

**From:** "Roberts, Yolanda" <YolandaRoberts@andrewskurth.com>  
**To:** <Tpollan@bickerstaff.com>, "Kyle, Jerry" <JerryKyle@andrewskurth.com>  
**CC:** <jim@carpenteraustin.com>, "Garry Kimball" <garry@spubfin.com>, <PLindne...>  
**Date:** 4/13/2010 2:38 PM  
**Subject:** Chapter 381 Economic Development Agreement between Bastrop County, Texas and Central Texas Airport, LLC Agreement (sent on behalf of Jerry Kyle)  
**Attachments:** Pollan Ltr dated April 14 2010.PDF

Please see the attached letter regarding the above-referenced Agreement.  
Please call Jerry Kyle with any questions.

Yolanda G. Roberts  
Legal Secretary

Andrews Kurth LLP  
111 Congress Avenue, Suite 1700  
Austin, Texas 78701  
512.320.9257 Phone  
yolandaroberts@andrewskurth.com  
andrewskurth.com <<http://www.andrewskurth.com/>>

Confidentiality Notice: The information contained in this e-mail and any attachments to it may be legally privileged and include confidential information intended only for the recipient(s) identified above. If you are not one of those intended recipients, you are hereby notified that any dissemination, distribution or copying of this e-mail or its attachments is strictly prohibited. If you have received this e-mail in error, please notify the sender of that fact by return e-mail and permanently delete the e-mail and any attachments to it immediately. Please do not retain, copy or use this e-mail or its attachments for any purpose, nor disclose all or any part of its contents to any other person. Thank you

Treasury Circular 230 Disclosure: Any tax advice in this e-mail (including any attachment) is not intended or written to be used, and cannot be used, by any person, for the purpose of avoiding penalties that may be imposed on the person. If this e-mail is used or referred to in connection with the promoting or marketing of any transaction(s) or matter(s), it should be construed as written to support the promoting or marketing of the transaction(s) or matter(s), and the taxpayer should seek advice based on the taxpayer's particular circumstances from an independent tax advisor.

April 13, 2010

**VIA E-MAIL**

Mr. Thomas M. Pollan  
Bickerstaff Heath Delgado Acosta LLP  
3711 South MoPac Expressway  
Building One, Suite 300  
Austin, Texas 78746

Re: Chapter 381 Economic Development Agreement between Bastrop County, Texas and Central Texas Airport, LLC (the "Agreement")

Dear Tom:

Thank you for your letter dated April 8, 2010 (the "Letter") seeking further clarification of our response to the County's list of certain non-negotiable terms for the referenced Agreement, as outlined in your letter dated March 23, 2010. (Capitalized terms used in this letter that are not otherwise defined have the meaning assigned in the Agreement.) In response to your letter, we offer the following clarifications and responses:

1. We agree that the text of Section 7(d) will be revised to conform to the County's original language, as requested.

As a general point of clarification: to the extent that any item or provision identified in your March 23 letter was not specifically mentioned in our March 29 response, our March 29 response was intended to express our agreement with and acceptance of the County's non-negotiable terms.

2. The Company understands the County's concern that the restrictive covenants run with the land in all events, notwithstanding the expiration of the term of the Agreement or any other occurrence. The Company also understands that this item is very important to the County. Accordingly, the Company intends to incur significant costs and to invest substantial capital in the development of the Property as the Central Texas Airport in accordance with the restrictive covenants crafted to protect the County's interests (as described in Sections 1(b) and 9(d) of the Agreement). However, the County's failure to appropriate funds would undermine the essential term of the Agreement from the Company's perspective, leaving the Company with no meaningful recourse against the County. To provide a modest offset to the County's absolute right to elect not to

appropriate funds in respect of payments owed under the Agreement, the Company proposes that the restrictive covenants governing the use of the Property (described in Sections 1(b) and 9(d) of the Agreement) run with the land in all events, except in the event that the Agreement is terminated by the Company as a result of the County's failure to appropriate moneys to pay amounts owed under the Agreement. The Company believes that the proposed exception provides limited protection to offset the significant damages that the Company will suffer in the event that the County fails to appropriate funds pursuant to the Agreement. In addition, the risk that the restrictive covenants could or would ever be lifted is solely within County's control and subject to the County's absolute discretion. The Company's requested exception leaves the County with complete control of its destiny on this point.

In light of the foregoing, the Company respectfully requests that the County acknowledge and accommodate the Company's fundamental need to minimize the losses expected to result from a termination of the Agreement caused by the County's failure to appropriate moneys to pay amounts owed under the Agreement.

3. We understand that the County objects to Section 14 (as added by the Company in the draft Agreement dated February 17, 2010) as it relates to (a) providing notice of default to Interested Parties, together with the opportunity for Interested Parties to cure such defaults and assume the benefits of the Agreement, (b) any general consent to the inclusion of the Property within unspecified district(s) and (c) the County's interlocal agreement with the City of Bastrop. We agree that those provisions will be removed from the Agreement.

However, we respectfully request that the County agree to the following, specifically tailored terms in lieu of the foregoing provisions:

- Acknowledgement that the Company intends to rely upon its rights under the Agreement to secure financing for the acquisition, development and construction of the Project, including through the transfer, hypothecation, pledge, sale or other assignment of its rights to receive Program Grant payments (albeit without recourse in favor of any transferee, assignee or secured party against the County).
- In accordance with the County's agreement to comply with the provisions of Chapter 245, Local Government Code ("Chapter 245"), acknowledgement that certain rights and privileges conferred pursuant to the Agreement constitute and shall be deemed to be permits, within the meaning of Chapter 245.

With respect to the inclusion of the Property in a special utility district, the Company intends to request the County's consent by separate instrument (outside of the terms of the Agreement).

4. With respect to the County's request for clarification as to the Company's agreement that there will be no modification of the territory included within the

“Property” without the County’s consent to such modification, the Company accepts and agrees to the County’s terms on this item. (Our March 29 response was intended to express our acceptance of the County’s terms on this item, and we regret any miscommunication on this point in our prior response .)

5. With respect to the Company’s proposed terms relating to the nature and timing of its liability for costs described in Section 9(f) of the Agreement, we agree that the proposed terms constitute economic terms that should be negotiated with the other economic terms of the Agreement (after the County’s non-negotiable terms have been confirmed by the parties).

6. With respect to the County’s request to have the description of the Property (which will comprise Exhibit A to the Agreement), together with evidence that the Company has all of the requisite property under contract or option, the Company has provided the requested documentation to the County Engineer, and the Company will send you the requested documentation by separate transmittal.

To the extent that the foregoing response is acceptable to the County, we would be pleased to distribute a revised version of the Agreement reflecting the incorporation of such terms.

We look forward to proceeding to final negotiation of the terms of the Agreement, followed by approval and execution at the County’s earliest convenience.

Please call me if you have any questions.

Sincerely,



Jerry V. Kyle, Jr.

cc: James R. Carpenter, Central Texas Airport LLC  
Garry Kimball, Specialized Public Finance  
Patrick Lindner, Davidson & Troilo