and preparation for interment or transportation of human remains, or any place where one or more persons, either as sole owner, in copartnership, or through corporate status, are engaged or represent themselves to be engaged in the business of embalming or funeral directing.

(14) "Grave" means a space of ground that contains interred human remains or is in a burial park and that is used or intended to be used for interment of human remains in the ground.

(15) "Human remains" means the body of a decedent.

(16) "Interment" means the permanent disposition of remains by entombment, burial, or placement in a niche.

(17) "Interment right" means the right to inter the remains of one decedent in a plot.

(18) "Inurnment" means the placement of cremated remains in an urn.

(19) "Lawn crypt" means a subsurface receptacle installed

in multiple units for ground burial of human remains.

(20) "Mausoleum" means a durable, fireproof structure used or intended to be used for entombment.

(20-a) "Memorial" means a headstone, tombstone, gravestone, monument, or other marker denoting a grave.

(21) "Niche" means a space in a columbarium used or intended to be used for the placement of cremated remains in an urn or other container.

(22) "Nonperpetual care cemetery" means a cemetery that is not a perpetual care cemetery.

(23) "Perpetual care" or "endowment care" means the maintenance, repair, and care of all places in the cemetery.

(24) "Perpetual care cemetery" or "endowment care cemetery" means a cemetery for the benefit of which a perpetual care trust fund is established as provided by Chapter 712.

(25) "Plot" means space in a cemetery owned by an individual or organization that is used or intended to be used for interment, including a grave or adjoining graves, a crypt or adjoining crypts, a lawn crypt or adjoining lawn crypts, or a niche or adjoining niches.

(26) "Plot owner" means a person:

(A) in whose name a plot is listed in a cemetery organization's office as the owner of the exclusive right of sepulture; or

(B) who holds, from a cemetery organization, a certificate of ownership or other instrument of conveyance of the exclusive right of sepulture in a particular plot in the organization's cemetery.

(27) "Prepaid funeral contract" means a written contract providing for prearranged or prepaid funeral services or funeral merchandise.

(28) "Remains" means either human remains or cremated remains.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 212, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 634, Sec. 1, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1389, Sec. 3, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. [106](#), Sec. 1, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. [914](#), Sec. 1, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. [532](#), Sec. 1, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. [1336](#), Sec. 1, eff. September 1, 2011.

Sec. 711.002. DISPOSITION OF REMAINS; DUTY TO INTER.

(a) Except as provided by Subsection (1), unless a decedent has left directions in writing for the disposition of the decedent's remains as provided in Subsection (g), the following persons, in the priority listed, have the right to control the disposition, including cremation, of the decedent's remains, shall inter the remains, and are liable for the reasonable cost of interment:

- (1) the person designated in a written instrument signed by the decedent;
- (2) the decedent's surviving spouse;
- (3) any one of the decedent's surviving adult children;
- (4) either one of the decedent's surviving parents;
- (5) any one of the decedent's surviving adult siblings; or
- (6) any adult person in the next degree of kinship in the order named by law to inherit the estate of the decedent.

Text of subsection as added by Acts 2011, 82nd Leg., R.S., Ch. [95](#),
Sec. 1

(a-1) If a United States Department of Defense Record of Emergency Data, DD Form 93, or a successor form, was in effect at the time of death for a decedent who died in a manner described by 10 U.S.C. Sections 1481(a)(1) through (8), the DD Form 93 controls over any other written instrument described by Subsection (a)(1) or (g) with respect to designating a person to control the disposition of the decedent's remains. Notwithstanding Subsections (b) and (c), the form is legally sufficient if it is properly completed, signed by the decedent, and witnessed in the manner required by the form.

Text of subsection as added by Acts 2011, 82nd Leg., R.S., Ch. 532,
Sec. 2, and Ch. 1336, Sec. 2

(a-1) If the person with the right to control the disposition of the decedent's remains fails to make final arrangements or appoint another person to make final arrangements for the disposition before the earlier of the 6th day after the date the person received notice of the decedent's death or the 10th day after the date the decedent died, the person is presumed to be unable or unwilling to control the disposition, and:

(1) the person's right to control the disposition is terminated; and

(2) the right to control the disposition is passed to the following persons in the following priority:

(A) any other person in the same priority class under Subsection (a) as the person whose right was terminated; or

(B) a person in a different priority class, in the priority listed in Subsection (a).

(b) The written instrument referred to in Subsection (a)(1) shall be in substantially the following form:

APPOINTMENT OF AGENT TO CONTROL DISPOSITION OF REMAINS

I, _____,
(your name and address)

being of sound mind, willfully and voluntarily make known my desire that, upon my death, the disposition of my remains shall be controlled by _____

(name of agent)

in accordance with Section 711.002 of the Health and Safety Code and, with respect to that subject only, I hereby appoint such person as my agent (attorney-in-fact).

All decisions made by my agent with respect to the disposition of my remains, including cremation, shall be binding.

SPECIAL DIRECTIONS:

Set forth below are any special directions limiting the power granted to my agent:

AGENT:

Name: _____

Address: _____

Telephone Number: _____

Acceptance of Appointment: _____

(signature of agent)

Date of Signature: _____

SUCCESSORS:

If my agent dies, becomes legally disabled, resigns, or refuses to act, I hereby appoint the following persons (each to act alone and successively, in the order named) to serve as my agent (attorney-in-fact) to control the disposition of my remains as authorized by this document:

1. First Successor

Name: _____

Address: _____

Telephone Number: _____

Acceptance of Appointment: _____

(signature of first successor)

Date of Signature: _____

2. Second Successor

Name: _____

Address: _____

Telephone Number: _____

Acceptance of Appointment: _____

(signature of second successor)

Date of Signature: _____

DURATION:

This appointment becomes effective upon my death.

PRIOR APPOINTMENTS REVOKED:

I hereby revoke any prior appointment of any person to control the disposition of my remains.

RELIANCE:

I hereby agree that any cemetery organization, business operating a crematory or columbarium or both, funeral director or embalmer, or funeral establishment who receives a copy of this document may act under it. Any modification or revocation of this document is not effective as to any such party until that party receives actual notice of the modification or revocation. No such party shall be liable because of reliance on a copy of this document.
ASSUMPTION:

THE AGENT, AND EACH SUCCESSOR AGENT, BY ACCEPTING THIS APPOINTMENT, ASSUMES THE OBLIGATIONS PROVIDED IN, AND IS BOUND BY THE PROVISIONS OF, SECTION 711.002 OF THE HEALTH AND SAFETY CODE.

Signed this _____ day of _____, 19__.

(your signature)

State of _____

County of _____

This document was acknowledged before me on _____ (date) by _____ (name of principal).

(signature of notarial officer)

(Seal, if any, of notary)

(printed name)

My commission expires:

(c) A written instrument is legally sufficient under Subsection (a)(1) if the wording of the instrument complies substantially with Subsection (b), the instrument is properly completed, the instrument is signed by the decedent, the agent, and each successor agent, and the signature of the decedent is acknowledged. Such written instrument may be modified or revoked only by a subsequent written instrument that complies with this subsection.

(d) A person listed in Subsection (a) has the right, duty, and liability provided by that subsection only if there is no person in a priority listed before the person.

(e) If there is no person with the duty to inter under Subsection (a) and:

(1) an inquest is held, the person conducting the inquest shall inter the remains; and

(2) an inquest is not held, the county in which the death occurred shall inter the remains.

(f) A person who represents that the person knows the identity of a decedent and, in order to procure the disposition, including cremation, of the decedent's remains, signs an order or statement, other than a death certificate, warrants the identity of the decedent and is liable for all damages that result, directly or indirectly, from that warrant.

(g) A person may provide written directions for the disposition, including cremation, of the person's remains in a will, a prepaid funeral contract, or a written instrument signed and acknowledged by such person. The directions may govern the inscription to be placed on a grave marker attached to any plot in which the decedent had the right of sepulture at the time of death and in which plot the decedent is subsequently interred. The directions may be modified or revoked only by a subsequent writing signed and acknowledged by such person. The person otherwise entitled to control the disposition of a decedent's remains under this section shall faithfully carry out the directions of the decedent to the extent that the decedent's estate or the person controlling the disposition are financially able to do so.

(h) If the directions are in a will, they shall be carried out immediately without the necessity of probate. If the will is not probated or is declared invalid for testamentary purposes, the directions are valid to the extent to which they have been acted on in good faith.

(i) A cemetery organization, a business operating a crematory or columbarium or both, a funeral director or an embalmer, or a funeral establishment shall not be liable for carrying out the written directions of a decedent or the directions of any person who represents that the person is entitled to control the disposition of the decedent's remains.

(j) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 707, Sec. 3, eff. June 17, 2011.

(k) Any dispute among any of the persons listed in Subsection (a) concerning their right to control the disposition, including

cremation, of a decedent's remains shall be resolved by a court of competent jurisdiction. A cemetery organization or funeral establishment shall not be liable for refusing to accept the decedent's remains, or to inter or otherwise dispose of the decedent's remains, until it receives a court order or other suitable confirmation that the dispute has been resolved or settled.

(1) A person listed in Subsection (a) may not control the disposition of the decedent's remains if, in connection with the decedent's death, an indictment has been filed charging the person with a crime under Chapter 19, Penal Code, that involves family violence against the decedent.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 213, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 634, Sec. 2, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 967, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1385, Sec. 1, eff. Aug. 30, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. [95](#), Sec. 1, eff. May 20, 2011.

Acts 2011, 82nd Leg., R.S., Ch. [532](#), Sec. 2, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. [707](#), Sec. 1, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. [707](#), Sec. 3, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. [1336](#), Sec. 2, eff. September 1, 2011.

Sec. 711.003. RECORDS OF INTERMENT. A record shall be kept of each interment in a cemetery. The record must include:

- (1) the date the remains are received;
- (2) the date the remains are interred;
- (3) the name and age of the person interred if those facts can be conveniently obtained; and
- (4) the identity of the plot in which the remains are interred.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 634, Sec. 3, eff. Sept. 1, 1993.

Sec. 711.004. REMOVAL OF REMAINS. (a) Remains interred in a cemetery may be removed from a plot in the cemetery with the written consent of the cemetery organization operating the cemetery and the written consent of the current plot owner or owners and the following persons, in the priority listed:

- (1) the decedent's surviving spouse;
- (2) the decedent's surviving adult children;
- (3) the decedent's surviving parents;
- (4) the decedent's adult siblings; or
- (5) the adult person in the next degree of kinship in the order named by law to inherit the estate of the decedent.

(b) A person listed in Subsection (a) may consent to the removal only if there is no person in a priority listed before that person.

(c) If the consent required by Subsection (a) cannot be obtained, the remains may be removed by permission of a district court of the county in which the cemetery is located. Before the date of application to the court for permission to remove remains under this subsection, notice must be given to:

- (1) the cemetery organization operating the cemetery in which the remains are interred or if the cemetery organization cannot be located or does not exist, the Texas Historical Commission;
- (2) each person whose consent is required for removal of the remains under Subsection (a); and
- (3) any other person that the court requires to be served.

(d) For the purposes of Subsection (c) and except as provided by this subsection or Subsection (k), personal notice must be given not later than the 11th day before the date of application to the court for permission to remove the remains, or notice by certified or registered mail must be given not later than the 16th day before the date of application. In an emergency circumstance described by Subsection (1) that necessitates immediate removal of remains from a plot, the court shall hear an application for permission to remove remains under Subsection (c) not later than the first business day after the application is made. In an emergency circumstance described by this subsection, personal notice may be given on the date the application is made.

(e) Subsections (a)-(d) and (k) do not apply to the removal of

remains:

(1) from one plot to another plot in the same cemetery, if the cemetery:

(A) is a family, fraternal, or community cemetery that is not larger than 10 acres;

(B) is owned or operated by an unincorporated association of plot owners not operated for profit;

(C) is owned or operated by a church, a religious society or denomination, or an entity solely administering the temporalities of a church or religious society or denomination; or

(D) is a public cemetery owned by this state, a county, or a municipality;

(2) by the cemetery organization from a plot for which the purchase price is past due and unpaid, to another suitable place;

(3) on the order of a court or person who conducts inquests; or

(4) from a plot in a cemetery owned and operated by the Veterans' Land Board.

(f) Except as is authorized for a justice of the peace acting as coroner or medical examiner under Chapter 49, Code of Criminal Procedure, remains may not be removed from a cemetery except on the written order of the state registrar or the state registrar's designee. The cemetery organization shall keep a duplicate copy of the order as part of its records. The Texas Funeral Service Commission may adopt rules to implement this subsection.

(g) A person who removes remains from a cemetery shall keep a record of the removal that includes:

(1) the date the remains are removed;

(2) the name and age at death of the decedent if those facts can be conveniently obtained;

(3) the place to which the remains are removed; and

(4) the cemetery and plot from which the remains are removed.

(h) If the remains are not reinterred, the person who removes the remains shall:

(1) make and keep a record of the disposition of the remains; and

(2) not later than the 30th day after the date the

remains are removed, provide notice by certified mail to the Texas Funeral Service Commission and the Department of State Health Services of the person's intent not to reinter the remains and the reason the remains will not be reinterred.

(i) A person who removes remains from a cemetery shall give the cemetery organization operating the cemetery a copy of the record made as required by Subsections (g) and (h).

(j) A cemetery organization may remove remains from a plot in the cemetery and transfer the remains to another plot in the same cemetery without the written consent required under Subsection (a) if the cemetery seeks consent by sending written notice by certified mail, return receipt requested, to the last known address of the current owner of the plot from which the remains are to be removed or to the person designated under Subsection (a). The notice must indicate that the remains will be removed, the reason for the removal of the remains, and the proposed location of the reinterment of the remains. The cemetery may transfer the remains to another plot in accordance with this subsection if an objection is not received in response to the notice before the 31st day after the date the notice is sent. A cemetery may not remove remains under this subsection for a fraudulent purpose or to allow the sale of the plot in which the remains are located to another person.

(k) In an emergency circumstance described by Subsection (l) that necessitates immediate removal of remains before the date on which the court is required to hear an application for permission to remove remains under Subsection (d), a cemetery organization may remove remains from a plot in the cemetery and transfer the remains to another plot in the same cemetery without the court hearing. A cemetery association that removes remains under this subsection shall send written notice of the removal by certified mail, return receipt requested, to the last known address of the person designated under Subsection (a) not later than the fifth day after the date the remains are removed. The notice must indicate that the remains were removed, the reason for the removal of the remains, and the location of the reinterment of the remains.

(l) For purposes of Subsections (d) and (k), "emergency circumstance" means:

(1) a natural disaster; or

- (2) an error in the interment of remains.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 214, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 488, Sec. 1, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 634, Sec. 4, eff. Sept. 1, 1993; Acts 2003, 78th Leg., ch. 504, Sec. 1, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 562, Sec. 32, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [914](#), Sec. 2, eff. September 1, 2009.

Sec. 711.007. NUISANCE; ABATEMENT AND INJUNCTION. (a) A district court of the county in which a cemetery is located may, by order, abate the cemetery as a nuisance and enjoin its continuance if the cemetery is:

- (1) maintained, located, or used in violation of this chapter or Chapter 712; or
- (2) neglected so that it is offensive to the inhabitants of the surrounding section.

(b) The proceeding may be brought by:

- (1) the attorney general;
- (2) the Banking Commissioner of Texas;
- (3) the governing body of a municipality with a population of more than 25,000, if the cemetery is located in the municipality or not farther than five miles from the municipality;
- (4) the district attorney of the county, if the cemetery is located in an area of the county not described by Subdivision (3);
- (5) the owner of a residence:
 - (A) in or near the municipality in which the cemetery is located; or
 - (B) in the area proscribed for the location of a cemetery by Section 711.008;
- (6) the Texas Funeral Service Commission; or
- (7) the owner of a plot in the cemetery.

(c) The court shall grant a permanent injunction against each person responsible for the nuisance if a cemetery nuisance exists or is threatened.

(d) If a cemetery nuisance under Subsection (a)(2) is located in a municipality, the governing body of the municipality may authorize the removal of all bodies, monuments, tombs, or other similar items from the cemetery to a perpetual care cemetery.

(e) Notice of an action under this section must be provided to the Texas Historical Commission and to the county historical commission of the county in which the cemetery is located. The Texas Historical Commission and the county historical commission may intervene and become parties to the suit.

(f) In an action under this section, the court shall determine:

- (1) whether the cemetery nuisance must be abated by repair and restoration or by removal of the cemetery; and
- (2) the party or parties liable for the costs associated with the abatement.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 634, Sec. 6, eff. Sept. 1, 1993; Acts 2003, 78th Leg., ch. 562, Sec. 33, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [914](#), Sec. 3, eff. September 1, 2009.

Sec. 711.008. LOCATION OF CEMETERY. (a) Except as provided by Subsections (b), (f), (g), (h), and (k), an individual, corporation, partnership, firm, trust, or association may not establish or operate a cemetery, or use any land for the interment of remains, located:

- (1) in or within one mile of the boundaries of a municipality with a population of 5,000 to 25,000;
- (2) in or within two miles of the boundaries of a municipality with a population of 25,000 to 50,000;
- (3) in or within three miles of the boundaries of a municipality with a population of 50,000 to 100,000;
- (4) in or within four miles of the boundaries of a municipality with a population of 100,000 to 200,000; or
- (5) in or within five miles of the boundaries of a municipality with a population of at least 200,000.

Text of subsection as amended by Acts 2011, 82nd Leg., R.S., Ch.
1017, Sec. 1

(b) Subsection (a) does not apply to:

(1) a cemetery heretofore established and operating;
(2) the establishment and use of a columbarium by an organized religious society or sect that is exempt from income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed under Section 501(c)(3) of that code, as part of or attached to the principal church building owned by the society or sect;

(3) the establishment and use of a columbarium by an organized religious society or sect that is exempt from income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed under Section 501(c)(3) of that code, on land that:

(A) is owned by the society or sect; and

(B) is part of the campus on which an existing principal church building is located;

(4) the establishment and use of a columbarium on the campus of a private or independent institution of higher education, as defined by Section 61.003, Education Code, that is wholly or substantially controlled, managed, owned, or supported by or otherwise affiliated with an organized religious society or sect that is exempt from income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed under Section 501(c)(3) of that code, if a place of worship is located on the campus;

(5) the establishment and use of a mausoleum that is:

(A) constructed beneath the principal church building owned by an organized religious society or sect that:

(i) is exempt from income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed under Section 501(c)(3) of that code; and

(ii) has recognized religious traditions and practices of interring the remains of ordained clergy in or below the principal church building; and

(B) used only for the interment of the remains of ordained clergy of that organized religious society or sect; or

(6) the establishment and operation, if authorized in accordance with Subsection (h), of a perpetual care cemetery by an organized religious society or sect that:

(A) is exempt from income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed under Section 501(c)(3) of that code;

(B) has been in existence for at least five years;

(C) has at least \$500,000 in assets; and

(D) establishes and operates the cemetery on land

that:

(i) is owned by the society or sect;

(ii) together with any other land owned by the society or sect and adjacent to the land on which the cemetery is located, is not less than 10 acres; and

(iii) is in a municipality with a population of at least one million that is located predominantly in a county that has a total area of less than 1,000 square miles.

Text of subsection as amended by Acts 2011, 82nd Leg., R.S., Ch. [721](#),
Sec. 1

(b) Subsection (a) does not apply to:

(1) a cemetery heretofore established and operating;

(2) the establishment and use of a columbarium by an organized religious society or sect that is exempt from income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed under Section 501(c)(3) of that code, as part of or attached to the principal church building owned by the society or sect;

(3) the establishment and use of a columbarium by an organized religious society or sect that is exempt from income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed under Section 501(c)(3) of that code, on land that:

(A) is owned by the society or sect; and

(B) is part of the campus on which an existing principal church building is located;

(4) the establishment and use of a columbarium on the

campus of a private or independent institution of higher education, as defined by Section 61.003, Education Code, that is wholly or substantially controlled, managed, owned, or supported by or otherwise affiliated with an organized religious society or sect that is exempt from income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed under Section 501(c)(3) of that code, if a place of worship is located on the campus;

(5) the establishment and use of a mausoleum that is:

(A) constructed beneath the principal church building owned by an organized religious society or sect that:

(i) is exempt from income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed under Section 501(c)(3) of that code; and

(ii) has recognized religious traditions and practices of interring the remains of ordained clergy in or below the principal church building; and

(B) used only for the interment of the remains of ordained clergy of that organized religious society or sect; or

(6) the establishment and use of a private family cemetery by an organization that is exempt from income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed under Section 501(c)(3) of that code, on land that is:

(A) owned by the organization; and

(B) located in a county:

(i) with a population of more than 125,000; and
(ii) that is adjacent to a county that has a population of more than 1.5 million and in which more than 75 percent of the population lives in a single municipality.

(c) Subsection (a) does not apply to a private family cemetery established and operating on or before September 1, 2009.

(d) Subsection (a) does not apply to a cemetery established and operating before September 1, 1995, in a county with a population of more than 285,000 and less than 300,000 that borders the Gulf of Mexico.

(e) For the purpose of determining where a cemetery may be located under Subsection (a), the boundary of an area annexed by a municipality is not considered to be a boundary of the municipality if no more than 10 percent of the boundary of the annexed area is

composed of a part of the boundary of the annexing municipality as it existed immediately before the annexation.

(f) This subsection applies only to a municipality with a population of at least 60,000 that is located in a county with a population of no more than 155,000. Not later than December 1, 2001, a charitable nonprofit corporation may file a written application with the governing body of a municipality to establish or use a cemetery located inside the boundaries of the municipality. The municipality by ordinance shall prescribe the information to be included in the application. The governing body by ordinance may authorize the establishment or use of a cemetery located inside the boundaries of the municipality if the municipality determines and states in the ordinance that the establishment or use of the cemetery does not adversely affect public health, safety, and welfare.

(g) Not later than December 1, 2003, a corporation may file a written application with the governing body of a municipality that has a population of at least 27,000 and not more than 30,000 and that is located in a county with a population of at least 245,000 and not more than 250,000 to establish or use a cemetery located outside the municipality but within two miles of the municipal boundaries. The municipality by ordinance shall prescribe the information to be included in the application. The governing body by ordinance may authorize the establishment or use of the cemetery if the municipality determines and states in the ordinance that the establishment or use of the cemetery does not adversely affect public health, safety, and welfare.

Text of subsection as added by Acts 2011, 82nd Leg., R.S., Ch. [1017](#),
Sec. 1

(h) The governing body of a municipality described by Subsection (b) (6) (D) (iii) may authorize the establishment and use in accordance with Subsection (b) (6) of a cemetery located inside the boundaries of the municipality if the municipality determines and states in the ordinance that the establishment or use of the cemetery does not adversely affect public health, safety, and welfare.

Text of subsection as added by Acts 2011, 82nd Leg., R.S., Ch. 367,
Sec. 1

(h) Not later than September 1, 2014, a person may file a written application with the governing body of a municipality to establish or use a cemetery located inside the boundaries of the municipality. The municipality by ordinance shall prescribe the information to be included in the application. The governing body by ordinance may authorize the establishment or use of a cemetery located inside the boundaries of the municipality if the municipality determines and states in the ordinance that the establishment or use of the cemetery does not adversely affect public health, safety, and welfare. This subsection applies only to a municipality that:

- (1) is located in three or more counties;
- (2) has a population of 18,000 or more; and
- (3) does not have a cemetery within its boundaries, other than a family cemetery.

(i), (j) Deleted by Acts 1993, 73rd Leg., ch. 634, Sec. 7, eff. Sept. 1, 1993.

(k) This subsection applies only to a municipality with a population of 115,000 or more that is located in a county with a population of less than 132,000. Not later than September 1, 1994, a person may file a written application with the governing body of the municipality to establish or use a cemetery located inside the boundaries of the municipality. The municipality by ordinance shall prescribe the information to be included in the application. The governing body by ordinance may authorize the establishment or use of a cemetery located inside the boundaries of the municipality if the municipality determines and states in the ordinance that the establishment or use of the cemetery does not adversely affect public health, safety, and welfare.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 215, 216, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 597, Sec. 77, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 634, Sec. 7, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 736, Sec. 1, eff. Sept. 1, 1993; Acts 2001, 77th

Leg., ch. 200, Sec. 1, eff. May 21, 2001; Acts 2001, 77th Leg., ch. 631, Sec. 1, eff. June 13, 2001; Acts 2001, 77th Leg., ch. 669, Sec. 39, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 98, Sec. 1, eff. May 20, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. [106](#), Sec. 2, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. [1026](#), Sec. 1, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. [263](#), Sec. 3, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. [373](#), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. [487](#), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. [914](#), Sec. 4, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. [367](#), Sec. 1, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. [721](#), Sec. 1, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. [1017](#), Sec. 1, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. [1163](#), Sec. 49, eff. September 1, 2011.

Sec. 711.009. AUTHORITY OF CEMETERY KEEPER. (a) The superintendent, sexton, or other person in charge of a cemetery has the same powers, duties, and immunities granted by law to:

(1) a police officer in the municipality in which the cemetery is located; or

(2) a constable or sheriff of the county in which the cemetery is located if the cemetery is outside a municipality.

(b) A person who is granted authority under Subsection (a) shall maintain order and enforce the cemetery organization's rules, state law, and municipal ordinances in the cemetery over which that person has charge and as near the cemetery as necessary to protect cemetery property.

(c) This section applies only to a cemetery located in a municipality with a population of 40,000 or more or in a county with a population of 290,000 or more.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 634, Sec. 8, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. [345](#), Sec. 5, eff. September 1, 2005.

Sec. 711.010. UNKNOWN OR ABANDONED CEMETERY. (a) The owner of property on which an unknown cemetery is discovered or on which an abandoned cemetery is located may not construct improvements on the property in a manner that would further disturb the cemetery until the human remains interred in the cemetery are removed under a written order issued by the state registrar or the state registrar's designee under Section 711.004(f) and under an order of a district court as provided by this section.

(b) On petition of the owner of the property, a district court of the county in which an unknown cemetery is discovered or an abandoned cemetery is located may order the removal of any dedication for cemetery purposes that affects the property if the court finds that the removal of the dedication is in the public interest. If a court orders the removal of a dedication of a cemetery and all human remains on the property have not previously been removed, the court shall order the removal of the human remains from the cemetery to a perpetual care cemetery.

(c) In addition to any notice required by Section 711.004, notice of a petition filed under Subsection (b) must be given to the Texas Historical Commission and to the county historical commission of the county in which the cemetery is located. The Texas Historical Commission and the county historical commission may intervene and become parties to the suit.

Added by Acts 1999, 76th Leg., ch. 703, Sec. 1, eff. June 18, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. [251](#), Sec. 1, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. [914](#), Sec. 5, eff. September 1, 2009.

Sec. 711.0105. METHOD OF REMOVAL OF REMAINS. (a) The removal of remains authorized under this chapter shall be supervised by a cemetery keeper, a licensed funeral director, a medical examiner, a coroner, or a professional archeologist.

(b) The person removing the remains shall make a good faith effort to locate and remove all human remains, any casket or other covering of the remains, and any funerary objects associated with the remains.

(c) Remains that have been moved must be reburied unless a court, medical examiner, coroner, other authorized official, or next of kin approves a different disposition of the remains.

Added by Acts 2009, 81st Leg., R.S., Ch. [914](#), Sec. 6, eff. September 1, 2009.

Sec. 711.011. FILING RECORD OF UNKNOWN CEMETERY. (a) A person who discovers an unknown or abandoned cemetery shall file notice of the cemetery with the county clerk of the county in which the cemetery is located not later than the 10th day after the date of the discovery. The notice must contain a legal description of the land on which the unknown or abandoned cemetery was found and describe the approximate location of the cemetery and the evidence of the cemetery that was discovered.

(b) A county clerk may not charge a fee for filing notice under this section.

(c) The county clerk shall send a copy of the notice to the Texas Historical Commission and file the notice in the deed records of the county, with an index entry referencing the land on which the cemetery was discovered.

Added by Acts 1999, 76th Leg., ch. 703, Sec. 1, eff. June 18, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [914](#), Sec. 7, eff. September 1, 2009.

Sec. 711.012. RULES. (a) The Finance Commission of Texas may

adopt rules to enforce and administer Sections 711.003, 711.004, 711.007, 711.008, 711.0105, 711.021-711.024, 711.032-711.036, 711.038, 711.040-711.042, 711.052, 711.061, and 711.062 relating to perpetual care cemeteries.

(b) The Texas Funeral Service Commission may adopt rules, establish procedures, and prescribe forms to enforce and administer Sections 711.003, 711.008, 711.0105, 711.021-711.034, 711.038, 711.0395, 711.041, 711.042, 711.052, 711.061, and 711.062 relating to cemeteries that are not perpetual care cemeteries.

(c) The Texas Historical Commission may adopt rules to:

(1) enforce and administer Sections 711.010 and 711.011;
and

(2) enforce and administer Sections 711.004, 711.007, 711.0105, 711.035, and 711.036 relating to cemeteries that are not perpetual care cemeteries.

Added by Acts 2003, 78th Leg., ch. 562, Sec. 34, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [263](#), Sec. 4, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. [914](#), Sec. 8, eff. September 1, 2009.

SUBCHAPTER B. CEMETERY CORPORATIONS

Sec. 711.021. FORMATION OF CORPORATION TO MAINTAIN AND OPERATE CEMETERY. (a) An individual, corporation, partnership, firm, trust, or association may not engage in a business for cemetery purposes in this state unless the person is a corporation organized for those purposes.

(b) A corporation conducting a business for cemetery purposes, including the sale of plots, may be formed only as provided by this section. The corporation must be either:

(1) a nonprofit corporation organized in accordance with Section A or B, Article 3.01, Texas Non-Profit Corporation Act (Article 1396-3.01, Vernon's Texas Civil Statutes), or with Section 711.022; or

(2) a private corporation operated for profit.

(c) The charter of a cemetery corporation formed after May 15, 1947, but before September 1, 1993, must state whether the corporation:

- (1) is operated for profit or not for profit; and
- (2) is operating a perpetual care cemetery or a nonperpetual care cemetery.

(d) A corporation formed before September 3, 1945, under statutory authority other than Section 5, Chapter 340, Acts of the 49th Legislature, Regular Session, 1945 (Article 912a-5, Vernon's Texas Civil Statutes), to maintain and operate a cemetery is governed by this chapter only to the extent that this chapter does not conflict with the charter or articles of incorporation of the corporation.

(e) This section does not apply to a corporation chartered by the state before September 3, 1945, that, under its charter, bylaws, or dedication, created a perpetual care trust fund and maintains that fund in accordance with the corporation's trust agreement, Chapter 712, and this chapter. The corporation may operate a perpetual care cemetery without amending the corporation's charter as if it had been incorporated under this section.

(f) Any cemetery that begins its initial operations on or after September 1, 1993, shall be operated as a perpetual care cemetery in accordance with Chapter 712.

(g) This section does not apply to:

- (1) a family, fraternal, or community cemetery that is not larger than 10 acres;
- (2) an unincorporated association of plot owners not operated for profit;
- (3) a church, a religious society or denomination, or an entity solely administering the temporalities of a church or religious society or denomination; or
- (4) a public cemetery belonging to this state or a county or municipality.

(h) A cemetery corporation, including a corporation described by Subsection (d), that does not operate as a perpetual care cemetery in accordance with Chapter 712 may not use the words "perpetual care" or "endowment care," or any other term that suggests "perpetual care" or "endowment care" standards, in:

- (1) the cemetery's name; or
- (2) any advertising relating to the cemetery.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 634, Sec. 9, eff. Sept. 1, 1993; Acts 2001, 77th Leg., ch. 405, Sec. 1, eff. Sept. 1, 2001.

Sec. 711.022. FORMATION OF NONPROFIT CEMETERY CORPORATION BY PLOT OWNERS. (a) Plot owners may organize a nonprofit corporation to receive title to land previously dedicated to cemetery purposes.

(b) The plot owners must:

(1) publish notice of the time and place of the organizational meeting in a newspaper in the county, if there is a newspaper, for 30 days before the date of the meeting; and

(2) post written notice at the cemetery of the time and place of the meeting for 30 days before the date of the meeting.

(c) A majority of the plot owners present and voting at the meeting shall decide whether to incorporate and to convey the land to the corporation.

(d) If the plot owners vote to incorporate, at the same meeting they shall select from the plot owners a board of directors to be named in the charter.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 711.023. RIGHTS OF PLOT OWNERS IN CEMETERY OPERATED BY NONPROFIT CEMETERY CORPORATION. (a) A person who purchases a plot from a nonprofit cemetery corporation is a shareholder of the corporation. The person may vote in the election of corporate officers and on other matters to the same extent as a stockholder in another corporation.

(b) An owner of a plot in a cemetery operated by a nonprofit corporation is a shareholder in any corporation that owns the cemetery. The plot owner may exercise the rights and privileges of a shareholder, whether the owner acquired title to the plot from the corporation or before the corporation was organized.

(c) This section does not apply to a nonprofit cemetery corporation formed before September 1, 1963, if:

(1) the corporation was formed under Subdivision 87, Article 1302, Revised Statutes; and

(2) the charter or the articles of incorporation of the corporation provide that the corporation has no capital stock.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2003, 78th Leg., ch. 1284, Sec. 1, eff. Sept. 1, 2003.

Sec. 711.024. AUTHORITY OF NONPROFIT CEMETERY CORPORATION. A nonprofit cemetery corporation organized by plot owners may divide cemetery property into lots and subdivisions for cemetery purposes and charge assessments on the property for the purposes of general improvement and maintenance.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

SUBCHAPTER C. CEMETERY ORGANIZATIONS

Sec. 711.031. RULES; CIVIL PENALTY. (a) A cemetery organization may adopt and enforce rules:

(1) concerning the use, care, control, management, restriction, and protection of the cemetery operated by the cemetery organization;

(2) to restrict the use of cemetery property;

(3) to regulate the placement, uniformity, class, and kind of markers, monuments, effigies, and other structures in any part of the cemetery;

(4) to regulate the planting and care of plants in the cemetery;

(5) to prevent the interment of remains not entitled to be interred in the cemetery;

(6) to prevent the use of a plot for a purpose that violates the cemetery organization's restrictions;

(7) to regulate the conduct of persons on cemetery property and to prevent improper meetings at the cemetery; and

(8) for other purposes the directors consider necessary for the proper conduct of the cemetery organization's business, and for the protection of the premises and the principles, plans, and

ideals on which the cemetery was organized.

(b) Rules adopted under this section must be plainly printed or typed and maintained for inspection in the cemetery organization's office or another place in the cemetery prescribed by the directors.

(c) The directors may prescribe a penalty for the violation of a rule adopted under this section. The cemetery organization may recover the amount of the penalty in a civil action.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 634, Sec. 11, eff. Sept. 1, 1993.

Sec. 711.032. DISCRIMINATION BY RACE, COLOR, OR NATIONAL ORIGIN PROHIBITED. (a) A cemetery organization may not adopt or enforce a rule that prohibits interment because of the race, color, or national origin of a decedent.

(b) A provision of a contract entered into by a cemetery organization or of a certificate of ownership or other instrument of conveyance issued by a cemetery organization that prohibits interment in a cemetery because of the race, color, or national origin of a decedent is void.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 634, Sec. 13, eff. Sept. 1, 1993.

Sec. 711.033. PROPERTY ACQUISITION BY CEMETERY ORGANIZATION; RECORDING TITLE. (a) A cemetery organization may acquire by purchase, donation, or devise property consisting of land, a mausoleum, a crematory and columbarium, or other property in which remains may be interred under law.

(b) A cemetery organization operating a cemetery located and operated in accordance with the distance requirements prescribed in Section 711.008 may acquire land adjacent to the cemetery for cemetery purposes. In this subsection, "adjacent" means that some part of the property to be acquired has a common boundary with the existing cemetery, or a common boundary with a public easement, a utility easement, or a railroad right-of-way, some part of which has a common boundary with the cemetery. In no event shall the closest points of the property to be acquired and the cemetery be more than

200 feet apart.

(c) A cemetery organization that acquires property may record title to its property with the county clerk of the county in which the property is located if its president and secretary or other authorized officer acknowledge a declaration executed by the cemetery organization that describes the property and declares the cemetery organization's intention to use the property or a part of the property for interment purposes.

(d) Filing under Subsection (b) is constructive notice as of the date of the filing of the use of the property for interment.

(e) A cemetery organization may by condemnation acquire property in which remains may be interred, and the acquisition of that property is for a public purpose.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 634, Sec. 14, eff. Sept. 1, 1993; Acts 2001, 77th Leg., ch. 200, Sec. 2, eff. May 21, 2001.

Sec. 711.034. DEDICATION. (a) A cemetery organization that acquires property for interment purposes shall:

(1) in the case of land, survey and subdivide the property into gardens or sections, with descriptive names or numbers, and make a map or plat of the property showing the plots contained within the perimeter boundary and showing a specific unique number for each plot; or

(2) in the case of a mausoleum or a crematory and columbarium, make a map or plat of the property delineating sections or other divisions with descriptive names and numbers and showing a specific unique number for each crypt, lawn crypt, or niche.

(b) The cemetery organization shall file the map or plat with the county clerk of each county in which the property or any part of the property is located.

(c) The cemetery organization shall file with the map or plat a written certificate or declaration of dedication of the property delineated by the map or plat, dedicating the property exclusively to cemetery purposes. The certificate or declaration must be:

(1) in a form prescribed by the directors or officers of the cemetery organization;

(2) signed by the president or vice-president and the secretary of the cemetery organization, or by another person authorized by the directors; and

(3) acknowledged.

(d) Filing a map or plat and a certificate or declaration under this section dedicates the property for cemetery purposes and is constructive notice of that dedication.

(e) The certificate or declaration may contain a provision permitting the directors by order to resurvey and change the shape and size of the property for which the associated map or plat is filed if that change does not disturb any interred remains. If a change is made, the cemetery organization shall file an amended map or plat and shall indicate any change in a specific unique number assigned to a plot, crypt, lawn crypt, or niche.

(f) The county clerk shall number and file the map or plat and record the certificate or declaration in the county deed records.

(g) A cemetery association is civilly liable to the state in an amount not to exceed \$1,000 for each map or plat that fails to comply with Subsection (a), (b), (c), or (e).

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 634, Sec. 15, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 502, Sec. 1, eff. Oct. 1, 1995.

Sec. 711.035. EFFECT OF DEDICATION. (a) Property may be dedicated for cemetery purposes, and the dedication is permitted in respect for the dead, for the disposition of remains, and in fulfillment of a duty to and for the benefit of the public.

(b) Dedication of cemetery property and title to the exclusive right of sepulture of a plot owner are not affected by the dissolution of the cemetery organization, nonuse by the cemetery organization, alienation, encumbrance, or forced sale of the property.

(c) Dedication of cemetery property may not be invalidated because of a violation of the law against perpetuities or the law against the suspension of the power of alienation of title to or use of property.

(d) A railroad, street, road, alley, pipeline, telephone, telegraph, electric line, wind turbine, cellular telephone tower, or

other public utility or thoroughfare may not be placed through, over, or across a part of a dedicated cemetery without the consent of:

(1) the directors of the cemetery organization that owns or operates the cemetery; or

(2) at least two-thirds of the owners of plots in the cemetery.

(e) All property of a dedicated cemetery, including a road, alley, or walk in the cemetery:

(1) is exempt from public improvements assessments, fees, and public taxation; and

(2) may not be sold on execution or applied in payment of debts due from individual owners and plots.

(f) Dedicated cemetery property shall be used exclusively for cemetery purposes until the dedication is removed by court order or until the maintenance of the cemetery is enjoined or abated as a nuisance under Section 711.007.

(g) Property is considered to be dedicated cemetery property if:

(1) one or more human burials are present on the property; or

(2) a dedication of the property for cemetery use is recorded in the deed records of the county where the land is located.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 634, Sec. 16, eff. Sept. 1, 1993.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [914](#), Sec. 9, eff. September 1, 2009.

Sec. 711.036. REMOVAL OF DEDICATION. (a) A cemetery organization may petition a district court of the county in which its dedicated cemetery is located to remove the dedication with respect to all or any portion of the cemetery if:

(1) all the remains have been removed from that portion of the cemetery where the dedication is to be removed; or

(2) no interments were made in that portion of the cemetery where the dedication is to be removed and that portion of the cemetery is not used or necessary for interment purposes.

(b) An owner of land adjacent to a cemetery for which a cemetery organization or other governing body does not exist may petition a district court of the county in which the cemetery is located to remove any human remains and the dedication for all or any portion of the cemetery. In addition to the notice required by Section 711.004, notice of a petition filed under this subsection must be given to the Texas Historical Commission and to the county historical commission of the county in which the cemetery is located. The Texas Historical Commission and the county historical commission may intervene and become parties to the suit. Unknown next of kin of deceased persons buried in the cemetery shall be served by publication of a notice in a newspaper of general circulation in the county in which the cemetery is located, or if there is not a newspaper of general circulation in the county, in a newspaper of general circulation in an adjacent county. A reasonable good faith effort shall be made to remove all remains and monuments from the cemetery or that portion of the cemetery for which the dedication is to be removed.

(c) The court shall order the removal of the human remains and the dedication on notice and proof satisfactory to the court that the removal is in the public interest.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 634, Sec. 17, eff. Sept. 1, 1993.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [914](#), Sec. 10, eff. September 1, 2009.

Sec. 711.037. LIEN AGAINST CEMETERY PROPERTY. (a) A cemetery organization by contract may incur indebtedness as required to conduct its business and may secure the indebtedness by mortgage, deed of trust, or other lien against its property.

(b) A mortgage, deed of trust, or other lien placed on dedicated cemetery property, or on cemetery property that is later dedicated with the consent of the holder of the lien, does not affect the dedication and is subject to the dedication. A sale on foreclosure of the lien is subject to the dedication of the property for cemetery purposes.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 634, Sec. 18, eff. Sept. 1, 1993.

Sec. 711.038. SALE OF PLOTS. (a) A cemetery organization may sell and convey the exclusive right of sepulture in a plot:

(1) after a map or plat and a certificate or declaration of dedication are filed as provided by Section 711.034;

(2) subject to the rules of the cemetery organization and the restrictions in the certificate of ownership or other instrument of conveyance; and

(3) after payment in full of the purchase price of the plot.

(b) A certificate of ownership or other instrument evidencing the conveyance of the exclusive right of sepulture by a cemetery organization must be signed by the president or vice-president and the secretary or other officers authorized by the cemetery organization.

(c) A conveyance of the exclusive right of sepulture must be filed and recorded in the cemetery organization's office.

(d) A plot or a part of a plot that is conveyed as a separate plot by a certificate of ownership or other instrument may not be divided without the consent of the cemetery organization.

(e) A person is not required to be licensed to sell a plot in a dedicated cemetery.

(f) A cemetery organization may not resell the exclusive right of sepulture in a plot unless the exclusive right of sepulture has been reacquired by the cemetery organization. A sanction or other penalty may not be imposed on a cemetery organization that violates this subsection unless:

(1) the state agency authorized to enforce this section provides the cemetery organization written notice of the violation; and

(2) the cemetery organization does not correct the violation before the 91st day after the date on which the cemetery organization received the notice.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended

by Acts 1993, 73rd Leg., ch. 634, Sec. 19, eff. Sept. 1, 1993.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [263](#), Sec. 5, eff. September 1, 2009.

Sec. 711.039. RIGHTS OF INTERMENT IN PLOT. (a) A plot in which the exclusive right of sepulture is conveyed is presumed to be the separate property of the person named as grantee in the certificate of ownership or other instrument of conveyance.

(b) The spouse of a person to whom the exclusive right of sepulture in a plot is conveyed has a vested right of interment of the spouse's remains in the plot while the spouse is married to the plot owner or if the spouse is married to the plot owner at the time of the owner's death.

(c) An attempted conveyance or other action without the joinder or written, attached consent of the spouse of the plot owner does not divest the spouse of the vested right of interment.

(d) The vested right of interment is terminated:

(1) on the final decree of divorce between the plot owner and the owner's former spouse unless the decree provides otherwise; or

(2) when the remains of the person having the vested right are interred elsewhere.

(e) Unless a plot owner who has the exclusive right of sepulture in a plot and who is interred in that plot has made a specific disposition of the plot by express reference to the plot in the owner's will or by written declaration filed and recorded in the office of the cemetery organization:

(1) a grave, niche, or crypt in the plot shall be reserved for the surviving spouse of the plot owner; and

(2) the owner's children, in order of need, may be interred in any remaining graves, niches, or crypts of the plot without the consent of a person claiming an interest in the plot.

(f) The surviving spouse or a child of an interred plot owner may each waive his right of interment in the plot in favor of a relative of the owner or relative of the owner's spouse. The person in whose favor the waiver is made may be interred in the plot.

(g) The exclusive right of sepulture in an unused grave, niche, or crypt of a plot in which the plot owner has been interred may be conveyed only by:

(1) specific disposition of the unused grave, niche, or crypt by express reference to it in a will or by written declaration of the plot owner filed and recorded in the office of the cemetery organization; or

(2) the surviving spouse, if any, and the heirs-at-law of the owner.

(h) Unless a deceased plot owner who has the exclusive right of sepulture in a plot and who is not interred in the plot has otherwise made specific disposition of the plot, the exclusive right of sepulture in the plot, except the one grave, niche, or crypt reserved for the surviving spouse, if any, vests on the death of the owner in the owner's heirs-at-law and may be conveyed by them.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 634, Sec. 20, eff. Sept. 1, 1993; Acts 2001, 77th Leg., ch. 502, Sec. 1, eff. Sept. 1, 2001.

Sec. 711.0395. MULTIPLE INTERMENTS IN SAME PLOT. A cemetery organization may not make more than one interment in a plot unless each owner of the plot consents to the interment.

Added by Acts 2009, 81st Leg., R.S., Ch. [263](#), Sec. 6, eff. September 1, 2009.

Sec. 711.040. MULTIPLE OWNERS OF PLOT. Two or more owners of a plot may designate a person to represent the plot and file with the cemetery organization written notice of the designation. If notice is not filed, the cemetery organization may inter or permit an interment in the plot at the request or direction of a registered co-owner of the plot.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 634, Sec. 21, eff. Sept. 1, 1993.

Sec. 711.041. ACCESS TO CEMETERY. (a) Any person who wishes

to visit a cemetery or private burial grounds for which no public ingress or egress is available shall have the right to reasonable ingress and egress for the purpose of visiting the cemetery or private burial grounds. This right of access extends only to visitation during the hours determined by the owner or owners of the lands under Subsection (b) or at a reasonable time as provided by Subsection (c) and only for purposes usually associated with cemetery visits.

(b) The owner or owners of the lands surrounding the cemetery or private burial grounds may designate the routes of reasonable ingress and egress and reasonable hours of availability.

(c) At a time other than the time provided by Subsection (b), the owner or owners of the lands surrounding a cemetery or private burial grounds must allow a person to enter and exit the owner's land for the purpose of visiting the cemetery or private burial grounds if:

(1) the person provides written notice to the owner or owners of the lands surrounding the cemetery or private burial grounds of the person's visit;

(2) the person provides the notice required by Subdivision (1) not later than the 14th day before the date the person wishes to visit the cemetery; and

(3) the time of the visit is reasonable.

Added by Acts 1993, 73rd Leg., ch. 634, Sec. 22, eff. Sept. 1, 1993.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [263](#), Sec. 7, eff. September 1, 2009.

Sec. 711.042. AUTHORITY OF NONPROFIT CEMETERY ORGANIZATION. A nonprofit cemetery organization organized by plot owners may:

(1) divide cemetery property into lots and subdivisions for cemetery purposes;

(2) charge assessments on the property for the purposes of general improvement and maintenance; and

(3) take any action, to the same extent and for the same purposes as a for-profit cemetery corporation, that is necessary to carry out the organization's business purposes, which include the business purposes necessarily incident to the burial and disposal of

human remains, including any action necessary to:

- (A) convey property or other assets of the organization;
- (B) borrow money;
- (C) pledge or mortgage the property or other assets of the organization to secure the organization's indebtedness or other obligations;
- (D) lend money and take security for the loan in furtherance of its business purposes; and
- (E) conduct any business activity or business directly or by or through one or more subsidiaries.

Added by Acts 1999, 76th Leg., ch. 703, Sec. 2, eff. June 18, 1999.

SUBCHAPTER D. ENFORCEMENT

Sec. 711.051. ENFORCEMENT BY ATTORNEY GENERAL; PROCEEDINGS TO FORFEIT CHARTER FOR NONCOMPLIANCE. (a) A cemetery corporation that violates this chapter or Chapter 712 forfeits the corporation's charter and right to do business in this state unless the corporation corrects the violation before the 91st day after the date of receiving notice of the violation from the attorney general.

(b) When the attorney general learns that a cemetery corporation has violated this chapter or Chapter 712, the attorney general shall serve notice of the violation on the corporation.

(c) If the violation is not corrected before the 91st day after the date of the notice, the attorney general shall bring suit or quo warranto proceedings for the forfeiture of the corporation's charter and dissolution of the corporation in the district court of any county in which the violation occurred.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 711.0515. ENFORCEMENT BY ATTORNEY GENERAL; INJUNCTIVE RELIEF. In addition to bringing an action under Section 711.051, the attorney general at the request of the Texas Funeral Service Commission may bring an action for injunctive relief to enforce this chapter or a rule or order adopted by the commission under this

chapter.

Added by Acts 2009, 81st Leg., R.S., Ch. [263](#), Sec. 8, eff. September 1, 2009.

Added by Acts 2009, 81st Leg., R.S., Ch. [914](#), Sec. 11, eff. September 1, 2009.

Reenacted by Acts 2011, 82nd Leg., R.S., Ch. [91](#), Sec. 12.008, eff. September 1, 2011.

Sec. 711.052. CRIMINAL PENALTIES. (a) A person who is an individual, firm, association, corporation, or municipality, or an officer, agent, or employee of an individual, firm, association, corporation, or municipality, commits an offense if the person:

(1) engages in a business for cemetery purposes in this state other than through a corporation organized for that purpose, if a corporation is required by law;

(2) fails or refuses to keep records of interment as required by Sections 711.003 and 711.004;

(3) sells, offers to sell, or advertises for sale a plot or the exclusive right of sepulture in a plot for purposes of speculation or investment; or

(4) represents through advertising or printed material that a retail department will be established for the resale of the plots of plot purchasers, that specific improvements will be made in the cemetery, or that specific merchandise or services will be furnished to a plot owner, unless adequate funds or reserves are created by the cemetery organization for the represented purpose.

(b) A cemetery organization or an officer, agent, or employee of the cemetery organization commits an offense if the cemetery organization, officer, agent, or employee offers any inducement, pecuniary or otherwise, to any person or entity for the purpose of securing or attempting to secure business for that cemetery organization. This subsection does not prohibit the offering or payment by a cemetery organization of any such inducement, pecuniary or otherwise, to an officer, employee, agent, subcontractor, or representative of the cemetery organization.

(c) A cemetery organization or an officer, agent, or employee of the cemetery organization commits an offense if the cemetery

organization, officer, agent, or employee of a cemetery organization offers a free plot in a drawing, in a lottery, or in another manner, unless the offer is for the immediate burial of an indigent person.

(d) An offense under this section is a Class A misdemeanor.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 217, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 634, Sec. 23, eff. Sept. 1, 1993.

Sec. 711.0521. ACCESS TO CEMETERIES; CRIMINAL PENALTIES. (a) A person who is an individual, firm, association, corporation, or municipality, or an officer, agent, or employee of an individual, firm, association, corporation, or municipality, commits an offense if the person interferes with a person's reasonable right to ingress and egress under Section 711.041.

(b) An offense under this section is a Class C misdemeanor.

Added by Acts 2009, 81st Leg., R.S., Ch. [263](#), Sec. 9, eff. September 1, 2009.

Sec. 711.053. DEFINITION. In this subchapter, "commissioner" means the banking commissioner of Texas.

Added by Acts 2003, 78th Leg., ch. 562, Sec. 35, eff. Sept. 1, 2003.

Sec. 711.054. ENFORCEMENT BY FINANCE COMMISSION OF TEXAS. The Finance Commission of Texas may use remedies available under Chapter 712 to enforce a section listed under Section 711.012(a) relating to perpetual care cemeteries.

Added by Acts 2003, 78th Leg., ch. 562, Sec. 35, eff. Sept. 1, 2003.

Sec. 711.055. ENFORCEMENT BY COMMISSIONER. (a) Chapter 2001, Government Code, applies to a proceeding under this section.

(b) After notice and opportunity for hearing, the commissioner may impose an administrative penalty on a person who:

(1) violates this chapter or a final order of the

commissioner or rule of the Finance Commission of Texas and does not correct the violation before the 31st day after the date the person receives written notice of the violation from the Texas Department of Banking; or

(2) engages in a pattern of violations, as determined by the commissioner.

(c) The amount of the penalty for each violation may not exceed \$1,000 for each day the violation occurs.

(d) In determining the amount of the penalty, the commissioner shall consider the seriousness of the violation, the person's history of violations, and the person's good faith in attempting to comply with this chapter. The commissioner may collect the penalty in the same manner that a money judgment is enforced in district court.

(e) In addition to any penalty that may be imposed under Subsection (b), the commissioner may bring a civil action against a person to enjoin a violation described in Subsection (b) that has not been corrected within 30 days after receipt by the person of written notice of the violation from the commissioner. The civil action may be brought in the district court of the county in which the cemetery is operated.

(f) The commissioner may issue an order to cease and desist if a violation described in Subsection (b) has not been corrected within 30 days after receipt by the person of written notice of the violation from the commissioner. Any order proposed under this subsection shall be served on the person, shall state the grounds for the proposed order with reasonable certainty, and shall state the proposed effective date, which may not be less than 15 days after receipt by the person. Unless the person requests a hearing within 15 days after the receipt, the order is effective as proposed.

Added by Acts 2003, 78th Leg., ch. 562, Sec. 35, eff. Sept. 1, 2003.

Sec. 711.056. PATTERN OF WILFUL DISREGARD. (a) If after a hearing conducted as provided by Chapter 2001, Government Code, the trier of fact finds that a violation of this chapter or a rule of the Finance Commission of Texas establishes a pattern of wilful disregard for the requirements of this chapter or rules of the finance commission, the trier of fact shall recommend to the commissioner

that the maximum administrative penalty permitted under Section 711.055 be imposed on the person committing the violation or that the commissioner cancel or not renew the person's permit under Chapter 154, Finance Code, if the person holds such a permit.

(b) For the purposes of this section, violations corrected as provided by Section 711.055 may be included in determining whether a pattern of wilful disregard for the requirements of this chapter or rules of the finance commission exists.

Added by Acts 2003, 78th Leg., ch. 562, Sec. 35, eff. Sept. 1, 2003.

SUBCHAPTER E. LAWN CRYPTS

Sec. 711.061. REQUIREMENTS FOR LAWN CRYPTS. (a) A lawn crypt may not be installed unless:

- (1) the lawn crypt is constructed of concrete and reinforced steel or other comparably durable material;
- (2) the lawn crypt is installed on not less than six inches of rock, gravel, or other drainage material;
- (3) the lawn crypt provides a method to drain water out of the lawn crypt;
- (4) the outside top surface of the lawn crypt at the time of installation is at least 1-1/2 feet below the surface of the ground as required by Section 714.001(a)(2) and is capable of withstanding the weight of the soil and sod above the top surface and the weight of machinery and equipment normally used in the maintenance of the cemetery;
- (5) the lawn crypt is installed in a garden or other section of the cemetery that has been dedicated for lawn crypt interment purposes in accordance with Section 711.034; and
- (6) the lawn crypt is installed in multiple units of 10 or more or as prescribed by Subsection (b).

(b) A lawn crypt that is part of a private estate may be installed in fewer than 10 units. For purposes of this subsection, a private estate is a small section of a cemetery that has the following characteristics:

- (1) is sold under a single contract;
- (2) is usually offset from other burial sites;

(3) allows for interment of several members of the same family or their designees; and

(4) is identified on the plat for cemetery property as a private estate in accordance with Section 711.034.

Added by Acts 1997, 75th Leg., ch. 1389, Sec. 4, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. [532](#), Sec. 3, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. [1336](#), Sec. 3, eff. September 1, 2011.

Sec. 711.063. CONSTRUCTION; DEFAULT. (a) A cemetery in which undeveloped lawn crypt spaces are being sold or reserved for sale shall begin construction on the lawn crypt section not later than 48 months after the date of the first sale or reservation, whichever is earlier, and must complete construction not later than 60 months after the date of the first sale or reservation, whichever is earlier.

(b) If construction of a lawn crypt section described by Subsection (a) does not begin or has not been completed by the dates specified in Subsection (a), on the buyer's written request, the cemetery shall refund the entire amount paid for the undeveloped lawn crypt space not later than the 30th day after the date of the buyer's request.

Added by Acts 2011, 82nd Leg., R.S., Ch. [532](#), Sec. 4, eff. September 1, 2011.

Added by Acts 2011, 82nd Leg., R.S., Ch. [1336](#), Sec. 4, eff. September 1, 2011.

Sec. 711.064. CONTRACT DISCLOSURES. (a) A sales contract for an undeveloped lawn crypt space must contain terms, whether in English or Spanish, that inform the buyer:

(1) that the buyer may, after providing written notice, cancel the contract for failure by the cemetery or contractor to construct the lawn crypt space within the time limits specified by Section 711.063(a) and receive a refund of the entire amount paid under the contract for the undeveloped lawn crypt space as described

by Section 711.063(b); and

(2) of the options available under a fully paid contract if the person to be interred in the undeveloped lawn crypt space dies before completion of the related lawn crypt section, including the option to:

(A) select a replacement lawn crypt space or other interment acceptable to the buyer or the buyer's representative;

(B) elect temporary interment of the human remains or cremated remains in an existing mausoleum space until the undeveloped lawn crypt space is completed, at which time the cemetery shall disinter and reinter the human remains or cremated remains at no additional charge to the buyer; or

(C) cancel the contract on written notice of the buyer or the buyer's representative and receive a refund of the entire amount paid under the contract for the undeveloped lawn crypt space if:

(i) the cemetery does not offer a temporary interment option; or

(ii) the buyer or the buyer's representative does not accept a replacement lawn crypt or other interment.

(b) A sales contract for undeveloped lawn crypt space must comply with applicable regulations of the Federal Trade Commission, including 16 C.F.R. Section 433.2, with respect to a contract payable in installments.

(c) Each notice required by this section must be written in plain language designed to be easily understood by the average consumer and must be printed in an easily readable font and type size.

Added by Acts 2011, 82nd Leg., R.S., Ch. [532](#), Sec. 4, eff. September 1, 2011.

Added by Acts 2011, 82nd Leg., R.S., Ch. [1336](#), Sec. 4, eff. September 1, 2011.

EC CHANGES

MEG Changes

TO Changes

(final numbering will be done after all changes are made)

**CHAPTER 73
INDIGENT BURIAL ~~DISPOSITION~~ ASSISTANCE POLICY**

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73.001 General Information

(a) **Authority.** Travis County is ~~required~~ ~~authorized~~ under TEXAS HEALTH AND SAFETY CODE, Section 694.002, ~~TEXAS LOCAL GOVERNMENT CODE, Section 81.027,~~ and other applicable statutes, to provide for burials of indigent persons in Travis County ~~and to adopt rules by which to provide for such burials;~~ and is ~~authorized under TEXAS LOCAL GOVERNMENT CODE, Section 81.027, and other applicable statutes,~~ to assist the eligible Next of Kin of ~~deceased individuals~~ ~~Decedents~~ in obtaining burial ~~services~~ where the Decedent and/or Next of Kin are unable to afford burial and meet the requirements of applicable Travis County policies.

(b) **Provision of Service.** Indigent burials ~~may will~~ be provided ~~to for~~ eligible Travis County residents ~~(as defined by this Policy)~~ or those who ~~died~~ in Travis County, and assistance ~~is may be~~ provided to families who lack the income or resources to afford any type of funeral expenses and who meet applicable eligibility requirements under this Policy. All indigent burial requests must have written approval by designated County staff prior to ~~the~~ funeral service ~~and burial~~.

(c) **Statutory Guidelines.** County will provide all services, ~~either directly or by contract,~~ in accordance with all applicable federal, state and local laws, rules and regulations ~~("Applicable Law")~~.

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73.002 Program Administration

(a) **Purpose.** The purpose of this Policy is to establish standards for administration of the Indigent Burial ~~Disposition~~ Program ("Program") ~~as established under this Indigent Burial/Disposition Policy ("Policy"). including the following:~~ This Policy includes:

1. ~~Criteria.~~ Establishing the ~~g~~ General and specific ~~criteria~~ for determining eligibility ~~for receipt of assistance.~~

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2. ~~Definitions.~~ Setting forth a ~~Applicable~~ ~~definitions~~ for the Policy.

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3. ~~Application Process.~~ Setting forth the ~~g~~ General ~~application process~~ to be followed.

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4. ~~Appeals Process.~~ Describing the ~~g~~ General ~~appeals process.~~

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5. ~~General implementation process for services provided under the Policy.~~

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(b) **Definitions.** In this Policy, the following terms will have the meaning set forth herein:

1. "Applicant" means an individual applying for assistance under this Policy.

2. "Case Worker" means a qualified Department representative who assumes the overall responsibility of organizing and ensuring the ~~determination of eligibility and~~ receipt of needed services for a qualified Participant.

"Cemetery" means either the ~~Travis County Cemetery located at 14510 Wells School Road, the Travis County International Cemetery or any cemetery in which authorized~~

County burials will be provided under this Policy pursuant to this Policy and, as necessary, a duly executed contract with the County.

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3. "Commissioner's Court" means the Travis County Commissioners Court.

4. "Common Law Marriage" means a union recognized as a legal marriage under the laws of Texas which meets certain conditions, including the following:

- a. both parties are free to marry;
- b. the parties live together; and
- c. the parties hold out to the public that they are husband and wife.
- d. the parties meet any other applicable legal requirements

"Crematory" means a structure containing a retort used or intended to be used for cremation of human remains.

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"Crematory Establishment" means a business that operates a crematory for which a license is required under Subchapter N, Chapter 651, Occupations Code.

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5. "Date of Payment Approval" means the date the ~~caseworker~~ Case Worker has obtained all necessary information/documents required to approve services and initiate the payment process related to receipt of services under this Policy.

6. "Decedent" means the individual for whom burial services are requested/provided under this Policy.

7. "Department" ~~—The means the~~ Travis County Health, and Human Services and Veterans Service Department.

8. "Emancipated Minor" means a person under 18 years of age who has been legally declared as an emancipated minor by the court; or a person under 18 years of age who is legally married, with marriage including a Common Law (or informal) marriage.

9. "County Executive Manager" means the County Executive Manager of the Department, or his/her designee.

10. "Fiscal Year" means the Travis County fiscal year which begins October 1 of each year and ends September 30 of the next following year.

11. "Funeral Home" means a funeral home which has a duly executed a contract with Travis County to provide funeral and/or cremation services pursuant to this Policy. As applicable, reference to "Funeral Home" under this Policy will include reference to a Crematory Establishment or Funeral Home providing cremation services ("Crematory Establishment").

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12. "Household" means an Applicant and those individuals sharing the Applicant's housing unit as defined in this Policy.

13. "Income" means the total monetary receipts from all sources, including tips, before deductions from all sources as set forth in this Policy.

14. "Next of Kin" means the legal next of kin as defined in TEXAS HEALTH AND SAFETY CODE ANN., Section 711.002, "Disposition of Remains, Duty to Inter." The Applicant under this Policy must provide proof that Applicant is the Next of kin. On a case-by-case basis, County may consult a friend of the Decedent where it has been shown that no identifiable Next-of-Kin can be found and some evidence has been provided proving the relationship of that friend to the Decedent. Consultation with such a friend will only be for the provision of information and

~~will not be used to provide any authorization or approval which is legally required to be provided by Next of Kin.~~

15. "Participant" means a person approved by the Department as meeting applicable criteria guidelines to receive services ~~or the benefit of services~~ under this Policy, including Applicants, Decedents, and friends (as limited by this Policy).

16. "Residency" ~~means is determined by the facts of~~ an individual's ~~must be~~ working, paying rent/mortgage, applying ~~for~~ or receiving food stamps prior to death. Determination of Residency will be evaluated on a case-by-case basis as set forth in this Policy.

17. "Resource/Assets" means the earnings of the Household the total of which must be less than the allowable limit as set forth in this Policy. Countable Resource/Assets for the Indigent Burial Program will be determined by applicable Department policy.

"TCHHSVS" means the Travis County Health, Human Services and Veterans Services.

18. "Third Party" means a person who has no personal gain and no personal relationship to the Applicant or any member of the Applicant's Household as a relative, friend or neighbor. Examples of third party are: employers, school nurses, social service agency representatives, ~~and~~ lawyers/paralegal, ~~etc.~~

19. "Thirty-Day Period" means the previous thirty calendar days from and including the date of application.

"TNR" means the Travis County Transportation and Natural Resources Department.

20. "Viewing" means the time and space provided, when made available by and requested from the Funeral Home pursuant to this Policy ~~and the applicable contract~~, for the opportunity for family and friends to view the body ~~of the Decedent~~. This opportunity will be provided in a small room or designated viewing area with an open casket as deemed appropriate by the Funeral Home and family. ~~Opportunity for viewing may not always be available and depends on the condition of the body, and may vary between Funeral Homes providing services under this Policy.~~

(c) Department Discretion. The Department, with the written approval of the County Executive Manager, may waive or adjust certain provisions of this Policy where, as determined by the County Executive Manager, such waiver or adjustment will continue to promote the general purpose and intent of this Policy within the limits of ~~a~~ Applicable Laws. At any time that such waiver or adjustment is requested or suggested, the County Executive Manager may make such decision or may refer such decision to the Commissioners Court. Upon granting of any such waiver or adjustment ~~without Commissioners' Court consideration~~, the County Executive Manager will provide written notice to the Commissioners Court of such waiver or adjustment at the earliest possible date.

73.003 Travis County Responsibilities.

(a) Funeral Home Reimbursement. The Funeral Home will be reimbursed pursuant to the contract with the County at the rates set forth in ~~the applicable contract with such Funeral Home. Such rates will be subject to periodic review and modification as approved by the Commissioners Court, Attachment "A" to this Policy. Such contract(s) may be amended from time to time by the Commissioners Court, including a change in the reimbursement amount and services provided, without the necessity of amending this Policy.~~

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(b) Burial Space. Travis County will provide a ~~graveside~~ gravesite space at the ~~Travis County International~~ Cemetery, in other space as secured by Travis County for this purpose, or in such other space as provided pursuant to this Policy. ~~In the event of cremation, space for the remains will be as set forth in Section 73.005(b). TNR will coordinate all activities related to the Cemetery and burial,~~

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(c) Out of County Transportation. ~~Travis County will~~ P provide compensation in instances where the Funeral Home goes out of the County to pick up a Decedent with necessary County approvals. The Funeral Home will be reimbursed as set forth in the applicable contract between the Funeral Home and County Attachment "A". ~~Those rates may be changed from time to time by the Commissioners Court without the necessity of amending this Policy.~~

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73.004 Funeral Responsibilities.

(a) Contract. Each Funeral Home will provide services under this Policy pursuant to a written contract with the County.

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(b) Removal of the Body. The Funeral Home will provide for removal of the Decedent's body from the place of death within Travis County. Reimbursement for such removal is included in the contracted price as set forth in the contract ~~and Attachment "A" to this Policy~~. Removal of the body from the place of death outside of Travis County will be allowable if, during the eligibility process, the Decedent is determined to meet residency and other applicable eligibility requirements and appropriate arrangements are made with required approvals of County.

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(c) Preparation.

1. General. ~~In the case of burials, F~~ the Funeral Home will prepare the of Decedent's body for burial pursuant to ~~a~~ Applicable Law and the applicable contract.

2. Embalming. It is understood that embalming is not specifically required by law or applicable industry standards in every case prior to burial; however, any body held any place for more than 24 hours after death must either be maintained at a specified temperature, as required by law or applicable industry standards, or embalmed by a licensed embalmer. If embalming occurs other than as required herein, it is at the discretion of the Funeral Home and with the approval of the ~~legal~~* Next of Kin. Appropriate consents must be acquired by the Funeral Home, as required by local, state and federal law, and adequate documentation required and maintained, with copies provided to County upon request. Refrigeration costs are included in the contracted price and no additional reimbursement to the Funeral Home for the embalming will be made by the County.

(d) Casket. The Funeral Home is responsible for provision of an appropriate size casket meeting standards of the casket industry.

(e) Viewing.

1. Availability. Viewing of the body may take place one ~~(1)~~ hour prior to the scheduled departure for the cemetery or as otherwise determined by the Funeral Home. Viewing is not required, but must be offered by the Funeral Home, with determination at the discretion of the Funeral Home and the ~~legal~~ Next of Kin, if available. If the ~~legal~~ Next of Kin does not request a Viewing, a signed statement declining the Viewing ~~will~~ be obtained by the Funeral Home.

2. Schedule. The time that the casket needs to be at the cemetery will be given to the Funeral Home. The Funeral Home will subtract the travel/loading time and then set the Viewing time accordingly. The Funeral Home will notify Travis County, through Department, in writing, of the Viewing time, if a Viewing is to occur.

3. Viewing Service. ~~When appropriate, every family will be given the opportunity for a viewing. No service is required; however, if a Funeral Home allows/provides for a service during the Viewing time (or allows/If a Funeral Home provides for any other in-kind enhancements), the Funeral Home must offer the same opportunity for a service or other enhancements to all Participants receiving burial under this Policy and must maintain documentation on those burials that decline the service and/or other enhancements.~~

~~4. Cremation. Where the body is to be cremated, any viewing will be as arranged and permitted by the Funeral Home at the Funeral Home's discretion (dependent on the condition of the body) and in accordance with the applicable contract.~~

(f) Transportation to the Cemetery. The Funeral Home will provide transportation of the casket only to ~~at the designated~~ Cemetery within Travis County in a Funeral Home coach or car that meets Funeral Home standards.

(g) Graveside Cemetery Service. The Funeral Home will conduct a brief ~~graveside Cemetery~~ service not to exceed 20 minutes time ~~to~~ which will be coordinated by ~~TNR, the Department and~~ the Funeral Home representative. ~~Generally, services will be conducted at the Cemetery pavilion or other space as designated for use by TNR with consultation with the Department and Funeral Home prior to the service.~~

(h) Rules of Conduct. The Funeral Home will assist Travis County staff in ensuring that rules of conduct including those of County, the Funeral Home, applicable industry standards and ~~Applicable Law~~ at the ~~graveside Cemetery~~ are followed.

(i) Documentation. The Funeral Home will file all required documentation per appropriate County, State and Federal laws. Required Travis County documents include affidavits confirming the burial and the family's financial involvement, any changes to the service, an invoice for reimbursement and any other documentation required under this Policy or reasonably requested by County. ~~Copies of required County documentation will be provided to County prior to payment for services.~~

(j) Temporary Marker. ~~Travis County will provide markers at the Cemetery on Wells School Road.~~ The Funeral Home will provide a temporary marker in a form approved by County ~~at locations other than the Cemetery on Wells School Road.~~ ~~Burials at Cemeteries that are not County-owned will include markers meeting the standards and requirements of that Cemetery.~~

73.005 Limitations.

(a) Prior Approval. No approval of assistance prior to death will be provided.

(b) Cremation. ~~The Travis County Indigent Burial Assistance Policy~~ ~~does not include cremation as an option.~~ Cremation will be provided under this Policy as follows:

~~(i) Crematory Establishment. Cremation will be provided at a Crematory Establishment that has entered into a duly authorized contract with County for those services. All cremation services will be provided in accordance with all applicable federal, state and local laws, rules and regulations.~~

~~(ii) Authorization. Cremation will only be provided when statutory requirements are met, including those requirements as to authorized approval(s) by Next of Kin. The Crematory Establishment must secure all necessary documentation for proof of authorization as required by law; or under other criteria set forth by the Crematory Establishment which meets or exceeds applicable statutory requirements. Those criteria must be provided to County under the contract and approved by the Commissioners Court in the approval of that contract between the Crematory Establishment and County prior to provision of any cremation services. Any changes~~

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~~to the criteria utilized will be provided to County in the form of an amendment to the contract signed by County and the Crematory Establishment prior to implementation of the change.~~

~~(iii) Transportation and Other Related Services. Transportation of the Decedent's remains, viewing prior to cremation, and other related services will be provided according to the duly executed contract between the Crematory Establishment and County.~~

~~(iv) NO CREMATION WILL BE PROVIDED where the Decedent is unidentified or where the required authorizations have not been secured and documented by the Crematory Establishment.~~

~~(v) Disposition and/or storage of the cremated remains will be as directed by the Next of Kin and/or according to the policy of the Crematory Establishment in accordance with the County contract. The Crematory Establishment will provide an appropriate container for storage of the cremated remains unless another appropriate container (as determined by the Crematory Establishment) is provided by the Next of Kin. The Crematory Establishment will provide permanent storage if the Next of Kin does not accept the remains, or the remains may be buried at the Travis County Cemetery. Determinatino of location of remains will be as agreed to by the Next of Kin, County and the Crematory Establishment.~~

~~(vi) The Crematory Establishment will create and maintain accurate records related to all cremations, including the name of the Decedent, names of Next of Kin, originals of the authorization, and other documentation as may be required by County. Copies of the above listed records will be provided to County prior to payment for cremation services.~~

~~(vii) Eligibility for cremation assistance will be as determined by County according to a Applicable Law and this Policy.~~

(c) Additional Services. Family (including the Applicant and any ~~legal~~ Next of Kin) may not pay ~~the Funeral Home, the Crematory Establishment or County~~ for additional services. Any changes to the service ~~needs must to~~ be brought to the attention of the Funeral Home as it will ~~have to be required to~~ sign an affidavit confirming the family, Applicant or any ~~legal~~ Next of Kin has not paid for additional services. ~~County may accept donations from family, friends or Next of Kin toward the expenses of the burial, but not in exchange for additional services. The Funeral Home may not under any circumstances accept donations from any party.~~

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(d) Location. Unless otherwise authorized under certain exceptions in this Policy, all interments will be at the ~~Travis County International Cemetery at Wells School Road or at other County designated sites.~~ Exceptions include military funerals or the use of an existing legal and paid for family plot. Other exceptions will only be allowed by previous written authorization by the ~~County Executive Manager.~~

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(e) Death Certificate. Funeral homes will not give the Applicant, family or any ~~legal~~ Next of Kin the option to request copies of death certificates through their business. Copies of the ~~Death~~ certificate are available through the Texas Department of Health.

73.006 Eligibility Criteria

(a) General Requirements

i. Purpose. This Section 73.006 sets forth the unified criteria to be used for identification of ~~Households~~ ~~individuals~~ which meet the minimum ~~Indigent Burial~~ Program eligibility requirements in order to receive assistance under this Policy. Determination of eligibility will be ~~determined made by the~~ Department according to applicable Department guidelines ~~within the terms of this Policy.~~

2. Income. Household gross Income, as defined herein, must be at or below 100% of the most current version of the Federal Poverty Income Guidelines for the past 30-day period. Income requirements will be applied to the Decedent as to burial and to others as to services.

3. Eligible Decedent. An Eligible Decedent:

- A. must be a Travis County resident at the time of death; or
- B. must have died in Travis County.

C. must meet the eligibility income requirements set forth in this Policy as determined by County.

4. Next of Kin. Applicant must be able to provide proof the Applicant is the legal Next of Kin as defined in TEXAS HEALTH AND SAFETY CODE ANN., Section 711.002, "Disposition of Remains, Duty to Inter." (see 73.006(c) below) At County's discretion, input and requests may be received from friends or other Third Parties where no Next of Kin can be located. These individuals may not provide any approval or authorization that is required by law to be given by Next of Kin.

5. Age. Applicant must at least 18 years of age or an Emancipated Minor.

6. Resource/Assets. Households Decedent must not have assets or resources more than the allowable limit of \$2,000.00.

7. Referral from Funeral Home. Applicant must make an attempt to make financial arrangements with the Funeral Home prior to requesting services from the County. If the Applicant is unable to make financial arrangements with the Funeral Home, the Funeral Home will then make a referral to Travis County (see Section 73.006(b) below).

(b) Initial Contact. Travis County requires that anyone requesting Indigent Burial Assistance first contact a contracted Funeral Home of their choice and try to make financial arrangements using their own resources. The legal Next of Kin needs to meet in person (or via fax, if out of town or if there are extenuating circumstances), with the Funeral Home to try to arrange a lower cost/most economical funeral arrangement. If this cannot be accomplished, the Funeral Home will refer the individual to the Travis County Department. A written referral from the Funeral Home referral including any documentation required by County will need to accompany each Applicant's request.

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(c) Next of Kin Determination.

1. Identification. In identifying the Next of Kin as the individual responsible for authorized to control the disposition of remains, the County will follow the guideline set forth in Texas Health and Safety Code Ann., Section 711.002, "Disposition of Remains; Duty to Inter," which currently reads lists those with the right to control disposition as follows:

Unless a Decedent has left directions in writing for the disposition of the Decedent's remains as provided in Subsection (g), the following persons, in the priority listed, have the right to control the disposition, including cremation, of the Decedent's remains, shall inter the remains, and are liable for the reasonable cost of the interment:

- A. the person designated in a written instrument signed by Decedent;
- B. the Decedent's surviving spouse;
- C. any one of the Decedent's surviving adult children;

- D. either one of the Decedent's surviving parents;
- E. any one of the Decedent's surviving adult siblings; or
- F. any adult person in the next degree of kinship in the order named by law to inherit the estate of the Decedent.

Determination of Next of Kin will be utilized in ascertaining the person with the authority to provide necessary approvals and consents and to make the arrangements for the disposition of the Decedent. If no Next of Kin can be identified, County will make determinations as to the burial of the Decedent pursuant to this Policy. No cremations will be authorized where Next of Kin is not identified.

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2. **Guidelines.** The County will use the following guidelines in attempting to locate the Next of Kin:

A. **Initial Effort.** Pursuant to applicable law, the person with control of the body of the Decedent must make a reasonable effort to find the Next of Kin. Documentation of any such efforts made prior to referral to County shall be provided to County. It is expected that family, friends and the Funeral Home will make an effort to determine the Next of Kin and notify County of their findings.

B. **Family.** It is the responsibility of family/friends of the Decedent to provide any available information as to any individual in a position higher than the Applicant in the list in Section 73.006(c)(1) if such person is living at the time of application.

C. **County.** County will make a good faith effort to identify and find the Next of Kin based on available information. The Travis County Medical Examiner's Office and/or Department will complete the investigation and affidavit.

3. **Verification/Documentation.** In determining and/or verifying the identity of the Next of Kin, the County will utilize information and documentation provided pursuant to Department guidelines.

(d) **Status of Applicant.** In determining and/or verifying the existence of a Common Law Marriage and the age and/or Emancipated Minor status of the Applicant, the County will utilize information and documentation provided pursuant to Department guidelines.

(e) **Single Application.** If an Applicant, who is a legal Next of Kin, is denied assistance, another application may not be accepted by another legal Next of Kin.

(f) **No Next of Kin Referral.**

1. **Available Next of Kin.** If the legal Next of Kin does not begin or complete the application process, or if no Next of Kin is available, the County will bury the remains of an eligible Decedent as a "No Next of Kin" referral. If a Next of Kin is available, but does not wish to participate in the disposition of the Decedent, a written statement from the legal Next of Kin to relinquish their rights will be needed to proceed. That letter of relinquishment needs to include:

- A. Name of legal Next of Kin
- B. Date
- C. Name of Decedent
- D. Statement of permission for the County to inter the remains in the form of a signed affidavit identifying the affiant as the Next of Kin, waiving all rights

to inter the remains and indemnifying the County against any claims related to the burial.

If the Next of Kin refuses to provide such a statement, County will proceed to bury the Decedent under its statutory authority and pursuant to this Policy with documentation of the request and refusal of the Next of Kin to participate.

2. **Referral.** When no Next of Kin can be identified to apply on the Decedent's behalf, the referral from the Funeral Home will be considered a No Next of Kin referral. Funeral homes will provide as much information as possible on the Decedent for the Department to complete an inquiry into locating the Next of Kin.

3. **Information.** The County will not provide any information for No Next of Kin Referrals regarding inquiries for services for the Decedent. The Funeral Home may give out information per their policies.

4. **Next of Kin Location.** If a ~~No~~ Next of Kin referral begins, and prior to interment, Next of Kin is located, the Funeral Home, ~~or Travis County Medical Examiner's Office, or anyone with knowledge of the Next of Kin must will~~ contact the Department immediately. Any steps taken will be stopped and the Next of Kin will need to apply to determine eligibility and to participate in the process according to this Policy.

(g) **Abandoned Body.** If a body is abandoned by the Next of Kin or no Next of Kin is identified, the County will proceed pursuant to Applicable Law.

73.007 **Application.**

(a) **Forms.** The Applicant ~~with will~~ read and sign the "Duties and Responsibilities of Participant," and will complete the Application form which will be reviewed as set forth in this Policy.

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(b) **Residency Requirement.** Residency requirements are as follows:

1. **Place of Death.** Decedent must be a Travis County resident at the time of death; or have died in Travis County.

2. **Out of County Resident.** If the person died in Travis County but was a resident of another county, every attempt will be made to bury the person in the county of residence or collect reimbursement from that county for the cost of services provided by Travis County.

3. **Nursing Home Resident.** If the Decedent who was a Travis County resident dies while is in care at a nursing home or other care environment in a surrounding county, as a result of a lack of Travis County resources to provide the service, a lack of room or non-acceptance of insurance, the person may be considered a Travis County resident, if the Decedent has been in care at the facility no longer than 90 days.

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4. **Verification of Residence.** Department will utilize information provided or available to verify and document fulfillment of residency requirements for Decedent and/or Applicant using applicable County guidelines.

(c) **Income and Resources Requirements.** Eligibility for burial under this Policy is ultimately determined by the Income and Resources of the Decedent. Other services provided under this Policy may be provided for Next of Kin who voluntarily agree to participate in the disposition of the Decedent and meet the applicable eligibility criteria. Income eligibility will be determined as follows:

1. **Income Test.** An income test will be applied to the legal Next of Kin and his/her Household making application for services for on behalf of the deceased Decedent who

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by law has the right to control the disposition of the Decedent's remains when the Next of Kin has voluntarily agreed to arrange for the burial of the Decedent. The Income test will consist of reviewing all Income being received by the Applicant's Household at the time of application in order to determine the Applicant's eligibility for assistance under this Policy. The gross Income must be at or below 100% of the most current version of the Federal Poverty Income Guidelines. This eligibility determination relates to benefit of services under this Policy and does not determine the eligibility of the Decedent.

2. Decedent's Income. The Decedent's Income will be considered in the Income test to determine the eligibility of the Decedent for disposition under this Policy; only if he/she resided in the Applicant's Household at the time of death; otherwise, the ~~deceased's~~ Decedent's Income is always considered a resource.

3. Application by Non-Family Member. The Income test will not apply in those situations where there are no surviving relatives known and a friend is having to make application on behalf of the ~~deceased~~ Decedent. In that situation, only available resources of the ~~deceased~~ Decedent will be considered.

4. Verification of Income/Resources: Applicant must provide proof of gross Income for the entire Household. In the exceptional case when proof of Income is unavailable, an Applicant must sign a declaration of Income statement. Proof of Income/resources, forms for documentation, and type of documentation will be provided pursuant to Department guidelines. Department will make necessary inquiries and secure documentation as available relevant to Decedent's Income.

5. Maximum Resource Amount. The total resource amount may not ~~to~~ exceed \$2000.

6. Insurance Policies: In those situations where the values of the available insurance policy/policies is less than \$2000.00, the family may be referred to the Funeral Home for possible consideration of a private hardship burial funeral arrangement.

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7. Decedent's Income. The Decedent's gross Income is always considered a resource unless the Decedent lived in the Applicant's Household. If the Decedent has a financial resource available that is below-above the \$2000.000 limit, the County will may request, but not require, in writing, reimbursement up to the amount of the funds expended by the County to inter the remains. Verification of Resources/Assets will be made by Department pursuant to Department policies and procedures.

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(d) Letter of Consent. If there are siblings/children or other individuals who qualify as Next of Kin at the same level under Section 73.006(c)(1), every attempt will be made to acquire a letter from each such person who is not the Applicant to verify they are aware of and approve of the arrangements being made for the Decedent.

(e) Existing Family Plots/Military Cemeteries. Burial under this Policy may be approved using an existing legal family plot that is paid for prior to the time of death so long as the family assumes responsibility for acquiring funding for all additional transportation and gravesite preparation fees from someone other than family Applicant or any Legal Next of Kin. In addition, approval may be given under the Policies if a family has obtained permission to use a military cemetery, so long as the family assumes responsibility for acquiring funding for all additional transportation and gravesite preparation fees for someone other than family, Applicant or any Legal Next of Kin.

73.008 Appeal Process

(a) Policy. ~~Client~~ Applicants requesting Indigent Burial services under this Policy have the right to appeal eligibility determination decisions. Such appeals must be made within five (5) business days of the rendered decision.

(b) Procedure

1. Case Worker Determination and Notice. If the Case Worker determines ~~client~~ Decedent and/or Applicant, as relevant, is not eligible for Indigent Burial Services, the Case Worker will give the Applicant written notice of denial on the denial/appeal form

2. Appeal Request. The Applicant will complete the ~~reason for~~ appeal request which the Case Worker will forward to the Social Services Manager, unless the Social Services Manager is not available, in which case the Case Worker will refer the appeal to the acting supervisor (or, to the Division Director if the acting supervisor rendered the original denial decision).

3. Decision. A decision will be rendered within three ~~(3) working~~ business days of an appeal request.

4. Continuation. If the Applicant is not satisfied with the appeal decision at the Social Services Manager level, ~~she/he~~ the Applicant can continue the appeal in the following ascending levels:

- A. Division Director
- B. County Executive Manager
- C. Commissioners Court

5. File. The appeal form will be completed and placed in the case file after all appeal hearings.

6. Copies. The Applicant will be given copies of appeal actions.

73.009 Application Process

(a) Initial Contact. The Applicant will apply in person after attempts to make reasonable arrangements for burial with the Funeral Home are unsuccessful, unless special circumstances warrant application in another way, as determined by Department.

(b) Out of County Applicant. If the legal Next of Kin lives out of the County, application may be made via fax, email or mail.

(c) Appointment. Every effort will be made to see the Applicant the same day of inquiry though it may take up to 2 two days to see a family due to scheduling issues.

(d) Information. Information will be collected by the Case Worker regarding the Decedent's Income and resources and well as the legal Next of Kin's Household's Income and resources. Other eligibility information will be collected as well. The Applicant will be given a reasonable amount of time to get all of the information needed to determine eligibility if that information is not available at the time of the first contact.

(e) Case Limit. A case may remain open for a time period of 7 seven calendar days. If the family does not provide the required information within that time, the case will be denied. The Department reserves the right to extend this time period at the Department's sole discretion. Under ordinary circumstances, no case may remain open longer than 7 seven days due to the nature of the service provided.

(f) Arrangements. After a decision is made, services will be arranged with the appropriate agency, per County Department, TNR and/or Contractor if applicable.

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(g) Denial. If the Applicant is denied, the Applicant will be referred back to the Funeral Home as a hardship burial. The Applicant has the right to appeal the denial pursuant to Section 73.008 of this Policy.

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73.010 Disinterment

(a) Transportation and Natural Resources Department. Burial and/or Disinterment at the Travis County Cemetery on Wells School Road from the Travis County International Cemetery or any County-owned cemetery is handled through the Travis County Department of Transportation and Natural Resources (TNR). Any inquiries regarding this service will be referred to TNR. Disinterment on non-County property will be handled pursuant to the policies and procedures of the entity owning the property and it will be the responsibility of the Next of Kin to contact that entity to make these arrangements. Travis County is not responsible for expenses related to any disinterment. All services and activities at a Travis County Cemetery will be administered and coordinated by TNR with coordination of other related services by Department.

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73.011 Funeral Home Rotation List

(a) Establishment of List. A Funeral Home/Crematory Establishment rotation list will be established so that all referring entities will know to which Funeral Home/Crematory Establishment to send Decedents who have no Next of Kin to choose a Funeral Home. Next of Kin may choose any Funeral Home/Crematory Establishment from those providing services under contract with Travis County regardless of the rotation list schedule in place at the time.

(b) Assignment. Each contracted Funeral Home/Crematory Establishment will be assigned one month to cover (except in relation to the Travis County Medical Examiner's Office - see Section 73.11(d) below).

(c) Distribution. The Travis County Family Support Services site will update the ~~distribute a new~~ rotation list at the beginning of each Fiscal Year or after any changes to contracted Funeral Home/Crematory Establishment vendors.

(d) Medical Examiner's Office. The Travis County Medical Examiner's Office will work on a per-Decedent rotation.

(e) Acceptance of Assignment. Any Funeral Home not accepting Decedents on their rotation month will may be subject to sanctions outlined in the contract.

Attachment A

Travis County Schedule of Reimbursement to Funeral Homes Vendors for Indigent Burials will be as set forth in the applicable contract between Travis County and the Funeral Home/Crematory Establishment. Such rates may be amended from time to time by the Commissioners Court without the necessity of amending this Policy.

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I. CURRENT RATES - FUNERAL HOMES:

(A) Funeral Home Reimbursement

- (1) \$1,000.00 oversized adult (casket used for any body that cannot fit into a regular sized casket, according to industry standards)
- (2) \$ 850.00 adult (regular size casket)
- (3) \$ 500.00 child (3 ft. to 5 ft. 6 in. casket)
- (4) \$ 400.00 infant (1 ft. 9 in. to 2 ft casket)

(B) Approved out of County Transportation Expense Reimbursements

(1) Mileage will be reimbursed for travel to pick up a Decedent who is eligible for indigent burial under this Policy as a current resident of Travis County who died outside of Travis County. Mileage reimbursement is set at the current rate the Court allows for Travis County employee mileage reimbursement.

(2) The Funeral Home will need to provide the starting address and address of the pick up.

(3) All mileage numbers will be verified using a reliable internet website or other source as determined by Department.

(4) Costs of up to \$150.00 may be authorized without County Executive Manager approval, if funds are available.

(5) Any transportation reimbursement costs that exceed \$150.00 or the budgeted amount of the line item will require County Executive manager approval.

II. CREMATORY ESTABLISHMENTS. Rates for Crematory Establishments will be as set forth in fully executed contracts between County and the Crematory Establishment.

TRAVIS COUNTY CODE
CHAPTER 100
POLICY FOR OPERATION AND MAINTENANCE - TRAVIS COUNTY CEMETERIES

~~100.001~~
~~STATE OF TEXAS~~
~~COUNTY OF TRAVIS~~

~~ORDER~~

~~(a) WHEREAS,~~

SUBCHAPTER I - GENERAL

100.01 Purpose.

- (a) Accepting and Administering Non-County Cemeteries. The Commissioners Court of Travis County ("Commissioners Court") desires to promulgate a policy ("Policy") for accepting and administering cemeteries that are not owned by Travis County ("Non-County Cemetery");
- (b) Rules and Procedures - County Cemetery. The Commissioners Court desires to establish rules and procedures for the operation and maintenance of the cemetery owned by Travis County ("County") and set aside for use as a cemetery for the burial of indigent Travis County residents ("County Cemetery"), even though said Cemetery is not designated as a "Perpetual Care Cemetery" pursuant to applicable Texas statutes. This Policy sets forth those rules and procedures; any procedures not specifically set forth in this Policy will be as determined by TNR and/or TCHHSVS.
- (c) Dedication. The Commissioners Court desires to set aside that property located at _____, _____, Texas, which meets the statutory requirements for location of a cemetery as set forth in Texas Health and Safety Code, Section 711.008(a)(5), as a cemetery to be used solely for interment purposes for the burial of indigent Travis County residents (or other eligible individuals). The property included in the Dedication is set aside for use solely as a cemetery and will not be utilized for any other purposes.
- (d) Applicable Law. All operation and maintenance of cemeteries under this Policy will be performed in compliance with all applicable federal, state and local laws, rules, regulations and ordinances.
- (e) Amendment. Any provision of this Policy may be amended by a majority vote of the Travis County Commissioners Court. Resurveying and change in plats related to the County Cemetery may be performed by TNR as deemed necessary so long as no remains are disturbed. Such changes will be presented to Commissioners Court for approval and an amended map filed with the County Clerk upon such approval.
- (f) Other Rules. Rules governing the daily operation and maintenance of the County Cemetery will be as provided by TNR and/or TCHHSVS and will include such things as: regulation of structures or monuments; regulation of planting and care of plants; determination of criteria for burial in the County Cemetery; regulating the conduct of persons using the County Cemetery; and other such rules as County deems necessary. Such rules of procedure will be maintained in writing by County and provided upon reasonable request.

~~(b) THEREFORE, the Commissioners Court hereby adopts the maintenance of the following:~~

SUBCHAPTER II - COUNTY CEMETERY

100.02 **Definitions.** Unless otherwise specified in this Policy for Operation and Maintenance - Travis County Cemeteries ("Policy"), definitions will be as set forth in Texas Health and Safety Code, Chapter 711. Other definitions include:

(a) "Eligible Decedent" means an individual determined by TCHHSVS to be eligible for burial according to the Travis County Indigent Burial Policy as set forth in Chapter 73 of the County Code ("Chapter 73").

(b) "Funeral Home" means a qualified funeral home establishment providing services under an authorized contract with Travis County.

(c) "TCHHSVS" means Travis County Health, Human Services and Veterans' Services. "TCHHSVS Executive" means Sherri Fleming, County Executive, TCHHSVS, or her designated representative.

(d) "TNR" means the Travis County Transportation and Natural Resources Department. "TNR Executive" means Steve Manilla, County Executive, TNR, or his designated representative.

100.03 **County Cemetery Records.** TNR will create and maintain records related to each individual buried in the County Cemetery which include, at a minimum, the following information:

- (a) Date remains were received.
- (b) Date remains were interred.
- (c) Name and age of person interred, when that information is made available. IF such information is not available, then such identifying information as is available will be recorded.
- (d) Identity of the plot in which the remains were interred.

100.04 **Declaration and Dedication.** The County Cemetery is hereby established and will be maintained exclusively for the purpose of burial of indigent County residents or other individuals meeting the eligibility for burial as set by the Travis County Commissioners Court. The Commissioners Court has provided for the dedication of the property as a cemetery by Resolution and filed the appropriate documents related to such dedication.

100.05 **Title.** Title to the County Cemetery will be filed with the Travis County Clerk, including the declaration of intention for use, dedication as a cemetery, and copy of survey and map or plat showing the subdivision of the County Cemetery into plots with either descriptive names and/or unique numbers applicable to each plot/section.

100.06 **Compliance/Discrimination.** All services and activities provided under this Policy shall be provided in compliance with the Constitutions of the United States and Texas and with all applicable federal, state and local orders, laws, regulations, rules, policies and certifications. Burials will be provided to all those meeting the eligibility criteria lawfully established by Travis County without regard to race, religion, color, gender, national origin, age or handicapped condition. County policies and contracts will require all involved (County departments, County officials, County employees and contractors) to meet the requirements of this Section 100.06.

100.07 **Other Guidelines.**

(a) **Preparation.** All preparation for burial will be performed by a Funeral Home under contract with Travis County for such services.

- (b) Disposition of Remains. Disposition of remains will be determined and authorized by qualified individual(s) pursuant to Texas Health and Safety Code, Section 711.002.
- (c) Graves. Remains will be buried in accordance with Texas Health and Safety Code, Section 714.001, "Depth of Graves," and any other applicable laws, rules, or statutes.
- (d) Removal of Remains. When necessary, removal of remains will be performed by TNR in compliance with applicable provisions Texas Health and Safety Code, Section 711.004 and 711.0105 (as determined by TNR Executive), and according to applicable County policies and procedures.
- (e) Services. Unless otherwise agreed to by County (TCHHSVS Executive and/or TNR Executive), services prior to interment will be allowed at the County Cemetery pavilion according to this Policy, Chapter 73 of the Travis County Code and all other applicable County policies, codes and contracts.
- (f) Cremation. County may provide a location(s) within the County Cemetery with plots sized and set aside for burial of cremated remains should those remains be unclaimed following cremation of an Eligible Decedent. Such plots will be designated on plots in a similar manner as other plots, with records created and maintained including the same information as set forth in Section 100.03 of this Policy.
- (g) Access. Any person desiring to access the County Cemetery will be provided reasonable egress and ingress during those reasonable hours set by TNR. Designated routes as established by TNR will be followed. Other access may be provided with notice and permission of TNR.

SUBCHAPTER III - NON-COUNTY CEMETERIES

100.08 Travis Non-County Cemetery Maintenance Policy

(a) Qualifications.

(1) Travis County will consider requests from County residents to maintain cemeteries providing the cemetery complies with all of the following numbered conditions:

- (A) The cemetery has a grave marker more than 50 years old; and
- (B) The cemetery is in need of maintenance to preserve the historical significance of the site or protect the public health, safety or welfare; and
- (C) The county must have owned, since September 1, 1976, the land upon which the cemetery sits and have continuously owned the land since that date.

(2) In no event will the County be required to begin maintenance upon a cemetery already maintained by a religious organization or maintained by a fraternal organization, or one which is a perpetual care cemetery, or one which is within the boundaries of an incorporated municipality unless an Interlocal Agreement is approved by the County and the Municipality.

100.09 Procedure for Approval

(a) Presentation to Commissioners Court. Should a resident of the County have documentation adequate to show a cemetery is qualified for maintenance, the resident may present the documentation to the Commissioner in whose precinct the Cemetery is located. The Commissioner shall sponsor a work session item, or schedule an agenda item in a regular voting session of the Commissioners Court, in accordance with the Commissioners Court Rules of Procedure to discuss if the qualified cemetery is one which the Commissioners Court shall designate to be maintained.

(b) **Documentation.** Should the item be placed on the Commissioners Court Voting Session for approval, the information presented to support the meeting of qualifications will be carefully evaluated. Documents which would aid the County in its evaluation could include:

- (1) Pictures of the site
- (2) Deeds or other evidence of ownership
- (3) Reports from health authorities as to the health risks
- (4) Reports from historical organizations as to the significance of the cemetery
- (5) Indications that any discriminatory practices reflected in the past have been cured.

(c) **Recording of Acceptance.** Should the Commissioners Court vote to maintain a cemetery qualified under this Policy, the Court shall forward a certified copy of the Court minutes to the Secretary of State of Texas certifying the cemetery qualifies for maintenance according to applicable law.

100.10 Maintenance.

(a) **TNR Operation.** TNR shall perform maintenance upon cemeteries accepted under this Policy.

(b) **Maintenance.** Maintenance may include:

- (1) Periodic mowing
- (2) Removing overgrowth of trees and shrubs
- (3) Trimming trees and shrubs
- (4) The planting or seeding of new turf and shrubs
- (5) Treatment of turf for weeds
- (6) Filling of sunken gravesites
- (7) Trash pickup
- (8) Fencing and providing access
- (9) Irrigation

(c) **Donations.** Donations provided by parties interested in the maintenance of a cemetery will be used for the replacement and planting of new trees, shrubs and turf for the cemetery designated by the party.