

BRAZOS COUNTY COMMISSIONERS COURT ORDER

Authorizing Enforcement of the Texas Clean Air Act
and employing Special Counsel to file suit to enforce the Act.

WHEREAS, it reasonably appears from public statements made by Volkswagen Aktiengesellschaft and its subsidiaries Volkswagen Group of America, Inc. and Audi of America, LLC (hereinafter "Volkswagen") that air pollution violations of the Texas Clean Air Act have occurred within the jurisdiction of Brazos County since 2008; and

WHEREAS, Brazos County is empowered by statute to enforce the Texas Clean Air Act within Brazos County in the same manner as the Texas Commission for Environmental Quality; and

WHEREAS, enforcement of the law regarding air pollution requires Brazos County to institute legal proceedings requiring legal services; and

THEREFORE, the Commissioners Court of Brazos County, Texas does hereby ORDER and RESOLVE that:

1. Commissioners Court grants an exemption from competitive bidding and proposal procedures in accordance with Texas Local Government Code Section 262.024(a)(4) providing that a contract for professional service is exempt from the requirements established by Section 262.023 of the Local Government Code.

2. Commissioners Court selects Anthony F. Constant as Special Counsel under the terms and conditions of employment of such counsel as set out in the attached Professional Services Agreement.

3. The Brazos County Commissioners Court finds as follows:

(1) there is a substantial need for the legal services;

(2) the legal services cannot be adequately performed by the attorneys and supporting personnel of Brazos County or by the attorneys and supporting personnel of another public agency; and

(3) the legal services cannot reasonably be obtained from attorneys in private practice under a contract providing only for the payment of hourly fees, without regard to the outcome of the matter, because of the nature of the matter for which the services will be obtained and because Brazos County does not have appropriated funds available to pay the estimated amounts required under a contract providing only for the payment of hourly fees; and

4. Commissioners Court authorizes the Brazos County Attorney and Special Counsel to file such claims and litigation as the Brazos County Attorney and Special Counsel deem necessary against Volkswagen Aktiengesellschaft, Audi Aktiengesellschaft, Dr. Ing. h. c. F. Porsche Aktiengesellschaft, Robert Bosch GmbH, Volkswagen Group of America, Inc., Audi of America, LLC and their corporate affiliates, parents, and subsidiaries, and such other defendants as may be added to the litigation (collectively "Defendants"). The lawsuit concerns air pollution caused by the maintenance and operation of certain automobiles in Brazos County and violations of the Texas Clean Air Act and the environmental regulations promulgated by the Texas Commission on Environmental Quality in Title 30 of the Texas Administrative Code and any other applicable common law or statutory causes of action that may exist to reduce air pollution in Brazos County and prevent conduct that increases air pollution in Brazos County in violation of law, including those laws that preceded the current statutes.

5. The Brazos County Judge or his designee is authorized to execute on behalf of Brazos County an agreement with Special Counsel (hereinafter the "Agreement") containing terms and provisions substantially similar to those contained in the attached agreement.

6. All fees to be paid to Special Counsel are contingent upon the recovery of the penalties, attorneys' fees and costs as provided for in the Agreement and shall be paid only from such recovery and no money shall be due or paid from the General Fund or any special fund under the Agreement.

7. All Brazos County officials and employees are authorized to do any and all things necessary or convenient to accomplish the purposes of this order.

DONE IN OPEN COURT this the ^{5th}~~28th~~ day of ^{July}~~June~~ 2016.



Duane Peters
County Judge

Lloyd Wasserman
Lloyd Wasserman
Commissioner Precinct 1

Sammy Catalena
Sammy Catalena
Commissioner Precinct 2

Kenny Mallard
Kenny Mallard
Commissioner Precinct 3

Irma Cauley
Irma Cauley
Commissioner Precinct 4

ATTEST:

Faria McQueen
County Clerk