

**Commissioners Court -December 21 2010
NOTICE OF A MEETING OF THE
COMMISSIONERS COURT OF HAYS COUNTY, TEXAS**



This Notice is posted pursuant to the Texas Open Meetings Act. (VERNONS TEXAS CODES ANN. GOV. CODE CH.551). The Hays County Commissioners Court will hold a meeting at **9:00 A.M.** on the **21ST day of December, 2010**, in the Hays County Courthouse, Room 301, San Marcos, Texas. An Open Meeting will be held concerning the following subjects:

INVOCATION:

**PLEDGE OF ALLEGIANCE - Pledge of Allegiance to the American Flag & Pledge of Allegiance to the Texas Flag
CALL TO ORDER /ROLL CALL**

PRESENTATIONS & PROCLAMATIONS

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| 1 | 4 | Presentation of Christmas Carols from the Scheib Choir directed by Donna Brown, Choir Director. SUMTER |
| 2 | 5 | Presentation of Elected Official and Staff awards, retirement and service gifts. Refreshments to follow. SUMTER/BAEN |

PUBLIC COMMENTS

At this time **3-MINUTE** comments will be taken from the audience on Non-Agenda related topics. To address the Court, please submit a Public Participation/ Witness Form to the County Clerk. Please Complete the Public Participation/ Witness Form in its Entirety.
NO ACTION MAY BE TAKEN BY THE COURT DURING PUBLIC COMMENTS.

CONSENT ITEMS

The following may be acted upon in one motion. A Commissioner, the County Judge, or a Citizen
May request items be pulled for separate discussion and/or action

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| 3 | 6 | Approve payments of county invoices. HERZOG |
| 4 | 7-13 | Approve Commissioner Court Minutes of December 7, 2010. SUMTER/FRITSCH |
| 5 | 14-17 | Amend Juvenile Probation TJPC X Grant to use savings in contract services to purchase gasoline. SUMTER/WILLIAMS |
| 6 | 18-20 | Approve award of Bid #2011-B01 Prescription Drugs for Indigent Health Care Program to Thorpe Lane Pharmacy. SUMTER/HERZOG/MAIORKA/RODRIGUEZ |
| 7 | 21-23 | Accept a Letter Agreement from Capital Area Council of Governments to reimburse Hays County for the purchase of a voice recorder and amend the budget accordingly. CONLEY/CUTLER |
| 8 | 24 | Approve the re-appointments of Buddy Martin and Sharon O'Brien to the Hays County ESD #3 for a two year term, beginning January 1, 2011. INGALSBE |
| 9 | 25 | Approve re-appointment of Bob Love and Jennifer Rodriguez to the Hays County Emergency Services District #6 for a two year term, beginning January 1, 2011. FORD |
| 10 | 26 | Approve re-appointment of Harrell Robinson and Mechelle Kutach and Rodney White to the Board of the Hays County Emergency Services District #1 for a two year term, beginning January 1, 2011. FORD |
| 11 | 27-28 | Approve re-appointment of Fred Rothert as Director for the Plum Creek Conservation District for a four year term beginning January 1, 2011. BARTON |

ACTION ITEMS

ROADS

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| 12 | 29-30 | Call for a public hearing on January 4, 2011 to establish traffic regulations on Peabody Place Drive. FORD/BORCHERDING |
| 13 | 31-32 | Call for a public hearing on January 4, 2011 to establish traffic regulations on Marsh Lane in Shadow Creek subdivision. BARTON/BORCHERDING |

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| 14 | 33-34 | Hold a Public Hearing to consider 1) the proposed improvement to Piedras Pass in Hays County to cause the roadway to comply with Hays County road standards, and 2) the assessment of all or part of the costs of the improvement, pro rata, against the record owners of the real property on Piedras Pass. Possible action to follow public hearing. FORD |
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SUBDIVISIONS

| | | |
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| 15 | 35-35 | 10-4-28 Polo Club Center Subdivision, Phase 2 (5 lots). Discussion and possible action to consider approval of Final Plat. FORD/GARZA |
| 16 | 37-39 | 10-4-46 Great Hills Trail Subdivision, Section One-B (4 Lots). Discussion and possible action to consider approval of Final Plat. BARTON/GARZA |

MISCELLANEOUS

| | | |
|----|---------|---|
| 17 | 40 | Discussion and possible action to appoint Judge Linda Rodriguez to the Bail Bond Board. SUMTER/RODRIGUEZ |
| 18 | 41-43 | Discussion and possible action to approve the appointment of Dennis Rose to the South Central Texas Water Advisory Committee (SCTWAC). INGALSBE/DAVENPORT |
| 19 | 44-52 | Discussion and possible action to adopt a Resolution relating to establishing the County's intention to reimburse itself for the prior lawful expenditure of funds relating to constructing various public improvements from the proceeds of a series of obligations to be issued by the County for authorized purposes; authorizing other matters incident and related thereto; and providing an effective date. SUMTER |
| 20 | 53-56 | Discussion and possible action to authorize a Change Order for the I-35 Phase I Pass-Through Finance Project to provide for a planned public street "Connector" between the new frontage road and the existing Kyle Crossing, and to accept a right-of-way donation for the Connector. BARTON |
| 21 | 57-62 | Discussion and possible action to approve a work authorization for Freese & Nichols to design drainage improvements along Nutty Brown Road. FORD |
| 22 | 63-75 | Discussion and possible action to negotiate a contract with HDR to study/design the intersection of Stagecoach Trail and Wonder World Drive to determine the best engineering solution regarding traffic entering and exiting Stagecoach Trail to the new Government Center. INGALSBE/BORCHERDING |
| 23 | 76-95 | Discussion and possible action to adopt a resolution supporting the proposed changes to the Hays County Development Regulations; hold a public meeting and approve Order Adopting Rules for On-Site Sewage Facilities. SUMTER/GARZA |
| 24 | 96-99 | Discussion and possible action to authorize the County Judge to execute Change Order #2 with Harris Road Company for the Spring Lake Preserve project. CONLEY/HAUFF |
| 25 | 100-101 | Discussion and possible action to continue to double fill the Justice of the Peace, Precinct 4 Clerk position in accordance with Hays County Personal Policy Section 6.02 (until approximately the first week in March, 2011). FORD/KYLE |
| 26 | 102-103 | Discussion and possible action to appoint Robert Avera to the Board of Directors for Hays County ESD #6 for a two year term beginning January 1, 2011. FORD |
| 27 | 104 | Discussion and possible action to approve the appointment of Doyle Krumrey to the Hays County ESD #3 for a two year term beginning January 1, 2011. INGALSBE |
| 28 | 105 | Discussion and possible action to authorize the County Judge to execute an amendment to the Professional Services Agreement with K Friese and Associates for roadwork related to the Economic Development Agreement with U.S. Foods. BARTON |
| 29 | 106-111 | Discussion and possible action to adopt an Order Prohibiting Outdoor Burning pursuant to Local Government Code 352.081 and other applicable statutes. SUMTER/CHAMBERS |
| 30 | 112 | Discussion and possible action to appoint Judge-Elect Bert Cobb to the Capital Area Metropolitan Planning Organization and Commissioner Will Conley as the alternate effective January 1, 2010. SUMTER |
| 31 | 113 | Discussion and possible action to re-instate the Commissioners Court meeting for December 28, 2010. SUMTER |

WORKSHOP

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| 32 | 114-121 | Dispute Resolution Center, Executive Director Anna Bartkowski. Possible action to follow presentation. SUMTER/BARTOWSKI |
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| 33 | 122 | Hays County Web Development Team of the new Hays County website. Possible action to follow presentation. FORD |
| 34 | 123 | MGT consultants and criminal justice task force final report on priorities and "next steps"; establish a permanent Criminal Justice Coordinating Committee in Hays County; appoint initial members; and memorialize bylaws. Possible action to follow presentation. BARTON |

EXECUTIVE SESSIONS

The Commissioners Court will announce it will go into Executive Session, if necessary, pursuant to Chapter 551 of the Texas Government Code, to receive advice from Legal Counsel to discuss matters of land acquisition, litigation, and personnel matters as specifically listed on this agenda. The Commissioners' Court may also announce it will go into Executive Session, if necessary, to receive advice from Legal Counsel regarding any other item on this agenda.

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| 35 | 124 | Executive Session pursuant to 550.074 to discuss personnel matters and to deliberate the evaluation of Department Heads. Possible action may follow in open court. INGALSBE |
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STANDING AGENDA ITEM

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| 36 | Discussion of issues related to proposed capital construction projects in Hays County, including but not limited to the government center; precinct offices; Resources Protection Transportation and Planning Department; and space needs projections for the Hays County Jail and related criminal justice analysis. Possible action may follow. INGALSBE |
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ADJOURNMENT

Posted by 5:00 o'clock P.M. on the 17TH day of December, 2010

COMMISSIONERS COURT, HAYS COUNTY, TEXAS

CLERK OF THE COURT

Hays County encourages compliance with the Americans with Disabilities Act (ADA) in the conduct of all public meetings. To that end, persons with disabilities who plan to attend this meeting and who may need auxiliary aids such as an interpreter for a person who is hearing impaired are requested to contact the Hays County Judge's Office at (512) 393-2205 as soon as the meeting is posted (72 hours before the meeting) or as soon as practical so that appropriate arrangements can be made. While it would be helpful to receive as much advance notice as possible, Hays County will make every reasonable effort to accommodate any valid request regardless of when it is received. Braille is not available.

Agenda Item Request Form

Hays County Commissioners' Court

9:00 a.m. Every Tuesday

Request forms are due in the County Judge's Office

no later than **2:00 p.m.** on **WEDNESDAY.**

Phone (512) 393-2205 Fax (512) 393-2282

AGENDA ITEM: Presentation of Christmas Carols from the Scheib Choir directed by Donna , Choir Director.

CHECK ONE: ☐ **CONSENT** ☐ **ACTION** ☐ **EXECUTIVE SESSION**
☐ **WORKSHOP** ☐ **PROCLAMATION** ☒ **PRESENTATION**

PREFERRED MEETING DATE REQUESTED: December 21, 2010

AMOUNT REQUIRED:

LINE ITEM NUMBER OF FUNDS REQUIRED:

REQUESTED BY:

SPONSORED BY: SUMTER

SUMMARY:

Agenda Item Request Form

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Phone (512) 393-2205 Fax (512) 393-2282

AGENDA ITEM:

Presentation of retirement and service award gifts.

CHECK ONE:

☐ CONSENT

☐ ACTION

☐ EXECUTIVE SESSION

☐ WORKSHOP

☐ PROCLAMATION

☒ PRESENTATION

PREFERRED MEETING DATE REQUESTED: December 21, 2010

AMOUNT REQUIRED: None

LINE ITEM NUMBER OF FUNDS REQUIRED:

REQUESTED BY: Baen

SPONSORED BY: Sumter

SUMMARY:

Service Awards for Elected Officials:

Cecelia Adair, 15 years, 4 months service as District Clerk

Jeff Barton, 10 years, 9 months service with Hays County, including service as County Commissioner, Precinct 2 2007-2010

Karen Ford, 4 years service as County Commissioner, Precinct 4

Linda Fritsche, 41 years, 4 months service with Hays County, including service as County Clerk 2007-2010

Elizabeth Sumter, 4 years service as County Judge

Tommy Ratliff, 1 year, 10 months service as Hays County Sheriff

Anna Martinez Boling, 1 year, 3 months service as County Court at Law Judge

Retirees:

Sherman Brodbeck, 20 years, 1 months service with Hays County, including 4 years, 7 months service as Chief Deputy, Hays County Sheriff's Office

Jimmie Robinson, 3 years, 10 months service as Administrative Assistant in the County Judge's office

Agenda Item Request Form

Hays County Commissioners' Court

2:00 p.m. Every Wednesday

Request forms are due in the County Judge's Office

no later than 2:00 p.m. on WEDNESDAY.

Phone (512) 393-2205 Fax (512) 393-2282

AGENDA ITEM: Approve payment of county invoices.

CHECK ONE: ☒ **CONSENT** ☐ **ACTION** ☐ **EXECUTIVE SESSION**
 ☐ **WORKSHOP** ☐ **PROCLAMATION** ☐ **PRESENTATION**

PREFERRED MEETING DATE REQUESTED: 12/21/10

AMOUNT REQUIRED: None

LINE ITEM NUMBER OF FUNDS REQUIRED: As attached.

REQUESTED BY: Auditor's Office

SPONSORED BY: Bill Herzog 

SUMMARY:

Agenda Item Request Form

Hays County Commissioners' Court

9:00 a.m. Every Tuesday

Request forms are due in the County Judge's Office

no later than **2:00 p.m.** on **WEDNESDAY.**

Phone (512) 393-2205 Fax (512) 393-2282

AGENDA ITEM: APPROVE COMMISSIONER COURT MINUTES OF DECEMBER 7, 2010

CHECK ONE: **X CONSENT** ☐ **ACTION** ☐ **EXECUTIVE SESSION**
☐ **WORKSHOP** ☐ **PROCLAMATION** ☐ **PRESENTATION**

PREFERRED MEETING DATE REQUESTED: DECEMBER 21, 2010

AMOUNT REQUIRED:

LINE ITEM NUMBER OF FUNDS REQUIRED:

REQUESTED BY: FRITSCHÉ

SPONSORED BY: SUMTER

SUMMARY:



STATE OF TEXAS *
COUNTY OF HAYS *

ON THIS THE 7TH DAY OF DECEMBER A.D., 2010, THE COMMISSIONERS' COURT OF HAYS COUNTY, TEXAS, MET IN REGULAR MEETING. THE FOLLOWING MEMBERS WERE PRESENT, TO-WIT:

| | |
|--------------------------|----------------------|
| ELIZABETH "LIZ" SUMTER | COUNTY JUDGE |
| DEBBIE GONZALES INGALSBE | COMMISSIONER, PCT. 1 |
| JEFFERSON W. BARTON | COMMISSIONER, PCT. 2 |
| WILL CONLEY | COMMISSIONER, PCT. 3 |
| KAREN FORD | COMMISSIONER, PCT. 4 |
| LIZ Q. GONZALEZ | DEPUTY COUNTY CLERK |

AND THE FOLLOWING PROCEEDINGS WERE HAD, THAT IS:

Commissioner Conley gave the invocation and Commissioner Ingalsbe led the court in the pledge of allegiance to the flags. Judge Sumter called the meeting to order.

PUBLIC COMMENTS

Mark Key and Ollie Giles made public comments.

27631 APPROVE PAYMENTS OF COUNTY INVOICES

A motion was made by Commissioner Conley, seconded by Commissioner Barton to approve payments of county invoices in the amount of \$1,212,689.63 as submitted by the County Auditor. All voting "Aye". MOTION PASSED

27632 APPROVE COMMISSIONER COURT MINUTES OF NOVEMBER 23, 2010

A motion was made by Commissioner Conley, seconded by Commissioner Barton to approve Commissioner Court Minutes of November 23, 2010 as presented by the County Clerk. All voting "Aye". MOTION PASSED

27633 ACCEPT INSTITUTIONAL OSSF PERMIT FOR AN OFFICE/MINI STORAGE UNIT LOCATED AT 880 WINDY HILL RD., KYLE

Jacob Jisha is proposing an OSSF to serve as an office/mini storage at 880 Windy Hill Road in Precinct 2. This property is 10.1 acres. Water supplied by public water system. The OSSF is a standard gravity flow system with Evapotranspiration Beds. Greg Johnson, P.E., designed the system. The OSSF is designed for a maximum wastewater flow of 48 gpd. A motion was made by Commissioner Conley, seconded by Commissioner Barton to accept institutional OSSF Permit for an Office/Mini Storage located at 880 Windy Hill Rd., Kyle. All voting "Aye". MOTION PASSED

27634 APPROVE AGREEMENT FOR ARBORICULTURAL CONSULTING SERVICES WITH DON GARDNER FOR THE MCGREGOR BRIDGE PROJECT AND AUTHORIZE COUNTY JUDGE TO SIGN AGREEMENT

On November 9, 2010 the Court approved negotiation of a final contract with Arborist Don Gardner in an amount not to exceed \$1,250. A motion was made by Commissioner Ford, seconded by Judge Sumter to approve Agreement for Arboricultural Consulting Services with Don Gardner for the McGregor Bridge Project and authorize the County Judge to sign Agreement with modifications by Special Counsel. All voting "Aye". MOTION PASSED

27635 APPROVE UTILITY PERMITS

A motion was made by Commissioner Conley, seconded by Commissioner Barton to approve utility permit #824 on Redwood Rd (CR 232) issued to the City of San Marcos; permit #825 on Belterra Drive issued to Hays County WCID No. 1; permit #826 on Belterra Drive issued to Hays County WCID No. 1 as presented by the County Road Department. All voting "Aye". MOTION PASSED



DECEMBER 7, 2010

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27636 AMEND FY11 BUDGET OF LCRA SERVICE FEE FUND FOR PAYMENT OF CONTRACT SERVICES FOR URS CORPORATION

On November 23, 2010 the court approved a budget amendment for work on the MS4 Storm Water Quality Program document. The amount requested at that time was \$407 less than the originally contracted amount. This is the final invoice for contract work on that program. Budget Amendment: #171-691-00.5448 LCRA Service Fee Fund, Contract Services \$407. A motion was made by Commissioner Conley, seconded by Commissioner Barton to amend FY11 budget of LCRA Service Fee Fund for payment of contract services for URS Corporation. All voting "Aye". MOTION PASSED

27637 VACATION PLAT OF LOTS 504, 505, AND 506 LA VENTANA PHASE 6 AND REPLAT OF HOMESITE H25, LA VENTANA SUBDIVISION, PHASE 1 [10-4-26 - LOTS] HOLD PUBLIC HEARING AND APPROVE FINAL PLAT

Judge Sumter declared the public hearing open. No public input was received and the public hearing was closed. Programs Manager of Development Services Clint Garza gave staff recommendation for approval. La Ventana Subdivision is a platted subdivision located off Elder Hill Road in Precinct 4. The owner of Homesite H25 (2.64 acres) also owns the three adjacent lots (504 .91 ac, 505 .83 ac and 506 1.07 ac) in Phase 6. He wishes to vacate the three lots in Phase 6 and combine them with Homesite H25 in Phase 1. Although this is a significant decrease in density, a public hearing is required on all cancellation and vacations of previously platted lots. The newly platted 5.45 acre lot will be served by existing connection to public water supply and individual on-site sewage facilities. A motion was made by Commissioner Ford, seconded by Commissioner Barton to approve final plat of vacation plat of Lots 504, 505 and 506 La Ventana Phase 6 and replat of Homesite H25 La Ventana Subdivision Phase 1. All voting "Aye". MOTION PASSED

27638 RE-SUBDIVISION OF TRACT 14 AND A PORTION OF TRACT 15, IN AN UNRECORDED SECTION OF RIVER OAKS OF WIMBERLEY SUBDIVISION [10-3-13 - 2 LOTS] HOLD PUBLIC HEARING AND APPROVE FINAL PLAT

Judge Sumter declared the public hearing open. Gail Machalek the landowner spoke of the re-subdivision, Clint Garza spoke of concern of a neighbor (Van Hoozer Family) and submitted an email from them. No other comments were made and the public hearing was closed. Programs Manager of Development Services Clint Garza gave staff recommendation for approval. River Oaks of Wimberley consists of 5 units of which 4 were platted and recorded through the appropriate subdivision process. Unit 4 is an unrecorded section adjacent to Ridge Oaks Drive and Units 1 & 3. The owner Tract 14 wishes to subdivision her 5.00 acres into 2 new 2.5 acre lots. Although this section is not recorded public notification is required and will take place as normal. Both new lots will be served by individual private water supply and individual on-site sewage facilities. There are no variances and the entire division is not located within any City's extra-territorial jurisdiction. A motion was made by Commissioner Conley, seconded by Commissioner Barton to approve final plat of re-subdivision of Tract 14 and a portion of Tract 15 in an unrecorded section of River Oaks of Wimberley Subdivision. All voting "Aye". MOTION PASSED

27639 DISCUSS THE PARKS AND OPEN SPACE ADVISORY BOARD RECOMMENDATIONS FOR REMAINING PARK BOND FUNDS

On August 31, 2010 the Commissioners Court authorized a Call for Projects for applications for the remaining 2007 Park Bond funds. The Call was opened on September 1, 2010 and closed on October 1, 2010, with 12 project applications received. Presentations were made by all applicants to the Hays County Parks and Open Space Advisory Board (POSAB), and applications were scored based on criteria developed by the POSAB and reviewed by the Commissioners Court prior to the Call. The POSAB is forwarding their recommendations to the Commissioners Court for consideration. Jack Jones Director of Parks in the City of Buda spoke of returning some of the monies to help fund other POSAB projects. Lori Olson of the Trust for Public Land spoke of helping to acquire over 1,000 acres within Hays County for Parks and Open Space. Scott Parker of the Trust for Public Land spoke of working to help acquire Parks and Open Space. Ray Whisenant, Jr. spoke of the process the County went through acquiring the Park property and commended the Court. Jeff Reeves of Hays County Youth Association thanked the Court for their consideration. Max Ramirez of HYBSA thanked the Court for their consideration. Robert Krick of Hays County WCID #2 spoke of what the money would help fund and thanked the Court. Matthew Kutac attorney for Hays County WCID #2 spoke of this being an extension of the WCID #1 trail and thanked the Court for their consideration. Carl Owens of Swimberley spoke of needing funding and how they were scored. A motion was made by Commissioner Conley, seconded by Commissioner Ingalsbe to support the Purgatory Creek expansion in an amount of \$800,000 contingent to the City of San Marcos funding \$150,000 (totaling \$450K) in addition to the donation they have arranged through Karma Development and to have Special Counsel to draw up the documents and authorize the County Judge to sign the Contract and contingent with some type of commitment/funding. A friendly amendment was made by Commissioner Barton and accepted by Commissioner Conley and Commissioner Ingalsbe to fund the Buda Skate Park \$140,000, Bradfield Park \$310,000, the Hays Youth Sports Association \$447,256 (for safety issues), and leaving \$100,000 for contingencies in the Park Bond Funds. All voting "Aye". MOTION PASSED



- 27640 APPROVE A RESOLUTION RELATING TO ESTABLISHING THE COUNTY'S INTENTION TO REIMBURSE ITSELF FOR THE PRIOR LAWFUL EXPENDITURE OF FUNDS RELATING TO CONSTRUCTING VARIOUS PARK IMPROVEMENTS FROM THE PROCEEDS OF A SERIES OF OBLIGATIONS TO BE ISSUED BY THE COUNTY FOR AUTHORIZED PURPOSES; AUTHORIZING OTHER MATTERS INCIDENT AND RELATED THERETO; AND PROVIDING AN EFFECTIVE DATE**

It was stated that the date of election needs to be changed to May 12, 2007 and the amount not to exceed \$10,015,000 on the resolution. The effective date is today. A motion was made by Judge Sumter, seconded by Commissioner Ford to approve a Resolution relating to establishing the County's intention to reimburse itself for the prior lawful expenditure of funds relating to constructing various park improvements from the proceeds of a series of obligations to be issued by the County for authorized purposes; authorizing other matters incident and related thereto; and providing an effective date and correcting the date of the election and amount on the final Resolution. All voting "Aye". MOTION PASSED

- 27641 ACCEPT THE PARKS AND OPEN SPACE ADVISORY BOARD RECOMMENDATION OF DESIGN WORKSHOP FOR THE PARKS AND OPEN SPACE MASTER PLAN FOR THE COUNTY AND SET ASIDE \$100,000 FOR FUNDING, AUTHORIZE MARK KENNEDY AND JEFF HAUFF TO NEGOTIATE THE CONTRACT, AND AUTHORIZE THE COUNTY JUDGE TO EXECUTE THE CONTRACT**

Grants Administrator Jeff Hauff spoke of this soon coming to a close due to actions taken this morning. An RFQ went out for a consultant for a Master Plan and is currently being reviewed by the committee. A presentation and recommendation will be made to the court for a selection. In addition to a selection, the court, as previously discussed, needs to formally set aside an additional \$50,000 from the Park Bond funds to adequately fund the project. A motion was made by Judge Sumter, seconded by Commissioner Conley to accept the Parks and Open Space Advisory Board recommendation of Design Workshop for the Parks and Open Space Master Plan for the County and set aside \$100,000 for funding, authorize Mark Kennedy and Jeff Hauff to negotiate the contract, and authorize the County Judge to execute the contract. All voting "Aye". MOTION PASSED

- 27642 ADOPT A RESOLUTION SUPPORTING THE LEGISLATIVE PASSAGE OF TAKEBACK RECYCLING OF MERCURY CONTAINING PRODUCTS; PRODUCER TAKEBACK RECYCLING OF TELEVISIONS AND OTHER ELECTRONICS; AND ESTABLISHING A RECYCLING REFUND SYSTEM FOR BEVERAGE CONTAINERS**

Jerry Pinnix spoke in support of all three resolutions. A motion was made by Judge Sumter, seconded by Commissioner Ford to adopt a Resolution supporting the legislative passage of takeback recycling of mercury containing products; producer takeback recycling of televisions and other electronics; and establishing a recycling refund system for beverage containers. All voting "Aye". MOTION PASSED

- 27643 ADOPT A POLICY TO MANDATE POSTING OF ALL PUBLIC NOTICES ON THE HAYS COUNTY WEBSITE**

This policy will require that all Hays County public notices that are optionally posted in newspapers in Hays County will also be posted on the county website for the convenience of our residents. The Hays County Webmaster will create a place on the newly designed county website entitled Public Notices for the posting of all County-issued public notices. A motion was made by Judge Sumter, seconded by Commissioner Barton to adopt a policy to mandate posting of all public notices on the Hays County Website. All voting "Aye". MOTION PASSED

- 27644 CANCEL COMMISSIONER'S COURT ON DECEMBER 28, 2010**

In years past, we have typically cancelled Commissioner's Court the Tuesdays after the holidays, in part, since time is limited to prepare the agenda. A motion was made by Commissioner Ingalsbe, seconded by Commissioner Conley to cancel Commissioner's Court on December 28, 2010. All voting "Aye". MOTION PASSED



DECEMBER 7, 2010

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27645 APPROVE A RESOLUTION IN SUPPORT OF ADDITIONAL POWERS TO PROMOTE ROAD AND DRAINAGE AND OTHER IMPROVEMENTS WITHIN THE RANCH AT CLEAR FORK CREEK MUNICIPAL UTILITY DISTRICTS IN THE EASTERN PORTION OF PCT. 2, AND ADVISING THE STATE SENATOR AND STATE REPRESENTATIVE-ELECT OF THE COUNTY'S POSITION BEFORE THE END OF THE YEAR SO THAT LEGISLATION MAY BE PREPARED

This is a non-binding resolution designed to inform Senator Wentworth and Representative elect Jason Isaac of the County's support for adding certain limited powers to two already-existing MUD's – Ranch at Clear Fork Creek No. 1 and No. 2. These MUD's straddle the Hays-Caldwell line, with approximately 96 percent of the land in Caldwell County. Caldwell County has already passed a similar resolution of support. Uhland will take up the resolution at its next meeting. The landowners feel it is important to act in December so that legislation authorizing the changes may be prepared and filed for the start of the next session in January. The MUD's were created in 2004 by a different landowner. Since then the land in question – about 2,706 acres in all (105 acres in Hays County; 772 within the Uhland ETJ) – has been acquired by investors under the umbrella of Walton Global Investments, Ltd. Walton wishes to add the ability to finance roadway and drainage improvements; and subdivision powers within its MUD. The property is intended to be developed as a master planned community, mainly residential and open space and parks, but including also education and civic uses and neighborhood retail along SH 21, according to Walton. Walton is working closely with the City of Uhland and is coordinating in advance with Hays County and local school districts for future school and emergency service sites, road planning, and so on. The development has the potential to substantially increase tax base in an area of the county that has struggled economically for decades. Alexa Night of Walton spoke of this issue which will be considered for approval by the City of Uhland on Thursday. A motion was made by Commissioner Barton, seconded by Commissioner Ingalsbe to approve a Resolution in support of additional powers to promote road and drainage and other improvements within the Ranch at Clear Fork Creek Municipal Utility Districts in the eastern portion of Pct. 2 and advising the State Senator and State Representative-elect of the County's position before the end of the year so that legislation may be prepared contingent upon approval of City of Uhland. All voting "Aye". MOTION PASSED

27646 APPROVE REVISED COST AND PLANS TO THE SALLY PORT AT THE HAYS COUNTY GOVERNMENT CENTER

On November 16th the court received word that the cost of the Sally Port had increased from the estimated cost of \$91,475 to \$169,341.14. Since then, Bob Hinkle (Broadus & Assoc) and the committee requested value engineering be considered to bring the cost down. Consideration was given to the number of bays and a more simplified and useful construction option by eliminating some elements of the project. The court may want to consider allowing Mr. Hinkle to further negotiate to bring the cost of the 4-bay down closer to the cost of the 3-bay. The 4-bay allows for 3 vehicles to park side by side. Bob Hinkle asked the Court for their preference. A decision is needed prior to moving forward. A motion was made by Commissioner Ingalsbe, seconded by Commissioner Barton to approve revised cost and plans to the Sally Port at the Hays County Government Center of approximately \$100K and give Bob Hinkle the authority to renegotiate the costs. Commissioner Ingalsbe, Commissioner Barton and Judge Sumter voting "Aye". Commissioner Conley and Commissioner Ford voting "No". MOTION PASSED

27647 AUTHORIZE THE COUNTY JUDGE TO EXECUTE CHANGE ORDER #1 WITH HARRIS ROAD COMPANY FOR THE SPRING LAKE PRESERVE PROJECT

On October 5, 2010 the Commissioners Court awarded the construction bid for the Spring Lake Preserve project to Harris Road Company of Wimberley, Texas in the amount of \$108,220. This Change Order will remove the trail signs bid item from the project – valued at \$8,000 – and substitute removal of old, deteriorated asphalt from a portion of the trail way in order to place new base material and crushed stone surfacing on a stable base. This task is also valued at \$8,000, so there is no net change in the original contract amount. Texas State University, as a partner in the project, will produce the trail signs at no additional cost to the project. The Spring Lake Preserve project is a joint effort between Texas State University, the City of San Marcos, and Hays County to preserve a significant land resource and provide public access to this area. This project is funded through a grant from the Texas Parks and Wildlife Department (TPWD), with TSU and the City of San Marcos providing additional funding. No County funds have been allocated or are necessary to complete the construction project. The project will include accessible and primitive trail development, interpretive signage, benches, outdoor amphitheater (sundial), composition deck boardwalk, and other amenities. A motion was made by Commissioner Conley, seconded by Commissioner Ford to authorize the County Judge to execute Change Order #1 with Harris Road Company for the Spring Lake Preserve Project. All voting "Aye". MOTION PASSED



27648 ELIMINATE A LIEUTENANT POSITION AND REPLACE IT WITH AN OFFICE OF PROFESSIONAL RESPONSIBILITY INSPECTOR POSITION IN THE SHERIFF'S OFFICE

The Sheriff would like to delete slot 7 of the Lieutenant position, Grade 115 and add an Office of Professional Responsibility, Inspector position, Grade 115. The Inspector position will perform highly advanced and timely investigative work, including but not limited to all complaints against Hays County Sheriff's Office personnel regarding allegations of illegal acts and/or employee misconduct, employee involved critical incidents, and applicant background checks. Actions requested and budget impact: delete Lieutenant, Slot 7 = \$71,000 and add Inspector, Slot 1 = \$51,737. A motion was made by Judge Sumter, seconded by Commissioner Conley to eliminate a Lieutenant position and replace it with an Office of Professional Responsibility Inspector Position in the Sheriff's Office. All voting "Aye". MOTION PASSED

27649 EXECUTE A LEASE AGREEMENT WITH THE CITY OF KYLE FOR THE COUNTY'S LEASE OF THE EXISTING PRECINCT 2 OFFICES AT 111 FRONT STREET IN KYLE

This is essentially a renewal of the County's existing lease for the Precincts 2 Offices. Since the lease price is increasing, this item has not been posted as a renewal. Rather, it is posted as a new lease agreement between the County and the City of Kyle. Some adjustments to the original lease have been made to fit the ongoing practices of landlord/tenant, but all other lease terms remain the same. A motion was made by Commissioner Barton, seconded by Commissioner Ingalsbe to execute a Lease Agreement with the City of Kyle for the County's Lease of the existing Precinct 2 offices at 111 Front Street in Kyle. All voting "Aye". MOTION PASSED

27650 AUTHORIZE THE COUNTY JUDGE TO EXECUTE A CONTRACT WITH WHITENTON GROUP, INC. TO PROVIDE AN ENVIRONMENTAL MONITOR FOR THE MCGREGOR BRIDGE CONSTRUCTION PROJECT

The Whitenton Group, Inc. was selected in response to RFQ #2011-P02 in relation to the McGregor Bridge project and was approved in Court on November 16, 2010. A motion was made by Commissioner Ford, seconded by Judge Sumter to approve the Agreement and to authorize the County Judge to execute a contract with Whitenton Group, Inc. to provide an environmental monitor for the McGregor Bridge construction project in an amount not to exceed \$15K and contingent to add to the Agreement our right to Audit Provision. All voting "Aye". MOTION PASSED

27651 MODIFY THE MEMORANDUM OF UNDERSTANDING BETWEEN HAYS COUNTY AND THE DAHLSTROM FAMILY, EXTENDING THE DATE BY WHICH A LEASE AGREEMENT MUST BE REACHED TO DECEMBER 31, 2011

The original MOU between the Dahlstrom's and Hays County provides that, if a lease is not executed by December 31, 2010, the broad terms of the MOU shall be converted to a lease agreement which shall control the County's activities on the portion of Dahlstrom Ranch commonly known as the Howe Pasture. The Howe Pasture is the area in which the Parties have agreed to allow passive public access (i.e. hiking, bird watching, etc.). The Parties continue to discuss how the activities on the Howe pasture will be shared, and a lease agreement is imminent. However, the parties don't believe it is possible to achieve a workable lease agreement before the end of 2010; and neither party desires a conversion of the terms of the MOU, which would fail to address many terms and conditions of the landlord/tenant relationship. A motion was made by Commissioner Barton, seconded by Commissioner Ingalsbe to modify the Memorandum of Understanding between Hays County and the Dahlstrom Family, extending the date by which a Lease Agreement must be reached to December 31, 2011. All voting "Aye". MOTION PASSED

EXECUTIVE SESSION PURSUANT TO 551.074 TO DISCUSS PERSONNEL MATTERS AND TO DELIBERATE THE EVALUATION OF DEPARTMENT HEADS

Court convened into closed executive session at 12:40 p.m. and reconvened into open meeting at 1:20 p.m. No action taken.

EXECUTIVE SESSION PURSUANT TO SECTIONS 551.071 AND 551.072 OF THE TEXAS GOVERNMENT CODE: CONSULTATION WITH COUNSEL AND DELIBERATION REGARDING THE PURCHASE, EXCHANGE, OR VALUE OF REAL PROPERTY RELATED TO RIGHT OF WAY ACQUISITION ON CR 266 IN PRECINCT 1

Court convened into closed executive session at 12:10 p.m. and reconvened into open meeting at 12:40 p.m. No action taken.



DECEMBER 7, 2010

VOLUME U PAGE 501

**DISCUSSION OF ISSUES RELATED TO PROPOSED CAPITAL CONSTRUCTION PROJECTS IN
HAYS COUNTY, INCLUDING THE GOVERNMENT CENTER**

This item was discussed and action was taken under Resolution #27646

Court was adjourned.

I, LINDA C. FRITSCHER, COUNTY CLERK and EXOFFICIO CLERK OF THE COMMISSIONERS' COURT, do hereby certify that the foregoing contains a true and accurate record of the proceedings had by the Hays County Commissioners' Court on DECEMBER 7, 2010.



LINDA C. FRITSCHER, COUNTY CLERK AND EXOFFICIO
CLERK OF THE COMMISSIONERS' COURT OF
HAYS COUNTY, TEXAS



Agenda Item Request Form

Hays County Commissioners' Court

9:00 a.m. Every Tuesday

Request forms are due in the County Judge's Office

no later than 2:00 p.m. on WEDNESDAY.

Phone (512) 393-2205 Fax (512) 393-2282

AGENDA ITEM: Amend Juvenile Probation TJPC X Grant to use savings in contract services to purchase gasoline.

CHECK ONE: ☒ **CONSENT** ☐ **ACTION** ☐ **EXECUTIVE SESSION**
☐ **WORKSHOP** ☐ **PROCLAMATION** ☐ **PRESENTATION**

PREFERRED MEETING DATE REQUESTED: December 21, 2010

AMOUNT REQUIRED: \$3,000.00

LINE ITEM NUMBER OF FUNDS REQUIRED: 001-686-99-035.5501

REQUESTED BY: Shelly Williams

SPONSORED BY: Liz Sumter

SUMMARY:

This amendment will allow the program to spend the grant award with no matching funds required from the County.

Budget Amendment;

001-686-99-035.5501 – 3,000.00

001-686-99-035.5448 – (3,000.00)

Agenda Item Routing Form

DESCRIPTION OF Item: Amend Juvenile Probation TJPC X Grant to use savings in contract services to purchase gasoline.

PREFERRED MEETING DATE REQUESTED: December 21, 2010

COUNTY AUDITOR

AMOUNT: \$3,000.00

LINE ITEM NUMBER: 001-686-99-035.5501

COUNTY PURCHASING GUIDELINES FOLLOWED: N/A

PAYMENT TERMS ACCEPTABLE: N/A

COMMENTS: See budget amendment.

Bill Herzog

SPECIAL COUNSEL

CONTRACT TERMS ACCEPTABLE: _____

COMMENTS:

COUNTY JUDGE

Signature Required if Approved

DATE CONTRACT SIGNED: _____

ORDER AMENDING THE COUNTY OF HAYS BUDGET
FOR FY ENDING SEPTEMBER 30, 2011

THE STATE OF TEXAS
COUNTY OF HAYS

WHEREAS, on the 21th day of December, A.D., 2010, the Commissioners' Court of Hays County, Texas

has determined that a need exists for the reallocation of certain appropriations included in the FY 2011 Budget in accordance with the attached list which is hereby made a part hereof. It was also determined and agreed that the need was of such a nature as to justify and require amendment of the Budget, as provided in Section 111.010(D), Local Government Code.

NOW, THEREFORE, the COMMISSIONERS' COURT OF HAYS COUNTY, TEXAS, pursuant to the authority granted to it under Section 111.010(D), Local Government Code, ORDERS that the pertinent parts of the County of Hays Budget for the Fiscal Year ending September 30, 2011 be and they are hereby amended as indicated on the attached list.

It is the further order of the COMMISSIONERS' COURT that a copy of the amendment provided herein be filed with the Clerk of the County Court of Hays County, with instructions that it be attached to the Budget originally adopted and now on file in the office of the County Clerk.

Passed by the COMMISSIONERS' COURT OF HAYS COUNTY, TEXAS, this 21th day of December, 2010.

| | | |
|---------|-----|----------------------------------|
| FOR | () | _____ |
| AGAINST | () | ELIZABETH 'LIZ' SUMTER |
| ABSTAIN | () | COUNTY JUDGE, HAYS COUNTY, TEXAS |

| | | |
|---------|-----|----------------------------|
| FOR | () | _____ |
| AGAINST | () | DEBBIE GONZALES - INGALSBE |
| ABSTAIN | () | COMMISSIONER, PRECINCT 1 |

| | | |
|---------|-----|--------------------------|
| FOR | () | _____ |
| AGAINST | () | JEFF BARTON |
| ABSTAIN | () | COMMISSIONER, PRECINCT 2 |

| | | |
|---------|-----|--------------------------|
| FOR | () | _____ |
| AGAINST | () | WILL CONLEY |
| ABSTAIN | () | COMMISSIONER, PRECINCT 3 |

| | | |
|---------|-----|--------------------------|
| FOR | () | _____ |
| AGAINST | () | KAREN FORD |
| ABSTAIN | () | COMMISSIONER, PRECINCT 4 |

ATTEST:

| |
|----------------------------------|
| _____ |
| LINDA C. FRITSCHKE |
| COUNTY CLERK, HAYS COUNTY, TEXAS |

FUND NO. 001
FUND TITLE: GENERAL

| | | Appropriation before Amendment | <u>Amendment</u> | | Appropriation as Amended |
|---|---------------|--------------------------------------|------------------|------------------|--------------------------------|
| <u>Line Item - Expenditures</u> | | | <u>Increases</u> | <u>Decreases</u> | |
| <u>JUVENILE PROBATION TJPC-X ICBP GRANT (686-99-035):</u> | | | | | |
| 001-686-99-035.5501 | Travel | 500 | 3,000 | | 3,500 |
| 001-686-99-035.5448 | Contract Svcs | 13,000 | | (3,000) | 10,000 |

Transfer for travel from savings in services.

SHERIFF/CAPCOG 911 VOICE RECORDER GRANT (618-99-066):

| | | | | | |
|---------------------|-------------------|-----|------------------|------------------|--------|
| 001-618-99-066.5719 | Misc Eqpt | -0- | 25,000 | | 25,000 |
| <u>REVENUE</u> | | | <u>Decreases</u> | <u>Increases</u> | |
| 001-618-99-066.4301 | Intergovernmental | -0- | | 25,000 | 25,000 |

Budget grant award.

Agenda Item Request Form

Hays County Commissioners' Court

9:00 a.m. Every Tuesday

Request forms are due in the County Judge's Office

No later than **2:00 p.m.** on **WEDNESDAY.**

Phone (512) 393-2205 Fax (512) 393-2282

AGENDA ITEM: Approve award of Bid #2011-B01 Prescription Drugs for Indigent Health Care Program to Thorpe Lane Pharmacy.

CHECK ONE: ☒ **CONSENT** ☐ **ACTION** ☐ **EXECUTIVE SESSION**

 ☐ **WORKSHOP** ☐ **PROCLAMATION** ☐ **PRESENTATION**

PREFERRED MEETING DATE REQUESTED: December 21, 2010

AMOUNT REQUIRED:

LINE ITEM NUMBER OF FUNDS REQUIRED:

REQUESTED BY: Herzog/Maiorka/Rodriguez

SPONSORED BY: Sumter

SUMMARY: There were four vendors that responded to the Bid for Prescription Drugs for the Indigent Health Care Program. After review of the bids it was determined that Thorpe Lane Pharmacy, being a local business and whom we are currently contracted with, provides the best cost and services for all areas of the County for the program. (Please see explanation of selection from the Health Dept. and the tabulation sheet)

Reasons for keeping Thorpe Lane Pharmacy as the Indigent Healthcare Pharmacy for our clients.

- Provides mail out services for a small fee of two to three dollars
- Delivery of medications to clients homes within the San Marcos area
- Provide refill reminder listing for clients to pickup medications
- Assist with enrolling our clients and public into Medicare Part D services
- Direct our clients and public to "extra help" resources
- Provide a monthly listing of up to 400 selected generic medications, and receive up to 90 tablets for a discounted rate of \$12.99
- Coordination of pharmacy staff and Indigent Healthcare staff is committed to Hays County citizens, and our medical providers
- Pharmacy staff is a stable crew who know the patients very well and give them advise to maximize the patients benefit
- Coordination is of the utmost importance for quality service
- With a small number of indigent clientele, we need a centralized pharmacy which can give quality client-friendly services
- In the years working with Thorpe Lane Pharmacy we have never received one complaint

Bid#2011-B01
Prescription Drugs for Indigent
Health Care Program

| | Thorpe Lane Pharmacy | USScript | Wimberley Pharmacy | Dripping Springs Pharmacy |
|---|------------------------------|----------|-----------------------|------------------------------|
| INDIGENT HEALTH CARE | SAN MARCOS AREA | | | |
| Rate discount-Redbook \$\$ (Brand Name) Less than Wholesale listed in Current Redbook must be at least 10%: | *13% | 15% | 13% | No Bid |
| Rate of discount(Generic): | ** -20% | -40% | 20% | No Bid |
| Drug dispensing Fee: | \$2.75 | \$3.00 | \$1.00 | No Bid |
| HLTH DEPT PATIENT DISCOUNT | | | | |
| AWP(-) Discount: | ** 12% | 15% | 10% | No Bid |
| Drug dispensing Fee: | \$3.00 | \$3.00 | \$1.00 | No Bid |
| INDIGENT HEALTH CARE | KYLE//BUDA AREA | | | |
| Rate discount-Redbook \$\$ (Brand Name) Less than Wholesale listed in Current Redbook must be at least 10%: | *13% | 15% | No Bid | No Bid |
| Rate of discount(Generic): | ** -20% | -40% | No Bid | No Bid |
| Drug dispensing Fee: | \$2.75 | \$3.00 | No Bid | No Bid |
| HLTH DEPT PATIENT DISCOUNT | | | | |
| AWP(-) Discount: | ** 12% | 15% | No Bid | No Bid |
| Drug dispensing Fee: | \$3.00 | \$3.00 | No Bid | No Bid |
| INDIGENT HEALTH CARE | DRIPPING SPRINGS AREA | | | |
| Rate discount-Redbook \$\$ (Brand Name) Less than Wholesale listed in Current Redbook must be at least 10%: | *13% | 15% | No Bid | 10% |
| Rate of discount(Generic): | ** -20% | -40% | No Bid | 43.50% |
| Drug dispensing Fee: | \$2.75 | \$3.00 | No Bid | \$5.00 -Brand |
| HLTH DEPT PATIENT DISCOUNT | | | | Zero on Generic |
| AWP(-) Discount: | ** 12% | 15% | No Bid | 10% |
| Drug dispensing Fee: | \$3.00 | \$3.00 | No Bid | \$5.00 |
| INDIGENT HEALTH CARE | WIMBERLEY AREA | | | |
| Rate discount-Redbook \$\$ (Brand Name) Less than Wholesale listed in Current Redbook must be at least 10%: | *13% | 15% | 13% | No Bid |
| Rate of discount(Generic): | ** -20% | -40% | 20% | No Bid |
| Drug dispensing Fee: | \$2.75 | \$3.00 | \$1.00 | No Bid |
| HLTH DEPT PATIENT DISCOUNT | | | | |
| AWP(-) Discount: | ** 12% | 15% | 10% | No Bid |
| Drug dispensing Fee: | \$3.00 | \$3.00 | \$1.00 | No Bid |

NOTES:

Thorpe Lane: *Please note our computer updates source is Medispan

** Selected generics, list updated monthly, receive up to (90 tablets) for a discounted rate of \$12.99 thru a script card plus program.

USScript:AWP -40%, MAC, U/C, whichever is less (generic)*Note: Mac is up to 70% off AWP

Agenda Item Request Form

Hays County Commissioners' Court

9:00 a.m. Every Tuesday

Request forms are due in the County Judge's Office

no later than **2:00 p.m.** on **WEDNESDAY.**

Phone (512) 393-2205 Fax (512) 393-2282

AGENDA ITEM: Accept a Letter Agreement from Capital Area Council of Governments to reimburse Hays County for the purchase of a voice recorder and amend the budget accordingly.

CHECK ONE: ☒ **CONSENT** ☐ **ACTION** ☐ **EXECUTIVE SESSION**
☐ **WORKSHOP** ☐ **PROCLAMATION** ☐ **PRESENTATION**

PREFERRED MEETING DATE REQUESTED: December 21, 2010

AMOUNT REQUIRED: \$25,000.00

LINE ITEM NUMBER OF FUNDS REQUIRED: 001-618-99-???-5719, (cost center to be created)

REQUESTED BY: Cutler

SPONSORED BY: Conley

SUMMARY:

Per the Letter Agreement, CAPCOG will reimburse Hays County for the purchase of a 9-1-1 voice recorder, up to \$25,000. CAPCOG indicated that it will also pay for the yearly maintenance fee of \$4,277. However, this has not been provided in writing.

Budget Amendment;

001-618-99-???-4301 (\$25,000.00)

001-618-99-???-5719 25,000.00

Agenda Item Routing Form

DESCRIPTION OF Item: Accept a Letter Agreement from Capital Area Council of Governments to reimburse Hays County for the purchase of a voice recorder and amend the budget accordingly

PREFERRED MEETING DATE REQUESTED: December 21, 2010

COUNTY AUDITOR

AMOUNT: \$25,000.00

LINE ITEM NUMBER: 001-618-99-066.4301 & 001-618-99-066.5719

COUNTY PURCHASING GUIDELINES FOLLOWED: N/A

PAYMENT TERMS ACCEPTABLE: N/A

COMMENTS: See budget amendment

Bill Herzog

SPECIAL COUNSEL

CONTRACT TERMS ACCEPTABLE: _____

COMMENTS:

COUNTY JUDGE

Signature Required if Approved

DATE CONTRACT SIGNED: _____

FUND NO. 001
FUND TITLE: GENERAL

| | | Appropriation before | <u>Amendment</u> | | Appropriation as |
|---|---------------|-------------------------|------------------|------------------|---------------------|
| <u>Line Item - Expenditures</u> | | <u>Amendment</u> | <u>Increases</u> | <u>Decreases</u> | <u>Amended</u> |
| <u>JUVENILE PROBATION TJPC-X ICBP GRANT (686-99-035):</u> | | | | | |
| 001-686-99-035.5501 | Travel | 500 | 3,000 | | 3,500 |
| 001-686-99-035.5448 | Contract Svcs | 13,000 | | (3,000) | 10,000 |

Transfer for travel from savings in services.

SHERIFF/CAPCOG 911 VOICE RECORDER GRANT (618-99-066):

| | | | | | |
|---------------------|-------------------|-----|------------------|------------------|--------|
| 001-618-99-066.5719 | Misc Eqpt | -0- | 25,000 | | 25,000 |
| <u>REVENUE</u> | | | <u>Decreases</u> | <u>Increases</u> | |
| 001-618-99-066.4301 | Intergovernmental | -0- | | 25,000 | 25,000 |

Budget grant award.

Agenda Item Request Form

Hays County Commissioners' Court

9:00 a.m. Every Tuesday

Request forms are due in the County Judge's Office

no later than **2:00 p.m.** on **WEDNESDAY.**

Phone (512) 393-2205 Fax (512) 393-2282

AGENDA ITEM: Approve the reappointments of Buddy Martin and Sharon O'Brien to the Hays County ESD #3 for an additional two year term, beginning January 1, 2011.

CHECK ONE: ☒ **CONSENT** ☐ **ACTION** ☐ **EXECUTIVE SESSION**
 ☐ **WORKSHOP** ☐ **PROCLAMATION** ☐ **PRESENTATION**

PREFERRED MEETING DATE REQUESTED: December 21, 2010

AMOUNT REQUIRED: N/A

LINE ITEM NUMBER OF FUNDS REQUIRED: N/A

REQUESTED BY: Debbie Ingalsbe

SPONSORED BY: Debbie Ingalsbe

SUMMARY:

Agenda Item Request Form

Hays County Commissioners' Court

9:00 a.m. Every Tuesday

Request forms are due in the County Judge's Office

no later than **2:00 p.m.** on **WEDNESDAY.**

Phone (512) 393-2205 Fax (512) 393-2282

AGENDA ITEM: Approve reappointment of members of the Hays County Emergency Services District No. 6.

CHECK ONE: **X** **CONSENT** ☐ **ACTION** ☐ **EXECUTIVE SESSION**
☐ **WORKSHOP** ☐ **PROCLAMATION** ☐ **PRESENTATION**

PREFERRED MEETING DATE REQUESTED: December 21, 2010

AMOUNT REQUIRED

LINE ITEM NUMBER OF FUNDS REQUIRED

REQUESTED BY: Ford

SPONSORED BY: Ford

SUMMARY: Reappoint Bob Love and Jennifer Rodriguez to the ESD #6 Board of Directors.

Agenda Item Request Form

Hays County Commissioners' Court

9:00 a.m. Every Tuesday

Request forms are due in the County Judge's Office

no later than 2:00 p.m. on WEDNESDAY.

Phone (512) 393-2205 Fax (512) 393-2282

AGENDA ITEM: Approve reappointment of Harrell Robinson and Mechelle Kutach to the Board of the Hays County Emergency Services District No. 1.

CHECK ONE: ☒ **CONSENT** ☐ **ACTION** ☐ **EXECUTIVE SESSION**
 ☐ **WORKSHOP** ☐ **PROCLAMATION** ☐ **PRESENTATION**

PREFERRED MEETING DATE REQUESTED: December 21, 2010

AMOUNT REQUIRED

LINE ITEM NUMBER OF FUNDS REQUIRED

REQUESTED BY: Ford

SPONSORED BY: Ford

SUMMARY:

Board member Rodney White's term expires in December 2010. At this time we do not know if Mr. White will seek reappointment.

Agenda Item Request Form

Hays County Commissioners' Court

9:00 a.m. Every Tuesday

Request forms are due in the County Judge's Office

no later than **2:00 p.m.** on **WEDNESDAY.**

Phone (512) 393-2205 Fax (512) 393-2282

AGENDA ITEM: Discussion and possible action to reappoint Fred Rothert to another four-year term as Director for the Plum Creek Conservation District.

TYPE OF ITEM: ACTION

PREFERRED MEETING DATE REQUESTED: December 21, 2010

AMOUNT REQUIRED: N/A

LINE ITEM NUMBER OF FUNDS REQUIRED: N/A

REQUESTED BY: Johnie Halliburton, Executive Manager of the Plum Creek Conservation District and Commissioner Barton

SPONSORED BY: Pct 2 Commissioner Jeff Barton

SUMMARY: Fred Rothert's current term as Director for the Plum Creek Conservation District is set to expire on December 31, 2010. Commissioner Barton would like to reappoint Mr. Rothert to continue to serve as Director of the Plum Creek Conservation District for another four years. Mr. Rothert has expressed willingness to serve another four-year term. Commissioner-elect Mark Jones concurs with this appointment.



Plum Creek Conservation District

Directors:

JAMES A. HOLT, JR., President, *Kyle*
JAMES O. LIPSCOMB, Vice-President, *Lockhart*
PETER REINECKE, Secretary-Treasurer, *Luling*
BEN TWIDWELL, *Luling*
LUCY KNIGHT, *Lockhart*
FRED ROTHERT, *Kyle*

Staff:

JOHNIE HALLIBURTON
Executive Manager
KAREN BASSETT
Secretary
DANIEL MEYER
KOREY SCHUECKE

December 7th, 2010

The "Honorable" Jeff Barton
Hays County Commissioner
105 Center St.
Kyle, TX 78640

Dear Commissioner Barton,

The four-year term of Director for the Plum Creek Conservation District will expire on December 31st, 2010 for Fred Rothert. He has expressed a verbal willingness to serve another term if appointed.

Please send me confirmation of his re-appointment or any changes you feel necessary as soon as possible.

Thank you in advance for your help in this matter.

Sincerely,

Johnie Halliburton
Executive Manager
Plum Creek Conservation District

1400 FM 20 East * County Annex Building
PO Box 328
Lockhart, TX 78644

Phone: 512-398-2383
Fax: 512-398-7776
Website: <http://pccd.org>

Hays County Commissioners' Court

9:00 a.m. Every Tuesday

Request forms are due in the County Judge's Office

no later than 2:00 p.m. on WEDNESDAY.

Phone (512) 393-2205

AGENDA ITEM: Call for a public hearing on January 4, 2011 to establish traffic regulations on Peabody Place Drive.

| CIRCLE ONE ACTION ITEM | Subdivision | Road | Staff Recommendation |
|-------------------------------|--------------------|-------------|-----------------------------|
|-------------------------------|--------------------|-------------|-----------------------------|

PREFERRED MEETING DATE REQUESTED: December 21, 2010

AMOUNT REQUIRED: n/a

LINE ITEM NUMBER OF FUNDS REQUIRED: n/a

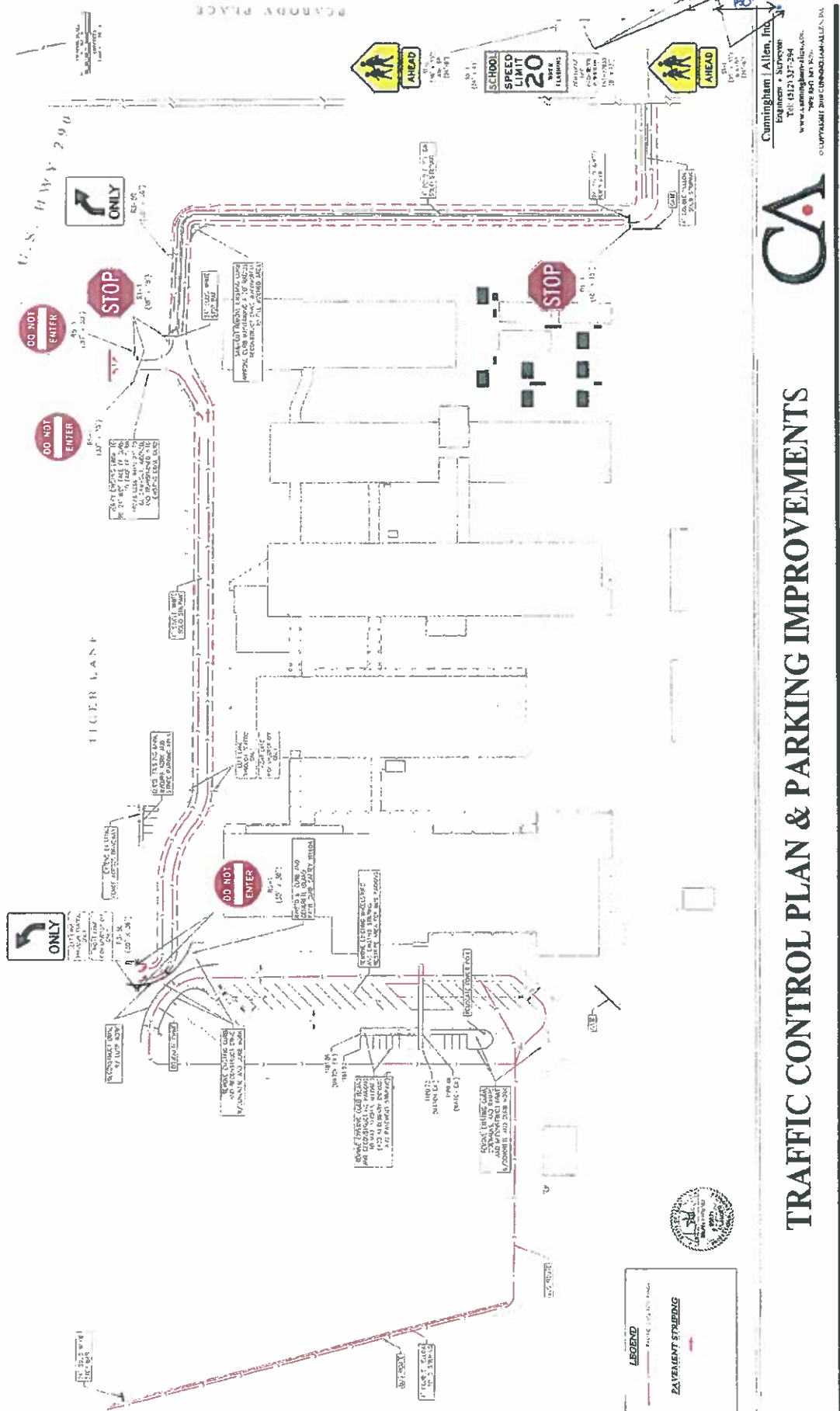
REQUESTED BY: Jerry Borcharding

SPONSORED BY: Commissioner Ford

SUMMARY:

To establish: a 20 MPH school zone speed limit w/ flasher light and accompanying pedestrian signs on Peabody Place Drive, at the request of the Dripping Springs ISD (see attached map).

HIGH SCHOOL - MIDDLE SCHOOL CONVERSION DRIPPING SPRINGS INDEPENDENT SCHOOL DISTRICT



Hays County Commissioners' Court

9:00 a.m. Every Tuesday

Request forms are due in the County Judge's Office

no later than 2:00 p.m. on WEDNESDAY.

Phone (512) 393-2205 Fax (512) 393-2282

AGENDA ITEM: Call for a public hearing on January 4, 2011 to establish traffic regulations on Marsh Lane in Shadow Creek subdivision.

| CIRCLE ONE ACTION ITEM | Subdivision | Road | Staff Recommendation |
|-------------------------------|--------------------|-------------|-----------------------------|
|-------------------------------|--------------------|-------------|-----------------------------|

PREFERRED MEETING DATE REQUESTED: December 21, 2010

AMOUNT REQUIRED: n/a

LINE ITEM NUMBER OF FUNDS REQUIRED: n/a

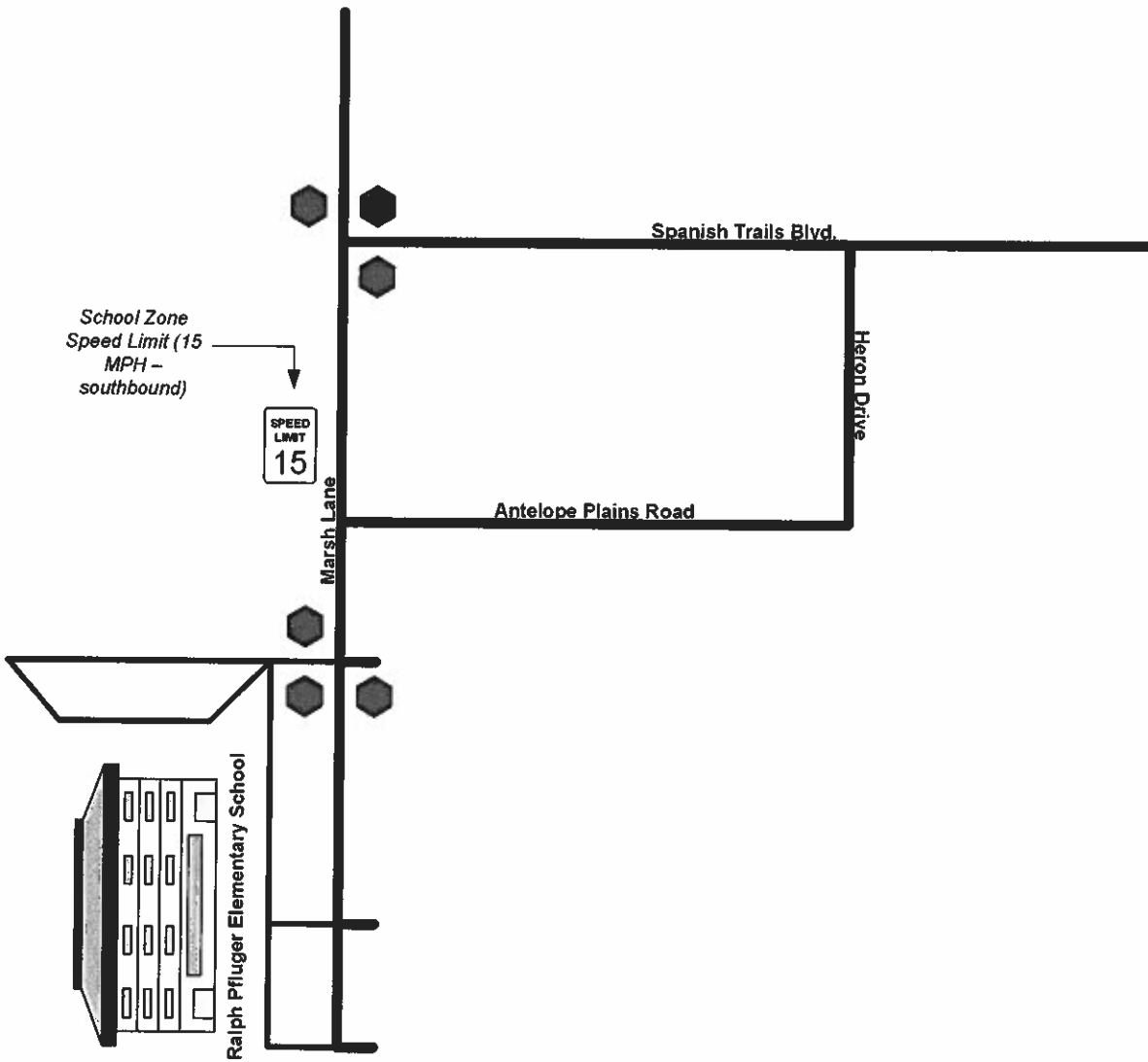
REQUESTED BY: Jerry Borcharding

SPONSORED BY: Commissioner Barton

SUMMARY:

To establish: a 15 MPH school zone speed limit w/ flasher light and accompanying pedestrian signs on Marsh Lane in Shadow Creek subdivision for Ralph Pfluger Elementary School (see attached map).

School Zone Traffic Regulations for Ralph Pfluger Elementary (Pct. 2)



Agenda Item Request Form

Hays County Commissioners' Court

9:00 a.m. Every Tuesday

Request forms are due in the County Judge's Office

no later than **2:00 p.m.** on **WEDNESDAY.**

Phone (512) 393-2205 Fax (512) 393-2282

AGENDA ITEM: Hold a Public Hearing to consider 1) the proposed improvement to Piedras Pass in Hays County to cause the roadway to comply with Hays County road standards, and 2) the assessment of all or part of the costs of the improvement, pro rata, against the record owners of real property served by Piedras Pass.

CHECK ONE: ☐ **CONSENT** ☒ **X ACTION** ☐ **EXECUTIVE SESSION**
☐ **WORKSHOP** ☐ **PROCLAMATION** ☐ **PRESENTATION**

PREFERRED MEETING DATE REQUESTED: December 21, 2010

AMOUNT REQUIRED: Estimated \$50,000 (to be paid back by property owners over a period TBD)

LINE ITEM NUMBER OF FUNDS REQUIRED:

REQUESTED BY: Ford

SPONSORED BY: Ford

SUMMARY: Piedras Pass is currently a private caliche road about 6000 feet in length and located in Rocky Ranch Acres, Section 2 Subdivision off Hilliard Road. There are approximately 26 property owners on Piedras Pass and the HOA requires \$50/year to keep the unpaved road graded. Residents express concerns for safety, including EMS response times, school bus pick up and delivery, and US Postal access. Mr. Borcharding has estimated about \$149,000 in labor and equipment and \$49,000 in materials to bring this road up to a country lane standard --taking in the 50 foot ROW, making drainage improvements, replacing/installing culverts as needed, reclaiming/grading/compacting and applying a double pass chip seal surface. The HOA does not have the number of property owners or the funds to pay for the entire upgrade.

This situation is very similar to Owl Hollow in Rocky Ranches 1 subdivision, in which the county accepted the road in to the maintenance program in 2009 and made paving and drainage improvements following an election among property owners who voted to relinquish their easement rights and to be assessed for the full cost of materials over a period of not more than ten years.

Agenda Item Routing Form

DESCRIPTION OF Item: Public Hearing to consider 1) the proposed improvement to Piedras Pass in Hays County to cause the roadway to comply with Hays County road standards, and 2) the assessment of all or part of the costs of the improvement, pro rata, against the record owners of the real property on Piedras Pass.

PREFERRED MEETING DATE REQUESTED: December 21, 2010

COUNTY AUDITOR

AMOUNT: \$50,000.00

LINE ITEM NUMBER: 020-710-00.5351

COUNTY PURCHASING GUIDELINES FOLLOWED: N/A

PAYMENT TERMS ACCEPTABLE: N/A

COMMENTS:

Bill Herzog

SPECIAL COUNSEL

CONTRACT TERMS ACCEPTABLE: _____

COMMENTS:

COUNTY JUDGE

Signature Required if Approved

DATE CONTRACT SIGNED: _____

Agenda Item Request Form

Hays County Commissioners' Court

9:00 a.m. Every Tuesday

Request forms are due in the County Judge's Office

no later than **2:00 p.m.** on **WEDNESDAY.**

Phone (512) 393-2205 Fax (512) 393-2282

AGENDA ITEM:

10-4-28 Polo Club Center Subdivision, Phase 2 (5 lots). Discussion and possible action to consider approval of Final Plat.

TYPE OF ITEM: ACTION

PREFERRED MEETING DATE REQUESTED: December 21, 2010

AMOUNT REQUIRED: N/A

LINE ITEM NUMBER OF FUNDS REQUIRED: N/A

REQUESTED BY: Garza

SPONSORED BY: Ford

SUMMARY:

The Polo Club Center Subdivision is a proposed division of 19.823 acres located at the entrance of Polo Club Drive/Sawyer Ranch Road on Highway 290 in Precinct 4. The proposed division consists of 6 lots with an average lot size of 3.304 acres. This action is for the final plat of the remaining 5 lots; the final plat on lot 1 was approved on January 27, 2010. The developer plans to sell the lots for commercial use. The entire division will utilize LCRA for water and individual on-site sewage facilities for wastewater.

Agenda Item Request Form

Hays County Commissioners' Court

9:00 a.m. Every Tuesday

Request forms are due in the County Judge's Office

no later than 2:00 p.m. on WEDNESDAY.

Phone (512) 393-2205 Fax (512) 393-2282

AGENDA ITEM:

10-4-46 Great Hills Trail Subdivision, Section One-B (4 Lots). Discussion and possible action to consider approval of Final Plat.

TYPE OF ITEM: ACTION

PREFERRED MEETING DATE REQUESTED: December 21, 2010

AMOUNT REQUIRED: N/A

LINE ITEM NUMBER OF FUNDS REQUIRED: N/A

REQUESTED BY: Garza

SPONSORED BY: Pct 2 Commissioner Jeff Barton

SUMMARY:

The Great Hills Trail subdivision is a 6 section division located adjacent to the Railyard Subdivision at Railyard drive and High Road in Precinct 2. Section One-A consisted of 8 lots, which were final platted in 2001. The proposed section One-B consists of 4 lots at the entrance to Railyard drive. The lots sizes are as follow: 1-.332 AC, 2-.272 AC, 3-.273 AC, and 4-.273 AC. The entire division is served by Goforth Water Supply Corporation and Wastewater service is provided by a TCEQ approved public wastewater system.

FINAL PLAT

GREEN PASTURES SECTION 2 - PLAT VOL. 1, PG. 173-176



Agenda Item Request Form

Hays County Commissioners' Court

9:00 a.m. Every Tuesday

Request forms are due in the County Judge's Office

no later than **2:00 p.m.** on **WEDNESDAY.**

Phone (512) 393-2205 Fax (512) 393-2282

AGENDA ITEM: Discussion and possible action to appoint Judge Linda Rodriguez to the Bail Bond Board.

CHECK ONE: ☐ **CONSENT** ☒ **ACTION** ☐ **EXECUTIVE SESSION**
☐ **WORKSHOP** ☐ **PROCLAMATION** ☐ **PRESENTATION**

PREFERRED MEETING DATE REQUESTED: December 21, 2010

AMOUNT REQUIRED:

LINE ITEM NUMBER OF FUNDS REQUIRED:

REQUESTED BY: Rodriguez

SPONSORED BY: SUMTER

SUMMARY: Pursuant to Bail Board Composition Sect. 1704.053 of Occupations Code

Agenda Item Request Form

Hays County Commissioners' Court

9:00 a.m. Every Tuesday

Request forms are due in the County Judge's Office

no later than 2:00 p.m. on WEDNESDAY.

Phone (512) 393-2205 Fax (512) 393-2282

AGENDA ITEM: Discussion and Possible action to approve the appointment of Dennis Rose to the South Central Texas Water Advisory Committee (SCTWAC)

CHECK ONE: ☐ **CONSENT** ☒ **ACTION** ☐ **EXECUTIVE SESSION**
 ☐ **WORKSHOP** ☐ **PROCLAMATION** ☐ **PRESENTATION**

PREFERRED MEETING DATE REQUESTED: December 21, 2010

AMOUNT REQUIRED: none

LINE ITEM NUMBER OF FUNDS REQUIRED: N/A

REQUESTED BY: David Davenport

SPONSORED BY: Ingalsbe

SUMMARY:

Due to the resignation of Marianne Reese, the county has been asked to appoint a new representative to serve on the SCTWAC. The two main purposes of this committee is to choose one member out of the group to serve as a non-voting member on the Edwards Aquifer Authority Board and to produce a bi-annual report to the legislature about the status of the EAA. Members monitor the EAA to see if there are prejudicial actions regarding downstream interests. The committee receives the same information as an EAA Board member and has the authority to ask the EAA Board for reconsideration of any action. If the action is not resolved, they can appeal the action to the TCEQ.

Dennis Rose Biographical Summary

December, 2010



Dennis V. Rose, MBA, ABCP, CERT **Director – Business Continuity and Preparedness**

Dennis is responsible for Business Continuity programs assisting organizations with Risk Assessment, Business Impact Analysis, Business Continuity Strategies, Emergency Operations Plans, Crisis Communications, Awareness and Training, Testing and Exercises (Drills).

Dennis received his M.B.A – Management degree from St. Edwards University in Austin, TX, and a BBA in Finance from Texas State University. Dennis is certified as an Associate Business Continuity Professional (ABCP, #18522) accredited through DRI International (DRII).

Education Projects:

Certified DRI International Instructor - He is a DRI International certified instructor and has developed an Emergency Management program at Austin Community College that prepares students to take the DRI International exam in order to be certified with an Associate Business Continuity Professional.

Adjunct Professor - Dennis is an adjunct professor within the Management Department at Austin Community College (ACC) since January 2008 teaching the following classes: 1) Leadership, 2) Principles of Management, 3) Introduction to Business and 4) Business Ethics.

Current Certifications

DRI International – Associate Business Continuity Professional (ABCP)
Community Emergency Response Team (CERT)
Development Dimensions International (DDI) – Leadership Facilitator, DDI's Learning Systems

Volunteer Projects:

Community Emergency Response Team (CERT) - Dennis has been a member of Community Emergency Response Team (C.E.R.T.) with the City of Austin, Office of Emergency Management for the past three years. He has been trained in Incident Command System, HSEEP, exercise design and evaluation program. His last volunteer time was spent in the Planning Section department within City of Austin's Emergency Operations Center during Hurricane Ike.

Capital Area Public Health and Medical Preparedness Coalition (CAPHMPC): planning member for the regional health facilities annual exercise - He has participated in large scale annual healthcare exercise, from a 10 county-wide healthcare facility exercise for the central Texas area, as the lead controller within South Austin Hospital.

Capital Area Public Health and Medical Preparedness Coalition (CAPHMPC): planning member for the Pandemic Influenza group – He is a member of the Pandemic Planning group assisting the City of Austin and external agencies with pandemic planning for the region.

Private/Public Partnership – Dennis has been coordinating with City of Austin – Office of Homeland Security and Emergency Management with a private/public partnership to participate with city-wide emergency planning. His efforts have brought Dell and Texas Mutual Insurance Company to the team.

Dennis Rose Biographical Summary
December, 2010

WATER CONSULTING HIGHLIGHTS OF EXPERIENCE

2005 to 2007

Delphin Consulting Services
Principal and Owner

Kyle, TX

- Represented Kyle's Water Committee members during the two year planning sessions in the development of Carrizo-Wilcox Project with San Marcos, Lockhart (Buda), and members of independent water groups
- Water Conservation coordinator for City of Kyle
Responsible for all documentation being submitted to EAA and Barton Springs / Edwards Aquifer Conservation District
- Developed a water loss program with the City of Kyle and responsible for submitting compliance documentation with the Texas Water Development Board
- Assisted in setting up and coordinating the Water Resource Management Team (Attorney, city staff, and engineer) to assist City manager and Water Director on managing the water intake from several water sources
- Coordinated with City attorney to find and secure additional water sources during the "Drought" stage
- Coordinated with vendors on Water Leak diction program, Water loss problems
- Assisted and coordinated with City attorney and city staff with updating current water conservation ordinances

2002 to 2008

City of Kyle – Water Development Citizens Advisory
Committee - Member

- Strategic planning to add new water resources for the City of Kyle
- Planning and preparing the City of Kyle with water supplies matching the water needs
- Assisted with team on data collection on the water rate structures

Agenda Item Request Form

Hays County Commissioners' Court

9:00 a.m. Every Tuesday

Request forms are due in the County Judge's Office

no later than **2:00 p.m.** on **WEDNESDAY.**

Phone (512) 393-2205

AGENDA ITEM: Discussion and possible action to adopt a Resolution relating to establishing the County's intention to reimburse itself for the prior lawful expenditure of funds relating to constructing various public improvements from the proceeds of a series of obligations to be issued by the County for authorized purposes; authorizing other matters incident and related thereto; and providing an effective date.

| | | | |
|-------------------|-----------------|----------------------|--------------------------|
| CHECK ONE: | CONSENT | <i>ACTION</i> | EXECUTIVE SESSION |
| | WORKSHOP | PROCLAMATION | PRESENTATION |

PREFERRED MEETING DATE REQUESTED:

AMOUNT REQUIRED: \$

LINE ITEM NUMBER OF FUNDS REQUIRED:

REQUESTED BY:

SPONSORED BY: Sumter

SUMMARY:

FULBRIGHT
& Jaworski L.L.P.
Attorneys at Law

300 Convent Street, Suite 2200 • San Antonio, Texas 78205-3792
wkuhn@fulbright.com • Direct: 210 270 7131 • Main: 210 224 5575 • Facsimile: 210 270 7205

December 15, 2010

VIA E-MAIL

Honorable Liz Sumter
County Judge
Hays County, Texas
111 E. San Antonio Street, Suite 300
San Marcos, Texas 78666

Re: Hays County, Texas Certificates of Obligation, Series 2011

Dear Judge Sumter:

I enclose as Exhibit A to this letter the agenda item to be utilized in preparing the agenda for the December 21, 2010 regular meeting of the Commissioners Court. Thank you for ensuring that this agenda item is posted in accordance with the provisions of the Texas Open Meetings Act. I also enclose as Exhibit B for your convenience the suggested motion for this item. I also enclose a draft copy of the Reimbursement Resolution. Please return to me any comments you may have on the Resolution as soon as possible so that the Resolution can be finalized.

For your convenience, I have also enclosed Exhibit A and Exhibit B in Word format.

Thank you, in advance, for your prompt attention to this matter. If I can provide any additional assistance concerning this matter, please do not hesitate to contact me.

Very truly yours,



W. Jeffrey Kuhn

WJK/jcq

Enclosure

cc: **BY EMAIL**

Ms. Debbie Ingalsbe (Hays County, Texas)
Mr. Jeff Barton (Hays County, Texas)
Mr. Will Conley (Hays County, Texas)
Ms. Karen Ford (Hays County, Texas)
Mr. William Herzog (Hays County, Texas)

80923564.1

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Honorable Liz Sumter
December 15, 2010
Page 2

Mr. Mark Kennedy (Hays County, Texas)
Mr. Jeff Laws (Hays County, Texas)
Mr. Dan Wegmiller (Specialized Public Finance Inc.)
Mr. James P. Plummer (Firm)
Mr. Clay Binford (Firm)
Mr. Carey R. Troell (Firm)

80923564.1

EXHIBIT A

CONSIDERATION AND APPROVAL OF A RESOLUTION RELATING TO ESTABLISHING THE COUNTY'S INTENTION TO REIMBURSE ITSELF FOR THE PRIOR LAWFUL EXPENDITURE OF FUNDS RELATING TO CONSTRUCTING VARIOUS PUBLIC IMPROVEMENTS FROM THE PROCEEDS OF A SERIES OF OBLIGATIONS TO BE ISSUED BY THE COUNTY FOR AUTHORIZED PURPOSES; AUTHORIZING OTHER MATTERS INCIDENT AND RELATED THERETO; AND PROVIDING AN EFFECTIVE DATE

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EXHIBIT B

A MOTION BY COMMISSIONER _____ AND SECONDED BY
COMMISSIONER _____ THAT THE COMMISSIONERS COURT
ADOPT A REIMBURSEMENT RESOLUTION

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A RESOLUTION RELATING TO ESTABLISHING THE COUNTY'S INTENTION TO REIMBURSE ITSELF FOR THE PRIOR LAWFUL EXPENDITURE OF FUNDS RELATING TO CONSTRUCTING VARIOUS PUBLIC IMPROVEMENTS FROM THE PROCEEDS OF A SERIES OF OBLIGATIONS TO BE ISSUED BY THE COUNTY FOR AUTHORIZED PURPOSES; AUTHORIZING OTHER MATTERS INCIDENT AND RELATED THERETO; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the Commissioners Court (the *Governing Body*) of Hays County, Texas (the *Issuer*) has entered into or will enter into various contracts pertaining to the expenditure of lawfully available funds of the Issuer to finance the costs associated with (i) acquiring, constructing, equipping, and improving various County roads, including the US Foods Road Project (the *Construction Costs*); (ii) the payment of various engineering costs, including design testing, design engineering, and construction inspection related to the Construction Costs (the *Engineering Costs*); (iii) the payment of various architectural costs, including preparation of plans and specifications and various other plans and drawings related to the Construction Costs (the *Architectural Costs*); and (iv) the payment of various administrative costs, including the fees of bond counsel, financial advisor, project manager, other professionals, and bond printer (the *Administrative Costs*) [the Construction Costs, the Engineering Costs, the Architectural Costs, and the Administrative Costs collectively constitute the costs of the Issuer's project that is the subject of this Resolution (the *Project*)]; and

WHEREAS, the provisions of Section 1201.042, as amended, Texas Government Code (*Section 1201.042*) provide that the proceeds from the sale of obligations issued to finance the acquisition, construction, equipping, or furnishing of any project or facilities, such as the Project, may be used to reimburse the Issuer, for costs attributable to such project or facilities paid or incurred before the date of issuance of such obligations; and

WHEREAS, the United States Department of Treasury (the *Department*) released Regulation Section 1.150-2 (the *Regulations*) which establishes when the proceeds of obligations are spent and therefore are no longer subject to various federal income tax restrictions contained in the Internal Revenue Code of 1986, as amended (the *Code*); and

WHEREAS, the Issuer intends to reimburse itself, within eighteen months from the later of the date of expenditure or the date the property financed is placed in service (but in no event more than three years after the original expenditures are paid), for the prior lawful capital expenditure of funds from the proceeds of one or more series of tax-exempt obligations (the *Obligations*) that the Issuer currently contemplates issuing in an amount not to exceed \$2,700,000 to finance a portion of the costs of the Project; and

WHEREAS, under the Regulations, to fund such reimbursement with proceeds of the Obligations, the Issuer must declare its expectation ultimately to make such reimbursement before making the expenditures; and

WHEREAS, the Issuer hereby finds and determines that the reimbursement for the prior expenditure of funds of the Issuer is not inconsistent with the Issuer's budgetary and financial circumstances; and

WHEREAS, the Governing Body hereby finds and determines that the adoption of this Resolution is in the best interests of the citizens of the Issuer; now, therefore,

BE IT RESOLVED BY THE COMMISSIONERS COURT OF HAYS COUNTY, TEXAS THAT:

SECTION 1: This Resolution is a declaration of intent to establish the Issuer's reasonable, official intent under section 1.150-2 of the Regulations and Section 1201.042 to reimburse itself from certain of the proceeds of the Obligations for any capital expenditures previously incurred (not more than 60 days prior to the date hereof) or to be incurred with respect to the Project from the Issuer's General Fund or other lawfully available funds of the Issuer.

SECTION 2: The Issuer intends to issue the Obligations and allocate within 30 days after the date of issuance of the Obligations the proceeds therefrom to reimburse the Issuer for prior lawful expenditures with respect to the Project in a manner to comply with the Regulations.

SECTION 3: The reimbursed expenditure will be a type properly chargeable to a capital account (or would be so chargeable with a proper election) under general federal income tax principles.

SECTION 4: The Issuer intends to otherwise comply, in addition to those matters addressed within this Resolution, with all the requirements contained in the Regulations.

SECTION 5: This Resolution may be relied upon by the appropriate officials at the Office of the Attorney General for the State of Texas and establishes compliance by the Issuer with the requirements of Texas law and the Regulations.

SECTION 6: With respect to the proceeds of the Obligations allocated to reimburse the Issuer for prior expenditures, the Issuer shall not employ an abusive device under Treasury Regulation Section 1.148-10, including using within one year of the reimbursement allocation, the funds corresponding to the proceeds of the Obligations in a manner that results in the creation of replacement proceeds, as defined in Treasury Regulation Section 1.148-1, of the Obligations or another issue of tax-exempt obligations.

SECTION 7: The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Resolution for all purposes and are adopted as a part of the judgment and findings of the Governing Body.

SECTION 8: All orders and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

SECTION 9: This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

SECTION 10: If any provision of this Resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Resolution and the application of such provision to other persons and circumstances shall nevertheless be valid, and the Governing Body hereby declares that this Resolution would have been enacted without such invalid provision.

SECTION 11: It is officially found, determined, and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Chapter 551, as amended, Texas Government Code.

SECTION 12: This Resolution shall be in force and effect from and after its final passage, and it is so resolved.

[The remainder of this page intentionally left blank]

PASSED, ADOPTED AND APPROVED on this the 21st day of December, 2010.

HAYS COUNTY, TEXAS

County Judge

ATTEST:

County Clerk and Ex-Officio Clerk of the
Commissioners Court of Hays County, Texas

(SEAL OF COMMISSIONERS COURT)

Agenda Item Request Form

Hays County Commissioners' Court

9:00 a.m. Every Tuesday

Request forms are due in the County Judge's Office

no later than **2:00 p.m.** on **WEDNESDAY.**

Phone (512) 393-2205 Fax (512) 393-2282

AGENDA: Discussion and possible action to authorize a Change Order for the I-35 Phase I Pass-Through Finance Project to provide for a planned public street "Connector" between the new frontage road and the existing Kyle Crossing, and to accept a right-of-way donation for the Connector.

TYPE OF ITEM: CONSENT-ACTION-PROCLAMATION-EXECUTIVE SESSION-WORKSHOP

PREFERRED MEETING DATE REQUESTED: Dec. 21, 2010

AMOUNT REQUIRED: No new funds above the budget. The cost would be a "not to exceed" amount of \$240,000 (engineer's estimate).

LINE ITEM NUMBER OF FUNDS REQUIRED: Construction to be paid for from the already-budgeted I-35 Phase I Pass-Through funds, a partnership with TXDOT and the City of Kyle. **We are more than \$11 million under budget** on the project. ROW and design will be paid by others.

REQUESTED BY: The bond program managers at Prime Strategies; the City of Kyle; and Commissioner Barton.

SPONSORED BY: Commissioner Pct. 2, Jeff Barton

SUMMARY: The change order will allow construction of a "connector" to tie Kyle Crossing (County Road 210) to the new Interstate frontage roads that are under construction. This "connector" will be approximately half-way between other proposed intersections with Interstate 35, thus improving general circulation and access for property owners along CR 210. In addition, it will align with a proposed city street designed to lead directly to the future Kyle-Buda rail station (based on the current most likely scenarios developed by Lone Star Rail District, the city, and area landowners). The county will deed the connector to the City of Kyle so that Kyle will be responsible for future maintenance. The City and/or landowners will be responsible for constructing anything beyond our pass-through project boundaries – in other words, for future extensions on the western side of CR 210 leading toward the Kyle Marketplace intersection, the rail tracks and the probable rail station site. The City of Kyle is a full financial partner in the overall Phase I project. The project is under budget. The city is meeting its full commitment, based on the original budget, and asks that the county use about 2.2 percent of the savings to build the connector now – while the project is underway, believing that it will be cheaper and less disruptive to complete

while construction crews are already mobilized. The city's letter formally requesting the change order will be shared under separate cover. TXDOT also issued a letter of support. The connector has been discussed and shown on maps since this pass-through project was conceived in 2007; final decisions on funding and construction timing have been deferred to until we knew where we would be on other project costs. The affected landowner earlier donated right-of-way for the frontage road improvements and is willing to donate additional right-of-way for the connector. That donation is valued at \$203,341, or almost as much as construction costs.

Prime Strategies and HNTB will provide as much detail as any member of the Court needs, but here is my quick summary of cost savings on the project:

Original Program Estimate For This Phase of I-35 (as presented to Commissioners Court): \$31,372,609

Current Projected Costs (including this \$240,000 change order): \$20,058,636

City of Kyle Financial Contribution On This Phase: \$11,000,000.

I will be asking Commissioners Court to authorize me to execute the change order and related agreements with the city, and to authorize any necessary related action with our partners at TXDOT and our engineering and construction teams. Again, the total amount is not to exceed \$240,000 (I think it will be slightly less). We will want to formally accept a right-of-way donation; I hope that paperwork will be ready in time for Court. Other action may need to be ratified on future agendas, but accomplishing the change order this week will allow staff to proceed without slowing construction in the field. -- JWB

IH - 35 Phase 1 (CR 210) Project

| Original Program Estimate (provided 10/13/09) | |
|--|----------------------|
| Utility Relocation | \$ 4,000,000 |
| Right of Way Acquisition | \$ 4,470,920 |
| Program Management | \$ 200,000 |
| Construction | \$ 20,300,000 |
| Project Contingency | \$ 2,401,689 |
| Total | \$ 31,372,609 |

| Projected Project Cost | |
|---------------------------------------|----------------------|
| Utility Relocation | \$ 1,120,000 |
| Right of Way Acquisition | \$ 4,460,000 |
| Program Management | \$ 200,000 |
| Construction | \$ 13,147,000 |
| Existing Project Change Orders | \$ 498,329 |
| Kyle Crossing Estimate - Change Order | \$ 240,000* |
| Project Contingency (2%) | \$ 393,307 |
| Total | \$ 20,058,636 |

*Engineers Estimate



Subdivision/Road/Staff Review Agenda Item Request Form

Hays County Commissioners' Court

9:00 a.m. Every Tuesday

Request forms are due in the County Judge's Office

no later than **2:00 p.m.** on **WEDNESDAY.**

Phone (512) 393-2205 Fax (512) 393-2282

AGENDA ITEM: Discussion and possible action to approve hiring Freese & Nichols to design drainage improvements along Nutty Brown Road.

| TYPE OF AGENDA ITEM | Subdivision | Road | Staff Recommendation |
|----------------------------|--------------------|-------------|-----------------------------|
|----------------------------|--------------------|-------------|-----------------------------|

| | | | |
|--|--|--|--|
| PREFERRED MEETING DATE REQUESTED: December 21, 2010 | | | |
|--|--|--|--|

| | | | |
|----------------------------------|--|--|--|
| AMOUNT REQUIRED: \$32,000 | | | |
|----------------------------------|--|--|--|

| | | | |
|---|--|--|--|
| LINE ITEM NUMBER OF FUNDS REQUIRED: 5448-008 | | | |
|---|--|--|--|

| | | | |
|---------------------------|--|--|--|
| SPONSORED BY: Ford | | | |
|---------------------------|--|--|--|

SUMMARY:

Freese & Nichols has presented three alternatives to alleviate drainage problems on the Liebersat Property. Alternate 3 is thought to be the best solution. Construction cost is expected to be approximately \$108, 000. This project was anticipated and the budget for it is included in the Road and Bridge FY11 budget.

STAFF REVIEW/COMMENTS

| |
|---------------------------------------|
| ENVIRONMENTAL HEALTH DIRECTOR: |
|---------------------------------------|

| |
|-----------------------|
| ROAD DIRECTOR: |
|-----------------------|

| |
|-------------------------------|
| STAFF RECOMMENDATIONS: |
|-------------------------------|

Agenda Item Routing Form

DESCRIPTION OF Item: Discussion and possible action to approve hiring Freese & Nichols to design drainage improvements along Nutty Brown Road.

PREFERRED MEETING DATE REQUESTED: December 21, 2010

COUNTY AUDITOR

AMOUNT: \$32,000.00

LINE ITEM NUMBER:020-710-00.5448_008

COUNTY PURCHASING GUIDELINES FOLLOWED: Yes

PAYMENT TERMS ACCEPTABLE: Yes

COMMENTS:

Bill Herzog

SPECIAL COUNSEL

CONTRACT TERMS ACCEPTABLE:_____

COMMENTS:

COUNTY JUDGE

Signature Required if Approved

DATE CONTRACT SIGNED:_____

MEMORANDUM



**FREESE
& NICHOLS**

10814 Jollyville Rd., Bldg. 4, Suite 100 • Austin, Texas 78759 • 512-617-3100 • fax 512-617-3101

TO: Ms. Karen Ford, Hays County Commissioner Precinct 4
FROM: Jerome W. Scanlon III, P.E. and Jill W. Trevino, E.I.T.
SUBJECT: Nutty Brown Road Drainage Review
DATE: October 15, 2010

DRAFT

This document is released for the purpose of interim review under the authority of Jerome W. Scanlon III, P.E., Texas No. 82077 on 10/28/2010.

Freeze and Nichols, Inc.
Texas Registered Eng. Firm 1-2144

The purpose of this memorandum is to describe the hydrologic and hydraulic analyses completed to determine the effect, if any, of widening Nutty Brown Road on the property located at 12705 Nutty Brown Road, owned by David and Kathy Libersat. This memorandum also describes potential alternatives to minimize the adverse effects on the Libersat property. Please refer to the location map attached as Figure 1.

Project Background

It is our understanding that David and Kathy Libersat own three tracts of land consisting of approximately 3.25 acres commonly located within the 12700 block of Nutty Brown Road. Prior to 1997, the Libersats state they did not experience any drainage problems on their property.

Around 1997 Nutty Brown Road was regraded and resurfaced and a drainage ditch was cut along the Libersat's property frontage, which stopped approximately midway down the property frontage. This improvement to the roadway required the Libersats to install a six-inch diameter culvert under each of their two driveways.

Approximately five years later, the Libersats observed that a number of the live oak trees on their property were unhealthy. A forestry service arborist visited the property and speculated that the trees were drowning. Upon the arborist's visit, the Libersats noticed a "small channel of water that originated where the county drainage ditch ended." According to Mr. and Mrs. Libersat these concerns were brought to the attention of County Commissioner Molenaar. At that time, further improvements to Nutty Brown Road were proposed and the Libersats indicated that Commissioner Molenaar stated their drainage issues would be addressed with the new improvements.

The re-construction and widening of Nutty Brown Road from FM 1826 to US 290 began with design in 2005. The design was done by HNTB with oversight and project management services by TCB, now AECOM. A typical section of the existing road consisted of two 11-foot lanes with no shoulders. A typical section of the proposed road consisted of two 12-foot lanes with 5' shoulders and a turning lane at major cross-streets. The existing road was removed and the proposed road was constructed in 2007.

FNI has investigated the drainage patterns of Nutty Brown Road prior to the 2005 re-construction of the road (existing) and compared it to the proposed 2005 re-construction design (project). Sufficient information could not be obtained to provide an analysis of the watershed conditions prior to the construction that is believed to have taken place in 1997. The following paragraphs describe the methodologies and results of the analysis.

10/15/2010
10:00 AM
UNIVERSITY

An earthen facility could be used to detain the increase in 100-year flows as well; however this alternative will most likely require obtaining additional easement and will be more expensive than the concrete facility.

Alternative 3

The third alternative is to evaluate routing discharge down Nutty Brown Road to an existing channel and culvert.

Three design points were used to analyze the third alternative, called DP-3, DP-4, and DP-5. DP-3 is located where the proposed ditch along Nutty Brown Road will tie into the existing 24" RCP under Nutty Brown Road. AECOM calculated the discharge from the west side of Nutty Brown Road contributing to the existing 24" RCP for the 2005 re-construction design. The significance of DP-3 was to determine if the western timing calculated by AECOM was similar to the timing of the peak discharge from the Libersat property at the same point. If the timing is the same, the discharge from the existing 24" RCP could simply be added to the discharge from the Libersat property. DP-4 is located at the upstream end of the existing 24" CMP under the driveway. The significance of this design point is to determine if the existing concrete and rock riprap channel and existing 24" CMP have enough capacity to convey the flow contributing to the Libersat property. DP-5 is located at the stock pond downstream of the existing channel and culvert. This design point was used to determine if re-routing the Libersat flows could potentially have an adverse effect on the pond. Please refer to the location map attached as Figure 1.

The drainage areas were delineated based on proposed Alternative 3 conditions, two-foot design topography obtained from AECOM along Nutty Brown Road and 2003 City of Austin two-foot topography outside of the roadway. DP-5 was also based on the existing drainage area for the 24" RCP under Nutty Brown Road previously delineated by AECOM. These drainage areas assume that runoff from the Belterra development to the north did not alter existing drainage patterns, and therefore contributes to the Libersat property. Please refer to the drainage area maps attached as Figures 8 and 9.

The time of concentration was calculated for each basin based on TR-55 methodology. The time of concentration paths were based on proposed Alternative 3 conditions, however an additional path was created for DP-5 existing conditions. A maximum sheet flow time of concentration of 15 minutes and minimum total time of concentration of 5 minutes was used. Time of concentration paths are shown in Figure 9 and time of concentration calculations are contained in the appendix.

The time of concentration values were used to determine the 25- and 100-year rainfall intensities for each basin. The Hays County Subdivision and Development Regulations do not include information regarding rainfall intensities for the County. Therefore the equation used to calculate the intensities was obtained from the City of Austin Drainage Criteria Manual (COA DCM) and is provided in the appendix.

The runoff coefficient was calculated for each basin based on impervious cover as evidenced in 2009 CAPCOG aerial imagery. The impervious cover and runoff coefficient relationships were based on the COA DCM and are provided in the appendix.

Peak discharges for Alternative 3 were calculated based on the Rational Method. Due to the similar timing of discharge at DP-3 from AECOM hydrologic calculations under Nutty Brown Road and discharge at DP-3 from the Libersat property, the discharge from the west side of Nutty Brown Road was simply added to the discharge from the east side of Nutty Brown Road calculated by FNI. Calculations are provided in the appendix.

A summary of the hydrologic parameters and peak discharges for Alternative 3 are shown as Table 4.

Table 4 – Alternative 3 Hydrologic Parameters

| Watershed | Area (ac) | Tc (min) | 25-Year Storm Event | | | 100-Year Storm Event | | |
|---------------------------|-----------|----------|---------------------|------|-----------------|----------------------|------|-----------------|
| | | | Intensity (in/hr) | C | Peak Flow (cfs) | Intensity (in/hr) | C | Peak Flow (cfs) |
| DP-3 Proposed | 5.3 | 17 | 6.4 | 0.50 | 17 | 8.3 | 0.57 | 25 |
| DP-4 East Proposed FNI | 5.4 | 18 | 6.4 | 0.50 | 17 | 8.3 | 0.57 | 26 |
| *DP-4 West Proposed AECOM | 3.8 | 22 | - | - | - | 7.9 | 0.50 | 15 |
| DP-5 Existing | 29.7 | 20 | 6.1 | 0.50 | 91 | 8.0 | 0.57 | 135 |
| DP-5 Proposed | 29.7 | 20 | 6.1 | 0.50 | 90 | 8.0 | 0.57 | 134 |

*Obtained from AECOM

The third alternative is to construct a ditch along Nutty Brown Road, directing flow south of the Libersat property within the County's right-of-way. The new ditch will begin downstream of the southernmost driveway culvert parallel to the Libersat property. A culvert will be required underneath the Private Drive, followed by a new ditch in the right-of-way adjacent to the property south of the Libersats. The proposed ditch will need to tie into the concrete and rock riprap channel located downstream of the existing 24" RCP crossing under Nutty Brown Road. The discharge will then be conveyed through a new 30" RCP under a driveway on the southern property, followed by an existing channel that discharges flow to the east. The discharge then sheet flows to an existing stock pond further downstream. This alignment is shown as Figure 10.

The first portion of Alternative 3 consists of the channel proposed in Alternative 1, except the channel does not turn east at the Private Drive. The flow is instead conveyed through a culvert under the Private Drive within the County's right-of-way. To convey the 100-year project peak discharge of 23 cfs from DP-1, the ditch should have a depth of two feet, a longitudinal slope of 2% to match existing terrain, and 3H:1V side slopes. Due to the steepness of the longitudinal slope, this ditch will have supercritical flow and high velocities, therefore requiring the channel to be armored with permanent turf reinforcement matting or rock riprap. The channel could be designed at a more shallow longitudinal slope, but the cost of the channel would likely increase due to the necessity of drop structures and a deeper channel. Refer to Figure 5 for a typical section of the proposed ditch along Nutty Brown Road. FlowMaster calculations are provided in the appendix.

A 24" culvert with upstream and downstream headwalls is recommended under the Private Drive to convey flows from the Libersat property to the proposed downstream channel. Downstream of this culvert, the aforementioned two-foot deep channel should continue until the ditch ties into the existing concrete and rock riprap ditch. A concrete wall is located downstream of the headwall of the existing 24" RCP under Nutty Brown Road and will need to be modified to convey flow from the proposed channel to the existing channel.

The existing concrete and rock riprap ditch has 1H:1V side slopes on the left and right banks, a longitudinal slope of 1.1% and a Manning's roughness coefficient of 0.02 was assumed. FlowMaster was used to calculate that the existing ditch can convey approximately 108 cfs of runoff. Therefore, the

existing ditch has sufficient capacity for Alternative 3's combined 100-year peak discharge of 41 cfs at DP-4. FlowMaster calculations are provided in the appendix.

The existing culvert under the driveway downstream of the concrete and riprap channel is a 24" CMP with an approximate 1.7% longitudinal slope. The capacity of this culvert is approximately 30 cfs; therefore is not sufficient to convey the 100-year peak discharge from both the west side of Nutty Brown Road and the discharge contributing to the Libersat property. The culvert will need to be upsized to a 30" RCP with two headwalls to adequately convey the combined 100-year peak discharges. The existing culvert is located outside of the County's existing right-of-way and replacement of the culvert will require obtaining additional easement to make the improvements. The right-of-way boundary was obtained from digital files provided by AECOM.

The hydrologic analysis indicates that neither the 25- or 100-year peak discharges at the stock pond downstream of the proposed improvements are adversely affected by this improvement.

Opinions of Probable Construction Cost

The cost of Alternative 1 is approximately \$111,095, including a 30% contingency. This drainage ditch will require obtaining a 20-foot wide, 400-foot long right-of-way or drainage easement along the existing Private Drive.

The cost of Alternative 2 is approximately \$179,475, including a 30% contingency. Construction of the detention facility will require obtaining approximately 400 square feet of right-of-way or drainage easement.

The cost of Alternative 3 is approximately \$139,795, including a 30% contingency. Upsizing the existing 24" CMP will require obtaining a 20-foot wide, 70-foot long drainage easement on the property south of the Libersats.

The real estate cost associated with acquiring additional right-of-way or drainage easements for the alternatives is unknown and not included in the cost estimate. An itemized list of the probable construction costs for each alternative is contained in the appendix.

Recommendation

It is the opinion of FNI that the best solution to handle the increase in peak discharges on the Libersat property is Alternative 3. Although all three alternatives are viable and resolve the drainage issues at the Libersat property, Alternative 3 offers several advantages in our opinion. Construction of the detention facility eliminates use of the Libersat's frontage and would require on-going maintenance. Locating a detention facility along the roadway also raises safety concerns for drivers and pedestrians. The construction cost for Alternative 2 is approximately \$68,000 more than Alternative 1 and \$40,000 more than Alternative 3. Construction of the drainage ditch along Nutty Brown Road and extended along the Private Drive as in Alternative 1 is approximately \$29,000 less than Alternative 3. However, Alternative 3 requires obtaining significantly less additional easement for the improvements than Alternative 1.

Subdivision/Road/Staff Review Agenda Item Request Form

Hays County Commissioners' Court

9:00 a.m. Every Tuesday

Request forms are due in the County Judge's Office

no later than 2:00 p.m. on WEDNESDAY.

Phone (512) 393-2205

AGENDA ITEM: Discussion and possible action to negotiate a contract with HDR to study/design the intersection of Stagecoach Trail and Wonder World Drive to determine the best engineering solution regarding traffic entering and exiting Stagecoach Trail to the new Government Center

| TYPE OF AGENDA ITEM | Subdivision | Road | Staff Recommendation |
|----------------------------|--------------------|-------------|-----------------------------|
|----------------------------|--------------------|-------------|-----------------------------|

| |
|--|
| PREFERRED MEETING DATE REQUESTED: December 21, 2010 |
|--|

| |
|----------------------------------|
| AMOUNT REQUIRED: \$28,000 |
|----------------------------------|

| |
|--|
| LINE ITEM NUMBER OF FUNDS REQUIRED: Government Center contingencies |
|--|

| |
|----------------------------------|
| REQUESTED BY: Borcharding |
|----------------------------------|

| |
|-------------------------------|
| SPONSORED BY: Ingalsbe |
|-------------------------------|

| |
|---|
| SUMMARY: Road and Bridge has been in contact with TXDOT trying to get a traffic light placed at the intersection prior to opening of the Government Center. The latest communications with TXDOT indicate that, even in the event that the intersection meets warrants, there will be a two year delay in getting the project designed and funded. This agenda item requests that HDR be retained to work with TXDOT regarding the intersection design, to study warrant issues, to design the signal, and provide general consultant services to the County during this process. We have also been in discussions and coordinating with the City of San Marcos. |
|---|

Agenda Item Routing Form

DESCRIPTION OF Item: Negotiate a contract with HDR to study/design the intersection of Stagecoach Trail and Wonder World Drive to determine the best engineering solution regarding traffic entering and exiting Stagecoach Trail to the new Government Center.

PREFERRED MEETING DATE REQUESTED: December 21, 2010

COUNTY AUDITOR

AMOUNT: \$28,000.00

LINE ITEM NUMBER: Government Center Funds

COUNTY PURCHASING GUIDELINES FOLLOWED: Yes

PAYMENT TERMS ACCEPTABLE: Yes

COMMENTS:

Bill Herzog

SPECIAL COUNSEL

CONTRACT TERMS ACCEPTABLE: _____

COMMENTS:

COUNTY JUDGE

Signature Required if Approved

DATE CONTRACT SIGNED: _____

Jerry,

Thank you for helping with the design. When a consultant is hired to design the intersection, please have them contact me at the beginning of the design process to address the advance warning and to include equipment that will communicate with the City of San Marcos' signal interconnect system.

Thanks,
Mark

Jerry Borcharding <jerry@co.hays.tx.us> 12/8/2010 2:05 PM

Kevin:

Thanks for the clarification. We are pressing forward, as suggested, with hiring a consultant for design.

Thanks for your help.

Jerry Borcharding

From: Kevin Plumlee [<mailto:Kevin.Plumlee@txdot.gov>]

Sent: Wednesday, December 08, 2010 2:00 PM

To: Jerry Borcharding; Scott Cunningham

Cc: Debbie Ingalsbe; Sherri Tibbe; Don Nyland; Jose Sustaita; Mark Mohr

Subject: RE: 3407 at Stagecoach

Jerry,

There is 1200' of stopping distance from a point on the bridge to where a vehicle at the intersection is visible. This is adequate for a vehicle to stop given the down-grade and estimated queue. When the signal is built we would make a right lane where the pavement is currently striped-out. This would further reduce the queue length. We will also install an advance warning sign on the bridge when the signal is constructed. Please let me know if you have any other questions.

Thanks,

Kevin A. Plumlee, P.E.

Transportation Engineer

TxDOT-Austin District

(512) 832-7286 Voice

(512) 832-7246 Fax

Kevin.Plumlee@txdot.gov

Jerry Borcharding <jerry@co.hays.tx.us> 12/8/2010 1:33 PM

Kevin:

Is there a problem with the queue needed between the intersection and the bridge in regard to people stopping to turn right onto Stagecoach Trail?

From: Kevin Plumlee [<mailto:Kevin.Plumlee@txdot.gov>]

Sent: Tuesday, December 07, 2010 5:01 PM

To: Jerry Borcharding; Scott Cunningham

Cc: Debbie Ingalsbe; Sherri Tibbe; Don Nyland; Jose Sustaita; Mark Mohr

Subject: Re: 3407 at Stagecoach

Jerry,

I ran our warrant software and this intersection meets several warrants for a traffic signal. The stopping-sight-distance from both directions is ~1200' which is adequate distance for a vehicle to stop at a traffic signal with a queue. As Scott mentioned in his previous email we have quite a few signals to design before this one but at least we now know that one is warranted.

Sincerely,

Kevin A. Plumlee, P.E.
Transportation Engineer
TxDOT-Austin District
(512) 832-7286 Voice
(512) 832-7246 Fax

Kevin.Plumlee@txdot.gov

Scott Cunningham 12/6/2010 12:10 PM

I hope you realize that it takes us about 2 years to get to the place where we can design and build a signal. We currently are working on 49 signals. If the county wants to speed us up then you could do the design or design and build for us, otherwise I'm stuck with the limited staff and lack of consultant contracting that I have. At a bare minimum, since they don't manufacture the poles until they are ordered, we would be at least 3 months out once the design is done. Since traffic signals increase the number of crashes while reducing the severity of the individual crash, perhaps there should be as big an interest from a safety perspective towards getting this signal. Yes, it will make it easier to get out, but at the cost of many fender-bender rearends.

Jerry Borcharding <jerry@co.hays.tx.us> 12/6/2010 9:32 AM

Scott

Thanks for your work on this. Of course when

The Gov center comes on line I would expect a huge increase. There is great interest in getting a signal authorized.

On Dec 6, 2010, at 9:26 AM, "Scott Cunningham" <Scott.Cunningham@txdot.gov> wrote:

Kevin and I discussed this signal this morning and he is on his way to pickup the counters at Nutty Brown/1826 and to lay out new counters on FM 3407.

When we counted FM 3407 at Stagecoach in response to your March email, it did not meet warrants. FM 3407 traffic was light as you can see in the attached warrant study. While we included all of the side street traffic (not excluding right turners as is common), the problem is that at lower major street volumes, higher side street volumes are required. It's possible now that RM 12 is completely open that it will have heavier volume. The amount of people coming to trial really is not the issue at this intersection as it is a major street volume problem.

Kevin will measure stopping sight distance on the RR bridge today as he lays out the tubes. We will only be counting FM 3407 traffic today.

Scott R. Cunningham, P.E.
Traffic Engineer- Austin District
7901 N. IH35
Austin, Texas
512-832-7188

Please note my new email address: Scott.Cunningham@txdot.gov

Jerry Borcharding <jerry@co.hays.tx.us> 12/1/2010 9:24 AM

Hey Scott:

I haven't heard from you about the light at Wonder World/Stagecoach intersection??

Let me know what you think about that stacking distance.

Thanks,

Jerry B.

Don:

As recently mentioned, Hays County is interested in investigating whether it is possible to have a traffic light installed at the Stagecoach/Wonder World intersection before our Government Center begins operations. Below you will see Sherri Tibbe's, our District Attorney, estimate of the additional traffic load that will be added to the traffic created by our own employee force of 385. These numbers of course don't include the additional traffic generated by morning arrivals of people needing to carry on other business within the building such as; family members of people going to trial, people who need to pay taxes, people who need to research County records, and others.

Hays County formally asks that a traffic study be performed to determine if the intersection warrants a signal. If at all possible please consider the guaranteed additional traffic that will appear the day the facility opens.

Thank you,

Jerry H. Borcharding, P.E.

From: Sherri Tibbe [<mailto:sherri.tibbe@co.hays.tx.us>]

Sent: Friday, March 12, 2010 9:39 AM

To: Jerry Borcharding

Subject: RE: Wonder World signal warrant study

Every Monday we have jury pools coming in for both County & District Courts. Up to 300 jurors coming in to the building for jury selection. County Court would likely only have juries every other week, but that could change with the new facility. District Court is every Monday. Currently, we only have one jury pool at a time but with a bigger facility, we will likely have 2 juries coming in.

Also, Thursdays is County Court at Law pretrial day. On those days up 600 people are set for court. Sherri

Sherri K. Tibbe

Criminal District Attorney

Hays County

110 MLK

San Marcos, Texas 78666

(512) 393-7600

(512) 393-7619

Sherri.Tibbe@co.hays.tx.us

We are "On a Mission to Modernize" transportation.

**SHORT FORM AGREEMENT BETWEEN OWNER AND HDR ENGINEERING, INC. FOR
PROFESSIONAL SERVICES**

THIS AGREEMENT is made as of this Tenth day of December, 2010, between Broaddus and Associates, Inc. ("OWNER") a Texas corporation, with principal offices at 1301 S. Capital of Texas Hwy., Suite A-302, Austin, Texas 78746, and HDR ENGINEERING, INC., ("ENGINEER") a Nebraska corporation, with principal offices at 8404 Indian Hills Drive, Omaha, Nebraska, 68114 for services in connection with the project known as "Stagecoach Drive and Wonderworld Drive Signal Design" ("Project");

WHEREAS, OWNER desires to engage ENGINEER to provide professional engineering, consulting and related services ("Services") in connection with the Project; and

WHEREAS, ENGINEER desires to render these Services as described in SECTION I, Scope of Services.

NOW, THEREFORE, OWNER and ENGINEER in consideration of the mutual covenants contained herein, agree as follows:

SECTION I. SCOPE OF SERVICES

ENGINEER will provide Services for the Project, which consist of the Scope of Services as outlined on the attached Exhibit A.

SECTION II. TERMS AND CONDITIONS OF ENGINEERING SERVICES

The "HDR Engineering, Inc. Terms and Conditions for Professional Services," which are attached hereto in Exhibit B, are incorporated into this Agreement by this reference as if fully set forth herein.

SECTION III. RESPONSIBILITIES OF OWNER

The OWNER shall provide the information set forth in paragraph 6 of the attached "HDR Engineering, Inc. Terms and Conditions for Professional Services."

In addition, the following information is to be or has been provided by the OWNER:

1. Electronic copy of site plan identifying the following items:
 - a. Proposed land use types and sizes
 - b. Proposed driveway locations
2. Scheduled buildout of proposed land uses.

SECTION IV. COMPENSATION

Compensation for ENGINEER'S services under this Agreement shall be on the basis of lump sum except for Stage V described in Exhibit A, which will be handled on an hourly basis. The amount of the lump sum for Stages I through IV will be \$28,000.

Lump Sum shall mean a fixed amount which shall be the total compensation agreed upon in advance for sum scope of work.

SECTION V. PERIOD OF SERVICE

Upon receipt of written authorization to proceed, ENGINEER shall perform the services described in Exhibit A within a reasonable period of time.

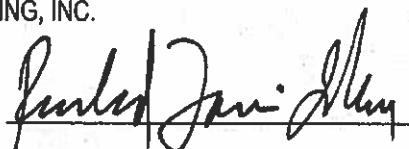
Unless otherwise stated in this Agreement, the rates of compensation for ENGINEER'S services have been agreed to in anticipation of the orderly and continuous progress of the project through completion. If any specified dates for the completion of ENGINEER'S services are exceeded through no fault of the ENGINEER, the time for performance of those services shall be automatically extended for a period which may be reasonably required for their completion and all rates, measures and amounts of ENGINEER'S compensation shall be equitably adjusted.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first written above.

Broaddus and Associates, Inc.
"OWNER"

BY: _____
NAME: Bob Hinkle
TITLE: Sr. Project Manager
ADDRESS: 1301 S. Capital of Texas Hwy.
Suite A-302
Austin, Texas 78746

HDR ENGINEERING, INC.
"ENGINEER"

BY: 
NAME: Rashed T. Islam, P.E., PTOE
TITLE: Vice President
ADDRESS: 504 Lavaca Street #1175
Austin, Texas 78701

PROJECT NAME: Stagecoach and Wonder World Drive
Signal Design
PROJECT MANAGER: Anna Martin, P.E., PTOE
CONTRACT AMOUNT \$28,000

EXHIBIT A

SCOPE OF SERVICES

Project Name: Stagecoach Drive and Wonder World Drive Signal Design

Project Manager: Anna Martin, P.E., PTOE (512) 904-3719

This scope of services is submitted to perform signal warrant analysis and signal design for the intersection of Stagecoach Drive and Wonder World Drive in San Marcos, Texas. It should be noted that this proposal has been prepared prior to receiving an approved scope of work developed with TxDOT. Any changes to the assumed scope of services may result in increased project costs.

I Preparation of Approved Scope of Work. Stage I will involve coordination to obtain an approved scope of work prior to beginning the analysis. The following tasks will be necessary to obtain approval:

1. Coordinate with OWNER and TxDOT and County to obtain necessary information, confirm scope of work, establish project schedule, review traffic signal warrant and design requirements, and provide updates on project progress. Two (2) meetings have been assumed for budget purposes.
2. Prepare Scope of Work to be reviewed by TxDOT and County staff.
3. Revise Scope of Work as per comments received from TxDOT and County staff.

The approved Scope of Work will be used to prepare a report that documents findings and recommendations for submission to TxDOT.

II Signal Warrant Analysis. Stage II will involve data collection, signal warrant analysis and preparation of a letter report for submission to TxDOT.

A Data Collection. In Stage II, Part A we would perform the following services:

1. Observe existing traffic operations on the study area network to note operational problems, traffic patterns, etc.
2. Conduct AM and PM peak hour turning movement counts at the intersection of Stagecoach Drive and Wonder World Drive.
3. Conduct twenty-four hour traffic volume approach counts at the intersection of Stagecoach Drive and Wonder World Drive.
4. Coordinate with City/County/TxDOT to obtain future roadway and other planned improvements in the vicinity of the site.
5. Coordinate with City/County to obtain information related to future developments in the vicinity of the site.

B Analysis. In Stage II, Part B we would perform the following services:

1. Estimate traffic to be generated by the proposed project using Institute of Traffic Engineers (ITE) publication "Trip Generation", 8th Edition. If applicable trip generation is not available in ITE, OWNER will provide trip generation information from a comparable facility.
2. Estimate traffic to be generated by other approved projects in the area and add to background traffic.
3. Develop distribution assumptions.
4. Distribute the site-generated traffic through the study intersection.
5. Perform traffic signal warrant analysis to evaluate the need for a traffic signal at the intersection of Stagecoach Drive and Wonderworld Drive.

C Report. In Stage II, Part C we would perform the following services:

1. Prepare a draft signal warrant analysis report that documents our analysis and recommendations for review by the Client.
2. Prepare a final report that addresses comments from OWNER for presentation to TxDOT.

III Signal Design. Stage III will involve the following tasks to prepare traffic signal design plans for the intersection of Wonder World Drive and Stagecoach Drive, if traffic signal warrants are met and a signal is approved by the TxDOT:

- Obtain roadway plans (electronic) for the proposed intersection, including existing topographic data, utilities, and proposed driveway layout. These plans will be provided by the OWNER and will be used as a base for the signal design plans.
- Coordinate with Texas One Call System and OWNER to locate all utilities in the field.
- Conduct a field review in the vicinity of the intersection of Wonder World Drive and Stagecoach Drive to note and verify physical constraints, power connection, utility placement, existing nearby traffic signal equipment, and any other details necessary for signal plan preparation.
- Prepare draft sets of plans and quantity estimates for the intersection of Wonder World Drive and Stagecoach Drive. Draft plans will include complete traffic signal plan sets for the intersection, including pavement marking modifications, signage, and communication equipment details necessary to facilitate traffic signal operations.
- Submit draft sets of plans to TxDOT for review.
- Prepare final sets of plans, which incorporate all previous comments, and submit to TxDOT.

IV Construction Administration. Stage IV will involve the following tasks to assist the County and TxDOT through the bidding process and the construction of the traffic signal:

- Assist the County with the preparation of bid package.

- Attend pre-bid meeting.
- Respond to RFI's from potential bidders and the contractor.
- Assist the County in tabulating and evaluating the bids and make a recommendation to the City for award of construction contract.
- Attend pre-construction meeting with the contractor. One pre-construction meeting has been assumed.
- Attend two on-site construction inspections.
- After construction is complete, obtain as-built plan mark-ups from contractor, and provide TxDOT and the County with a final set of as-built plans.

V Additional Analysis Beyond the Scope of Work. Stage V would include additional analysis work and report revisions outside the scope originally defined by TxDOT and County staff, if required by the OWNER, the County, or TxDOT after submission of the traffic signal plans. This stage would be handled on an hourly basis, if required.

EXHIBIT B

TERMS AND CONDITIONS

HDR Engineering, Inc.
Terms and Conditions for Professional Services

1. STANDARD OF PERFORMANCE

The standard of care for all professional engineering, consulting and related services performed or furnished by ENGINEER and its employees under this Agreement will be the care and skill ordinarily used by members of ENGINEER's profession practicing under the same or similar circumstances at the same time and in the same locality. ENGINEER makes no warranties, express or implied, under this Agreement or otherwise, in connection with ENGINEER's services.

2. INSURANCE

ENGINEER agrees to procure and maintain, at its expense, Workers' Compensation insurance as required by statute; Employer's Liability of \$250,000; Automobile Liability insurance of \$1,000,000 combined single limit for bodily injury and property damage covering all vehicles, including hired vehicles, owned and non-owned vehicles; Commercial General Liability insurance of \$1,000,000 combined single limit for personal injury and property damage; and Professional Liability insurance of \$1,000,000 per claim for protection against claims arising out of the performance of services under this Agreement caused by negligent acts, errors, or omissions for which ENGINEER is legally liable. Upon request, OWNER shall be made an additional insured on Commercial General and Automobile Liability insurance policies and certificates of insurance will be furnished to the OWNER. ENGINEER agrees to indemnify OWNER for the claims covered by ENGINEER's insurance.

3. OPINIONS OF PROBABLE COST (COST ESTIMATES)

Any opinions of probable project cost or probable construction cost provided by ENGINEER are made on the basis of information available to ENGINEER and on the basis of ENGINEER's experience and qualifications, and represents its judgment as an experienced and qualified professional engineer. However, since ENGINEER has no control over the cost of labor, materials, equipment or services furnished by others, or over the contractor(s)' methods of determining prices, or over competitive bidding or market conditions, ENGINEER does not guarantee that proposals, bids or actual project or construction cost will not vary from opinions of probable cost ENGINEER prepares.

4. CONSTRUCTION PROCEDURES

ENGINEER's observation or monitoring portions of the work performed under construction contracts shall not relieve the contractor from its responsibility for performing work in accordance with applicable contract documents. ENGINEER shall not control or have charge of, and shall not be responsible for, construction means, methods, techniques, sequences, procedures of construction, health or safety programs or precautions connected with the work and shall not manage, supervise, control or have charge of construction. ENGINEER shall not be responsible for the acts or omissions of the contractor or other parties on the project. ENGINEER shall be entitled to review all construction contract documents and to require that no provisions extend the duties or liabilities of ENGINEER beyond those set forth in this Agreement. OWNER agrees to include ENGINEER as an indemnified party in OWNER's construction contracts for the work, which shall protect ENGINEER to the same degree as OWNER. Further, OWNER agrees that ENGINEER shall be listed as an additional insured under the construction contractor's liability insurance policies.

5. CONTROLLING LAW

This Agreement is to be governed by the law of the state where ENGINEER's services are performed.

6. SERVICES AND INFORMATION

OWNER will provide all criteria and information pertaining to OWNER's requirements for the project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and any budgetary limitations. OWNER will also provide copies of any OWNER-furnished Standard Details, Standard Specifications, or Standard Bidding Documents which are to be incorporated into the project.

OWNER will furnish the services of soils/geotechnical engineers or other consultants that include reports and appropriate professional recommendations when such services are deemed necessary by ENGINEER. The OWNER agrees to bear full responsibility for the technical accuracy and content of OWNER-furnished documents and services.

In performing professional engineering and related services hereunder, it is understood by OWNER that ENGINEER is not engaged in rendering any type of legal, insurance or accounting services, opinions or advice. Further, it is the OWNER's sole responsibility to obtain the advice of an attorney, insurance counselor or accountant to protect the OWNER's legal and financial interests. To that end, the OWNER agrees that OWNER or the OWNER's representative will examine all studies, reports, sketches, drawings, specifications, proposals and other documents, opinions or advice prepared or provided by ENGINEER, and will obtain the advice of an attorney, insurance counselor or other consultant as the OWNER deems necessary to protect the OWNER's interests before OWNER takes action or forebears to take action based upon or relying upon the services provided by ENGINEER.

7. SUCCESSORS AND ASSIGNS

OWNER and ENGINEER, respectively, bind themselves, their partners, successors, assigns, and legal representatives to the covenants of this Agreement. Neither OWNER nor ENGINEER will assign, sublet, or transfer any interest in this Agreement or claims arising therefrom without the written consent of the other.

8. RE-USE OF DOCUMENTS

All documents, including all reports, drawings, specifications, computer software or other items prepared or furnished by ENGINEER pursuant to this Agreement, are instruments of service with respect to the project. ENGINEER retains ownership of all such documents. OWNER may retain copies of the documents for its information and reference in connection with the project; however, none of the documents are intended or represented to be suitable for reuse by OWNER or others on extensions of the project or on any other project. Any reuse without written verification or adaptation by ENGINEER for the specific purpose intended will be at OWNER's sole risk and without liability or legal exposure to ENGINEER, and OWNER will defend, indemnify and hold harmless ENGINEER from all claims, damages, losses and expenses, including attorney's fees, arising or resulting therefrom. Any such verification or adaptation will entitle ENGINEER to further compensation at rates to be agreed upon by OWNER and ENGINEER.

9. TERMINATION OF AGREEMENT

OWNER or ENGINEER may terminate the Agreement, in whole or in part, by giving seven (7) days written notice, if the other party substantially fails to fulfill its obligations under the Agreement through no fault of the terminating party. Where the method of payment is "lump sum," or cost reimbursement, the final invoice will include all services and expenses associated with the project up to the effective date of termination. An equitable adjustment shall also be made to provide for termination settlement costs ENGINEER incurs as a result of commitments that had become firm before termination, and for a reasonable profit for services performed.

10. SEVERABILITY

If any provision of this agreement is held invalid or unenforceable, the remaining provisions shall be valid and binding upon the parties. One or more waivers by either party of any provision, term or condition shall not be construed by the other party as a waiver of any subsequent breach of the same provision, term or condition.

11. INVOICES

ENGINEER will submit monthly invoices for services rendered and OWNER will make prompt payments in response to ENGINEER's invoices.

ENGINEER will retain receipts for reimbursable expenses in general accordance with Internal Revenue Service rules pertaining to the support of expenditures for income tax purposes. Receipts will be available for inspection by OWNER's auditors upon request.

If OWNER disputes any items in ENGINEER's invoice for any reason, including the lack of supporting documentation, OWNER may temporarily delete the disputed item and pay the remaining amount of the invoice. OWNER will promptly notify ENGINEER of the dispute and request clarification and/or correction. After any dispute has been settled, ENGINEER will include the disputed item on a subsequent, regularly scheduled invoice, or on a special invoice for the disputed item only.

OWNER recognizes that late payment of invoices results in extra expenses for ENGINEER. ENGINEER retains the right to assess OWNER interest at the rate of one percent (1%) per month, but not to exceed the maximum rate allowed by law, on invoices which are not paid within thirty (30) days from the date of the invoice. In the event undisputed portions of ENGINEER's invoices are not paid when due, ENGINEER also reserves the right, after seven (7) days prior written notice, to suspend the performance of its services under this Agreement until all past due amounts have been paid in full.

12. CHANGES

The parties agree that no change or modification to this Agreement, or any attachments hereto, shall have any force or effect unless the change is reduced to writing, dated, and made part of this Agreement. The execution of the change shall be authorized and signed in the same manner as this Agreement. Adjustments in the period of services and in compensation shall be in accordance with applicable paragraphs and sections of this Agreement. Any proposed fees by ENGINEER are estimates to perform the services required to complete the project as ENGINEER understands it to be defined. For those projects involving conceptual or process development services, activities often are not fully definable in the initial planning. In any event, as the project progresses, the facts developed may dictate a change in the services to be performed, which may alter the scope. ENGINEER will inform OWNER of such situations so that changes in scope and adjustments to the time of performance and compensation can be made as required. If such change, additional services, or suspension of services results in an increase or decrease in the cost of or time required for performance of the services, an equitable adjustment shall be made, and the Agreement modified accordingly.

13. CONTROLLING AGREEMENT

These Terms and Conditions shall take precedence over any inconsistent or contradictory provisions contained in any proposal, contract, purchase order, requisition, notice-to-proceed, or like document.

14. EQUAL EMPLOYMENT AND NONDISCRIMINATION

In connection with the services under this Agreement, ENGINEER agrees to comply with the applicable provisions of federal and state Equal Employment Opportunity, and other employment, statutes and regulations.

15. HAZARDOUS MATERIALS

OWNER represents to ENGINEER that, to the best of its knowledge, no hazardous materials are present at the project site. However, in the event hazardous materials are known to be present, OWNER represents that to the best of its knowledge it has disclosed to ENGINEER the existence of all such hazardous materials, including but not limited to asbestos, PCB's, petroleum, hazardous waste, or radioactive material located at or near the project site, including type, quantity and location of such hazardous materials. It is acknowledged by both parties that ENGINEER's scope of services do not include services related in any way to hazardous materials. In the event ENGINEER or any other party encounters undisclosed hazardous materials, ENGINEER shall have the obligation to notify OWNER and, to the extent required by law or regulation, the appropriate governmental officials, and ENGINEER may, at its option and without liability for delay, consequential or any other damages to OWNER, suspend performance of services on that portion of the project affected by hazardous materials until OWNER: (i) retains appropriate specialist consultant(s) or contractor(s) to

Identify and, as appropriate, abate, remediate, or remove the hazardous materials; and (ii) warrants that the project site is in full compliance with all applicable laws and regulations. OWNER acknowledges that ENGINEER is performing professional services for OWNER and that ENGINEER is not and shall not be required to become an "arranger," "operator," "generator," or "transporter" of hazardous materials, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1990 (CERCLA), which are or may be encountered at or near the project site in connection with ENGINEER's services under this Agreement.

If ENGINEER's services hereunder cannot be performed because of the existence of hazardous materials, ENGINEER shall be entitled to terminate this Agreement for cause on 30 days written notice. To the fullest extent permitted by law, OWNER shall indemnify and hold harmless ENGINEER, its officers, directors, partners, employees, and subconsultants from and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) caused by, arising out of or resulting from hazardous materials, provided that (i) any such cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or injury to or destruction of tangible property (other than completed Work), including the loss of use resulting therefrom, and (ii) nothing in this paragraph shall obligate OWNER to indemnify any individual or entity from and against the consequences of that individual's or entity's sole negligence or willful misconduct.

16. EXECUTION

This Agreement, including the exhibits and schedules made part hereof, constitute the entire Agreement between ENGINEER and OWNER, superseding and controlling over all prior written or oral understandings. This Agreement may be amended, supplemented or modified only by a written instrument duly executed by the parties.

17. LIMITATION OF LIABILITY

ENGINEER's and its employees' total liability to OWNER for any loss or damage, including but not limited to special and consequential damages arising out of or in connection with the performance of services or any other cause, including ENGINEER's and its employees' professional negligent acts, errors, or omissions, shall not exceed the greater of \$50,000 or the total compensation received by ENGINEER hereunder, except as otherwise provided under this Agreement, and OWNER hereby releases and holds harmless ENGINEER and its employees from any liability above such amount.

18. LITIGATION SUPPORT

In the event ENGINEER is required to respond to a subpoena, government inquiry or other legal process related to the services in connection with a legal or dispute resolution proceeding to which ENGINEER is not a party, OWNER shall reimburse ENGINEER for reasonable costs in responding and compensate ENGINEER at its then standard rates for reasonable time incurred in gathering information and documents and attending depositions, hearings, and trial.

19. UTILITY LOCATION

If underground sampling/testing is to be performed, a local utility locating service shall be contacted to make arrangements for all utilities to determine the location of underground utilities. In addition, OWNER shall notify ENGINEER of the presence and location of any underground utilities located on the OWNER's property which are not the responsibility of private/public utilities. ENGINEER shall take reasonable precautions to avoid damaging underground utilities that are properly marked. The OWNER agrees to waive any claim against ENGINEER and will indemnify and hold ENGINEER harmless from any claim of liability, injury or loss caused by or allegedly caused by ENGINEER's damaging of underground utilities that are not properly marked or are not called to ENGINEER's attention prior to beginning the underground sampling/testing.

Agenda Item Request Form

Hays County Commissioners' Court

9:00 a.m. Every Tuesday

Request forms are due in the County Judge's Office

no later than **2:00 p.m.** on **WEDNESDAY.**

Phone (512) 393-2205 Fax (512) 393-2282

AGENDA ITEM: *Discussion and possible action to adopt a resolution supporting the proposed changes to the Hays County Development Regulations; hold a public meeting and approve Order Adopting Rules for On-Site Sewage Facilities.*

CHECK ONE: ☐ **CONSENT** ☒ **ACTION** ☐ **EXECUTIVE SESSION**
☐ **WORKSHOP** ☐ **PROCLAMATION** ☐ **PRESENTATION**

PREFERRED MEETING DATE REQUESTED: December 21, 2010

AMOUNT REQUIRED:

LINE ITEM NUMBER OF FUNDS REQUIRED:

REQUESTED BY: Garza

SPONSORED BY: SUMTER

SUMMARY:

COUNTY OF HAYS
STATE OF TEXAS

§
§

AFFIDAVIT

Before me, the undersigned authority, personally appeared Linda Fritsche, who, being by me duly sworn, deposed as follows:

My name is Linda Fritsche, I am of sound mind, capable of making this affidavit, and personally acquainted with the facts herein stated:

I am the custodian of the records of the County Clerk's Office for the County of Hays, Texas. Attached hereto are twenty-four (24) pages of records known as RULES OF HAYS COUNTY, TEXAS, FOR ON-SITE SEWAGE FACILITIES (OSSFs). The records are kept by me as County Clerk, County of Hays, in the regular course of business with knowledge of the act, event, condition, opinion, or diagnosis, recorded to make the record or to transmit information thereof to be included in such record; and the record was made at or near the time or reasonably soon thereafter. The record attached hereto is the original or exact duplicate of the official record.

Linda Fritsche, County Clerk

BEFORE ME, the undersigned authority, on this day personally appeared Linda Fritsche, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledge to me that she executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____, 2010.

(SEAL)

Notary/Public, State of Texas
My commission expires: _____

**ORDER ADOPTING RULES OF HAYS COUNTY, TEXAS
FOR ON-SITE SEWAGE FACILITIES**

WHEREAS, the Texas Commission on Environmental Quality (TCEQ) has established Rules for on-site sewage facilities to provide the citizens of this State with adequate public health protection and a minimum of environmental pollution; and,

WHEREAS, the Legislature has enacted legislation, codified as Texas Health and Safety Code (THSC), Chapter 366, which authorizes a local government to regulate the use of on-site sewage facilities in its jurisdiction in order to abate or prevent pollution or injury to public health arising out of the use of on-site sewage facilities; and,

WHEREAS, due notice was given of a public meeting to determine whether the Commissioners Court of Hays County, Texas, should enact an Order controlling or prohibiting the installation or use of on-site sewage facilities in the County of Hays, Texas; and,

WHEREAS, the Commissioners Court of Hays County, Texas, finds that the use of on-site sewage facilities in Hays County, Texas, is causing, or may cause, pollution and is injuring, or may injure, the public health; and,

WHEREAS, the Commissioners Court of Hays County, Texas, has considered the matter and deems it appropriate to enact an Order adopting Rules regulating on-site sewage facilities to abate or prevent pollution or injury to public health in Hays County, Texas; **NOW, THEREFORE**,

BE IT ORDERED BY THE COMMISSIONERS COURT OF HAYS COUNTY, TEXAS:

Section 1. That the matters and facts recited in the preamble hereof are hereby found and determined to be true and correct.

Section 2. That the use of on-site sewage facilities in Hays County, Texas, is causing, or may cause, pollution or is injuring, or may injure, the public health.

Section 3. That an Order for Hays County, Texas, be adopted entitled "On-Site Sewage Facilities," which shall read as follows:

AN ORDER ENTITLED "ON-SITE SEWAGE FACILITIES"

Section 4. CONFLICTS.

This Order repeals and replaces any other On-Site Sewage Facility (OSSF) Order for Hays County. If there are any conflicts with any phrase, clause, sentence, paragraph, or section of the Hays County Development Regulations, the provisions of this Order shall govern.

Section 5. ON-SITE SEWAGE FACILITY REGULATION AND ENFORCEMENT.

The County of Hays, Texas, clearly understands that there are technical criteria, legal requirements, and administrative procedures and duties associated with regulating on-site sewage facilities and will fully enforce

Chapter 366 of the THSC and Chapters 7 and 37 of the Texas Water Code (TWC) and associated rules referenced in Section 8 of this Order.

Section 6. AREA OF JURISDICTION.

A. This Order shall apply to any OSSF in Hays County, Texas, that is located in the following regulated areas:

1. The OSSF is located outside the extra-territorial jurisdiction of any municipality;
2. The OSSF is located within the extra-territorial jurisdiction, but outside the incorporated limits of a municipality with whom the County does not have an inter-local agreement for the County to serve as the OSSF authorized agent;
3. The OSSF is located with the jurisdictional limits (either incorporated limits or ETJ) of a municipality that has executed an agreement with Hays County, Texas, for the County to serve as the OSSF authorized agent for that municipality.

This Order shall not apply to any OSSF in Hays County, Texas, that is within an area regulated under an existing program under TCEQ delegation, including areas within incorporated cities.

B. Regulated OSSF.

This Order shall apply only to on-site sewage disposal facilities in Hays County that are considered to be regulated OSSFs, meeting the following criteria:

1. The OSSF does not treat or dispose of more than 5,000 gallons of sewage each day; and,
2. The OSSF is used only for the disposal of sewage produced on a site where any part of the system is located.

On-site sewage disposal facilities that do not qualify as regulated OSSFs in Hays County, Texas, are under the exclusive jurisdiction of the Texas Commission on Environmental Quality.

Section 7. ON-SITE SEWAGE FACILITY RULES.

Approval of the County is required prior to the construction, alteration, or modification of an OSSF unless excluded or exempted under State law or this Order. Any permit issued for an on-site sewage facility within the jurisdictional area of Hays County, Texas, must comply with the Rules adopted in Section 8 of this Order.

Section 8. ON-SITE SEWAGE FACILITY RULES ADOPTED.

The Rules, Title 30 Texas Administrative Code (TAC) Chapter 30, Subchapters A and G, and Chapter 285, promulgated by the TCEQ for on-site sewage facilities, are hereby adopted, and all officials and employees of Hays County, Texas, having duties under said Rules are authorized to perform such duties as are required of them under said Rules.

Section 9. INCORPORATION BY REFERENCE.

The Rules, 30 TAC Chapter 30, Subchapters A and G, and Chapter 285, and all future amendments and revisions thereto, are incorporated by reference and are thus made a part of these Rules.

Section 10. AMENDMENTS.

The County of Hays, Texas, wishing to adopt more stringent Rules for its On-Site Sewage Facilities, understands that the more stringent local Rule shall take precedence over the corresponding Texas Commission on Environmental Quality requirements if local rules provide greater public health and safety protection. Listed below are the more stringent Rules adopted by Hays County, Texas.

A. Definitions.

The following terms shall have the corresponding meaning:

1. Dwelling Unit Equivalent – An estimated quantity of wastewater from a non-residential source that is equivalent to that generated from a three (3) bedroom residential dwelling unit, or 300 gallons per day, whichever is greater.
2. Qualified OSSF Inspector – An individual with a current license from the TCEQ as an Installer or a Maintenance Provider, as those terms are defined under 30 TAC Chapter 285 who also holds a current National Association of Wastewater Transporters (NAWT) or National Sanitation Foundation (NSF) certification as an on-site sewage facility inspector within one year of the effective date of these rules. Texas licensed professional engineers and Texas registered sanitarians may also inspect existing OSSFs, subject to the requirements of 30 TAC Chapter 285.
3. Department – Hays County Development Services Division
4. Groundwater Supply System – Any water supply system that obtains greater than one-third of its overall supply from Groundwater. This classification of water supply systems is further subdivided into Public Groundwater Supply Systems and Private Groundwater Supply Systems. Public Groundwater Supply Systems are any systems designated a Public Water System by the Texas Commission on Environmental Quality. Private Groundwater Supply Systems are any systems that do not qualify as a Public Groundwater Supply System, including, but not limited to, individual water supply wells.
5. Surface or Rainwater Collection System – A water supply system in which greater than two-thirds of the total water obtained is from a “surface” source, rainwater collection, or groundwater from an aquifer that is located entirely outside of Hays County. In the event any water supply system relies on Groundwater for greater than one-third, but not more than one-half, of its total water supply, the Commissioners Court may, on a case-by-case basis, approve an application to consider such water supply system to be a “Surface or Rainwater Collection System.”
6. Private Well – Any water well other than a Public Well. This definition includes Non-Public Local Groundwater Supply Systems which are Local Groundwater Supply Systems that do not qualify as a Public Local Groundwater Supply System, including, but not limited to individual water supply wells.
7. Public Well – A water well providing piped water for human consumption and defined as a "Community

Water System" or a "Public Water System" under Chapter 290 of the Texas Administrative Code.

8. Rainwater Harvesting System – An individual potable water supply system approved by the Department and having rainwater as its source and designed to provide for any or all of the domestic water requirements, including irrigation.

B. On-Site Sewage Facility Classifications.

1. Grandfathered System.

A grandfathered system is an OSSF meeting all of the following criteria:

- (A) The OSSF manages no more than 5,000 gallons of sewage per day.
- (B) The OSSF was either existing prior to the County's initial regulation of OSSFs or was permitted prior to the effective date of these regulations; and,
- (C) The OSSF is subject only to on-going maintenance as that term is defined in 30 TAC 285.

Any alteration, modification, or change in type of use of the OSSF other than maintenance as that term is defined in 30 TAC 285, shall disqualify an OSSF from classification as a grandfathered system.

2. Conventional System (Hays County definition)

The term "Conventional System" means on-site sewage facilities, including septic tanks, sewage holding tanks, treatment tanks and all other such facilities and systems consisting of a standard treatment system, as defined under 30 TAC §285.32(b), and an effluent dispersal system that does not use a pressurized method to uniformly distribute effluent over the entire disposal/dispersal area, and managing no more than 5,000 gallons of sewage per day.

3. Advanced System (Hays County definition)

The term "Advanced System" means an on-site system of sewage treatment and disposal other than a conventional system, and includes an intermittent sand filter, a proprietary treatment system, as defined under 30 TAC §285.32(c), a non-standard treatment system, as defined under 30 TAC §285.32(d), other secondary treatment systems, or a standard treatment system followed by a dispersal system that uses a pressurized method to uniformly distribute the effluent over the entire disposal/dispersal area.

C. Wastewater Service Availability

1. Permits. The Department shall issue no On-Site Sewage Facility or development permit on any parcel of land unless that property is in compliance with all the requirements of these Regulations.
2. Developments to be served by On-Site Sewage Facilities. Applicants proposing to serve a development by On-Site Sewage Facilities shall submit a design report sealed by a Texas licensed professional engineer or a Texas registered sanitarian describing how the proposed development will be provided with wastewater service.

D. Facility Planning

All of the terms and provisions of 30 TAC §285.4 are incorporated within the Rules of Hays County except as expressly amended below.

1. Land Planning, Site Evaluation and Minimum Lot Sizing. The following requirements shall apply to all lots on which an OSSF is to be utilized:
 - (A) A platted or unplatted single family residential lot shall have a surface area of at least the acreage designated in Table 10-1 below.
 - (B) Small Multi-Unit Residential Developments. Multi-unit residential developments with four or fewer individual dwelling units, including duplexes, may utilize lots smaller than the acreages set forth in Table 10-1, provided:
 - (1) site specific evaluation materials, for a central system or individual systems, are prepared by a Texas licensed professional engineer or a Texas registered professional sanitarian and submitted to the Department for review and approval; and,
 - (2) there is no more than one (1) dwelling unit for each TCEQ minimum lot acreage and no more than two (2) dwelling units for each minimum lot size as designated in Table 10-1 below.
 - (C) Other Multi-unit Residential Developments and Non-Residential Developments. Platted or unplatted lots used for multi-unit residential developments with more than four dwelling units, including apartment complexes, groups of rental dwelling units and lots used for non-residential purposes (e.g. office, commercial, industrial or institutional uses) producing domestic wastewater:
 - (1) shall have a minimum lot size of 1.0 acres and a total surface acreage of at least one (1) acre for each dwelling unit equivalent (DUE) per day; and,
 - (2) the on-site sewage facilities for these developments shall be designed based on site specific evaluation materials.
 - (D) OSSFs serving Manufactured Home Rental Communities and Recreational Vehicle Parks where spaces are rented or leased and are not subdivided for individual sale may be designed in accordance with Subsection (1)(C) above of this Section D.
 - (E) Condominium Complexes. Condominium complexes utilizing on-site sewage facilities shall meet the following requirements:
 - (1) The Owner applying for the OSSF permit shall identify the person who will be legally responsible for compliance with all applicable OSSF requirements. The application for OSSF permit shall include a sworn (notarized) statement from such legally responsible person attesting that such person accepts full legal responsibility for compliance with all applicable OSSF requirements. In the event the designated legally responsible party fails or refuses to comply with any applicable OSSF requirements, the Department may institute appropriate enforcement action against that person, or against one or more of the following parties who the Department determines to be responsible for the noncompliance: (i) the owner or manager of the condominium complex; (ii) the owner of

one or more individual condominium units; (iii) the legally constituted condominium owners association for that condominium; (iv) a maintenance company/provider contracted to provide maintenance for the noncompliant OSSF.

- (2) All requirements set forth in this Section D apply to condominium complexes.
- (3) Each individual condominium unit shall be equipped with a flow meter capable of measuring the wastewater flow from that unit or a flow meter capable of measuring the water usage for that unit.
- (4) Maintenance of the OSSF for a condominium complex is subject to the applicable maintenance, testing and reporting requirements of TCEQ's Chapter 285 Rules and all maintenance shall be provided by a Maintenance Company/Provider registered with TCEQ under such rules.
- (F) Where multiple sources of water apply to one lot, the larger of the two (2) minimum lot sizes shall govern.
- (G) In instances where the actual design of the OSSF system proposed for use dictates a larger minimum lot size required, such larger minimum lot size shall apply.

2. **Lot Size Averaging.** Only platted development may take advantage of these averaging provisions. The minimum acreage requirements set forth in Table 10-1 below may be obtained by averaging the size of all Lots within a platted development so long as the only Lots with acreage exceeding the minimum set forth in such table that may be included in the averaging calculation shall be:

- (A) Lots reserved by plat note for use as parkland or open space, or a private greenbelt in which all owners or residents of the subdivision hold an equal, unrestricted and indivisible right of access and use; or,
- (B) Lots larger than five acres restricted by a plat note prohibiting all development other than one Single Family Residence or other development excluded from the term "Regulated Activities" under the Edwards Aquifer Rules of the TCEQ (30 TAC Chapter 213), but without regard to the aquifer over which the development occurs.

3. Notwithstanding the averaging allowed above or anything else to the contrary in this Order, no on-site sewage facility shall be permitted on any Lot smaller than the minimum lot size permitted under Chapter 366 of the Texas Health and Safety Code and the TCEQ Regulations promulgated thereunder (30 TAC Chapter 285).

Table 10-1 – Minimum Lot Sizes (in Acres) for OSSFs

| Location | Water Service | Advanced | Conventional | TCEQ Min. |
|----------|--|----------|--------------|-----------|
| EARZ [1] | Surface or Rainwater Collection System | 1.50 | 2.00 | 1.00 [4] |
| EARZ | Public Groundwater Supply System[2,8] | 2.50 | 4.50 | 1.00 [4] |

| Location | Water Service | Advanced | Conventional | TCEQ Min. |
|--|--|------------------|-----------------|----------------------|
| EARZ | Private Well | 3.00 | 5.00 | 1.00 [4,6] |
| EACZ [3] | Surface or Rainwater Collection System | 1.00 | 1.50 | 0.50 [5] |
| EACZ | Public Groundwater Supply System | 1.50 | 2.50 | 0.50 [5] |
| EACZ | Private Well | 2.00 6.00[8] | 3.00 6.00[8] | 1.00 [6] |
| Any Other | Surface or Rainwater Collection System | 0.50 1.00 [7] | 1.00 | 0.50 [5] 1.00 [6] |
| Any Other | Public Groundwater Supply System | 1.00 | 1.50 | 0.50 [5] |
| Any Other | Private Well | 1.50 6.00[8] | 2.00 6.00[8] | 1.00 [6] |
| Notes: 1. Edwards Aquifer Recharge Zone as defined in 30 TAC §213 2. A Public System is a Public Water System as defined in 30 TAC §290 3. Edwards Aquifer Contributing Zone as defined in 30 TAC §213 4. TCEQ Minimum lot size as per 30 TAC §285.40(c) 5. TCEQ Minimum lot size as per 30 TAC §285.4(a)(1)(A) 6. TCEQ Minimum lot size as per 30 TAC §285.4(a)(1)(B) 7. Minimum lot size for use of surface application system as per 30 TAC §285.33(d)(2) 8. Applicable to new subdivisions and Manufactured Home Rental Communities served by individual private water wells located within the Priority Groundwater Management Area as defined by Texas Commission on Environmental Quality and required to demonstrate water availability as required by Hays County under the authority granted to the County under the Texas Water Code and the Texas Local Government Code. | | | | |

4. A lot may contain multiple habitable structures and qualify as a single family residential lot if it meets the following criteria:

- (A) In addition to the primary dwelling unit, the lot may be occupied by additional habitable structures or dwelling units (e.g. garage apartments, pool houses, guest cottages, etc.) with useable floor space less than fifty percent (50%) of the floor space of the primary dwelling unit;
- (B) The additional habitable structures are not offered for public use or rental; and,
- (C) All such additional habitable structures are precluded from sale or transfer separate from the primary dwelling unit.

5. Existing small lots or tracts that do not meet the minimum lot size requirements of this section and will serve one single family dwelling may be approved for an OSSF in accordance with the following requirements:

- (A) Any lot, regardless of the date of platting or subdivision, must be of adequate size to accommodate the proposed system, including an effluent dispersal area that complies with effluent loading requirements of 30 TAC §285.91, Table I, and the system must be designed and operated in accordance with the remaining requirements of 30 TAC §285.

- (B) For lots or tracts platted or subdivided before March 14, 1977, an OSSF may be permitted on a lot of any size.
- (C) For lots or tracts platted or subdivided on or after March 14, 1977, but before June 14, 1984, an OSSF may be permitted on a lot of at least twenty thousand (20,000) square feet in size;
- (D) For lots or tracts platted or subdivided on or after June 15, 1984, but before August 29, 1997;
 - (1) If the lot has a soil depth of less than four (4) feet to bedrock or to groundwater or if the percolation rate exceeds forty five (45) minutes per one (1) inch, the minimum lot size shall be thirty thousand (30,000) square feet; or,
 - (2) If the lot has both a soil depth of less than four (4) feet to bedrock or to groundwater and a percolation rate exceeding forty five (45) minutes per one (1) inch, the minimum lot size shall be forty thousand (40,000) square feet.
- (E) For lots or tracts platted or subdivided on or after June 15, 1984, but before August 29, 1997, an OSSF may be permitted on a lot with a minimum size in compliance with 30 TAC §285.4 or §285.40, as applicable, which meets the requirements of 30 TAC §285.31 and the Hays County Regulations that were in effect at the time.
- (F) For lots or tracts platted or subdivided on or after August 29, 1997, and before the effective date of this Order, an OSSF may be permitted on a lot with a minimum size in compliance with Table 10-1 above, which meets the requirements of 30 TAC §285.31. An exception is the Edwards Aquifer Contributing Zone which only applies to the Barton Springs Segment of the Contributing Zone.

E. Minimum Required Separation Distances for On-Site Sewage Facilities.

The minimum separation distances set forth in Table X of the TCEQ Rules (specifically 30 TAC §285.91) are supplemented as follows for lots created after the effective date of these Regulations:

Table 10-2 – Minimum Receptor Separation Distances (in Feet)

| Features/Receptors | OSSF Component | Distance (ft) |
|---|---------------------------|----------------------|
| Barton Creek, Bear Creek, Blanco River, Cottonwood Creek, Cypress Creek, Little Bear Creek, Lone Man Creek, Long Branch, Onion Creek, Purgatory Creek, Roy Creek, San Marcos River, Sink Creek, Smith Creek, Willow Creek, and Wilson Creek (measured from the bank at average pool height) | Effluent dispersal areas | 150 |
| Property lines, habitable structures and vegetable gardens or orchards producing food for human consumption | Surface Application Areas | 40 (See Table 10-3) |

| Features/Receptors | OSSF Component | Distance (ft) |
|--|---|---------------------|
| Property lines, habitable structures and vegetable gardens or orchards producing food for human consumption | Individual Sprinkler Heads of Surface Application Areas | 60 (See Table 10-3) |
| Property lines, habitable structures and vegetable gardens or orchards producing food for human consumption | Effluent dispersal areas* | 20 |
| Any public or private water wells | Sewer Pipe with water-tight joints | 20 |
| Any public or private water wells | Tanks | 50 |
| Any public water wells | Effluent dispersal areas | 150 |
| * Drip irrigation dispersal areas with ≤ 1 Ra will have separation distances as set forth in Table X of the TCEQ Rules (specifically 30 TAC §285.91). | | |
| NOTE: Lots platted prior to the effective date of these regulations shall comply with either the minimum separation distances that were in effect at the time the lot was created or the minimum separate distances contained in the TCEQ Rules, whichever is more stringent. | | |

F. Water Well Sanitary Easements.

1. Private Wells are to be located with a one hundred (100) foot radius around the well in which no on-site sewage effluent dispersal facility may be located. This area shall be designated as a private water well setback and shall be clearly shown and labeled on any planning material submitted to the Department in support of an application for an on-site sewage facility permit. If the well is located within the jurisdiction of a groundwater conservation district that requires greater than a 100 foot separation, the Private Well setback distance must be increased to the distance required by that groundwater conservation district. Variances from the Private Well setback requirement will be considered if the Private Well has been or will be completed in accordance with requirements outlined in the Water Well Drillers and Water Well Pump Installers Rules under 16 TAC Chapter 76, or the applicable rules of the groundwater conservation district that has jurisdiction over the area where the Private Well and the on-site sewage facility are located. In no case shall the Private Well setback distance be less than 50 feet. If the well is located within the jurisdiction of a groundwater conservation district that requires greater than 100 foot separation, the Private Well setback distance must be increased to the distance required by that groundwater conservation district. This setback distance shall also be shown for existing water wells in or adjacent to subdivision proposals.
2. Individual Lots where there is a known or recorded public water supply well or individual lots which adjoin a lot or tract containing either a public or private water supply well shall provide, within the boundary of the Lot on which the OSSF is to be placed, adequate separation to ensure a minimum of a one hundred fifty (150) foot radius around the water supply well in which no OSSF effluent disposal facilities may be located. For public water supply wells, this area shall be designated as a water well sanitary control easement.
3. Public Water Wells shall comply with the sanitary control easements required under 30 TAC Chapter 290, as amended.

G. Innovative Development

Innovative development, such as “planned unit development” style developments, are encouraged and will be

considered on a case by case basis, upon the submission of the following with a preliminary plan application for subdivision approval:

1. Site Evaluation Materials demonstrating that such an innovative development is appropriate in light of lot sizes, soil or other conditions;
2. Site Specific Materials; and,
3. Site Plan to be recorded with Record Plat, which shall state the future development of the Property shall be in accordance with the Site Plan. The Site Plan shall designate the type of development permitted on each Lot, the location of buildings, paved areas, green belts and on-site sewage facilities (including drainage fields) on each Lot; and all other materials required under 285.30 of the Rules, as applicable. As provided in Section 285.6 of the Rules, cluster systems are not authorized.

The Commissioners Court may approve an application for innovative development permitting minimum lot acreage below those required in Table 10-1 upon a finding that the proposed development will provide equivalent protection of the public health and environment as development in accordance with these Regulations and that the lot acreage meet the TCEQ minimum.

H. Variances.

Requests for variances from the requirements of these rules shall be considered in accordance with the criteria specified in 30 TAC §285.3(h) of the TCEQ's Rules and the following additional criteria:

1. Only lots platted in accordance with these Regulations or any prior regulations of Hays County or legally in existence prior to the Effective Date of this Order will be eligible for a variance;
2. The Commissioners Court may delegate to the Department the discretion to approve or deny an application for a variance. Within that discretion, the Department may approve an application for a variance only upon a finding that development pursuant to the proposed variance will provide equivalent protection of the public health and environment as development in strict accordance with these Regulations in general;

I. Permitting Procedures and Additional Requirements

The Hays County Commissioners Court and/or the Department may from time to time adopt local procedural requirements for applications, permitting and inspections for On-Site Sewage Facilities.

J. Amendment to Section 285.5 (Submittal Requirements for Planning Materials)

The following requirements for the submission of planning materials are imposed in addition to those set forth in Section 30 TAC §285.5:

1. All site plans shall be submitted to a standard engineering scale and shall include an overall site plan drawn on a single sheet of paper, providing the exact placement of all existing and proposed development, wells (including wells on adjacent property), driveways, and all wastewater system components and showing features that require minimum separation distances and topographic lines at one foot intervals in the area of the proposed OSSF and extending twenty five (25) feet past OSSF location.

2. A flow diagram of the tank battery shall be prepared.
3. An installation detail for subsurface systems shall be provided.
4. Detail all calculations for determining hydraulic loading, wastewater strength, sizing of system components, total head, dosing volume, pump tank sizing and reserve capacity.
5. The disposal method for any OSSF designed for multi-family residences or for commercial/ institutional or nonresidential uses with wastewater flows over 500 gallons per day must include properly designed pressurized distribution that assures uniform distribution of effluent.
6. Plugging reports for any wells proposed to be abandoned shall be provided.
7. The OSSF designer shall establish the design flow for all OSSFs based on the information contained in Table III from 30 TAC §285.91(3), or other valid technical sources acceptable to the Department.
8. Calculations for hydraulic and organic load for both normal and peak flows on all OSSFs other than single-family residential shall be provided showing that both organic and hydraulic overloading of the treatment and/or disposal method is prevented.
9. The Department may require additional planning materials if in its opinion they are warranted for the specific instance.

K. Amendment to Section 285.7 (Additional Requirements for Surface Application Systems)

1. In addition to the permits issued for installation, annual registration is required to operate an On-Site Sewage Facility utilizing surface application or an OSSF that requires a maintenance contract under TCEQ Regulations (30 TAC §285) or these Regulations. The Owner of the On-Site Sewage Facility shall be responsible for processing a renewal application for the renewal of the registration prior to the expiration date of the current registration. The fee amount shall be in accordance with the current fee schedule adopted by Commissioners Court. The fee shall be paid at the time of contract submittal; prior to the commencement of the initial maintenance contract, the registration application and fee shall be due annually on January 1st, and shall be late if paid on or after February 1st. Fees for partial years shall be prorated. Registration fees received late shall pay late renewal fees in accordance with the current fee schedule adopted by Commissioners Court.
2. In addition to the maintenance requirements of the TCEQ Regulations (30 TAC §285), the County specifically prescribes that all maintenance activities on OSSFs be performed only by individuals and firms licensed by the TCEQ to perform maintenance on OSSFs, as discussed in this order.
3. The following requirements for all maintenance contracts are imposed in addition to those set forth in the TCEQ Regulations [specifically 30 TAC §285.7(c)]. All maintenance contracts shall include the following information: permit number; on-site sewage facility maintenance provider/company or wastewater operator license identification; the printed name and signature of the system owner and maintenance company representative; the starting and ending dates of the contract with the starting being the date of the notice of approval to operate; the physical address and phone number of the system location; and the physical address, business address, business phone number and emergency phone number of the maintenance company.

L. Amendment to Section 285.7(e)(2) (Weather Resistant Tags)

The following requirements for weather resistant tags are imposed in addition to those set forth in the TCEQ Regulations [specifically 30 TAC §285.7(e)(2)]:

1. The weather resistant tags shall be approved by the Department in advance of their installation;
2. The maintenance company shall be responsible for submitting a sample tag to the Department for approval; and,
3. The tags shall be installed outside the control panel or treatment unit device.

M. Amendment to Section 285.32 (Criteria for Sewage Treatment Systems)

1. The following requirements for OSSFs other than residential OSSFs (non-residential OSSFs) are imposed in addition to those set forth in 30 TAC §285.32:
 - (A) For Non-Residential OSSFs, the site specific evaluation materials, prepared by a Texas licensed professional engineer or a Texas registered professional sanitarian, must include hydraulic loading calculations and influent and effluent wastewater strength calculations.
 - (B) Non-Residential OSSFs shall include a hydraulic equalization tank prior to the treatment system. The hydraulic equalization tank shall be designed with sufficient storage to ensure that there is at least one day's flow (at the average daily design flow) between the pump-on level and alarm activation level, and one-day's flow above the alarm activation level and below the inlet of the tank, unless duplex pumps are used and designed in accordance with 30 TAC §285.34(b)(3). The rate of flow from the hydraulic equalization tank into the treatment system shall be controlled to uniformly distribute the flow over a twenty four (24) hour period at a rate no greater than the maximum design capacity of the treatment system. In cases where Non-residential OSSFs are expected to have peak flows that exceed the average daily design flow, the Department will require an Applicant to submit calculations of sufficient storage in conjunction with the other Planning Materials required for the design of the system.
2. The following requirements for proprietary treatment systems are imposed in addition to those set forth in Section 285.32(c):
 - (A) Proprietary Treatment Systems (including aerobic treatment units) used under service conditions different than which the approval was obtained shall be considered Non-Standard Treatment Systems.
 - (B) All disinfection devices must be listed by the NSF as having passed NSF/ANSI Standard 46 for effluent disinfection devices, or be manufactured or approved by the manufacturer of the treatment unit. Should the treatment unit be upgraded or altered, the disinfection device shall be re-evaluated and shall be upgraded, if necessary, to a device that meets the NSF/ANSI Standard 46 requirements, or to one that is manufactured by the manufacturer of the treatment unit.
 - (C) All aerobic treatment units (ATUs) shall be installed with a pre-treatment tank. The pre-treatment tank shall be sized at a capacity of at least one-half the average daily design flow, but

no greater than one full day's flow. The pretreatment tank shall be designed in accordance with the requirements of 30 TAC §285.32(b)(1)(G).

- (D) In order to maintain a stable temperature environment all aerobic treatment units shall be buried in the ground and backfilled to the lid of the tank.

N. Amendment to Section 285.33 Criteria for Effluent Disposal Systems

For all effluent disposal systems utilizing trenches or beds containing disposal media, the bottom of the excavation shall be level to within one inch over each 25 feet of excavation, but in no event shall there be more than two inches of fall over the entire length of the excavation. For the purposes of this amendment, gravelless drainpipe shall be required to meet this standard.

O. Amendment to Section 285.33 (a)(1)(B) (Porous Media)

Chipped tires or iron slag are not a permitted medium.

P. Amendment to Section 285.33(c)(3)(E) (Vertical Separation Distance)

The following requirement for vertical separation distance is imposed in addition to those set forth in Section 285.33(c)(3)(E): all drip irrigation disposal fields shall be covered with at least eight (8) inches of soil backfill of suitable composition to support vegetative growth.

Q. Amendment to Section 285.33(d)(2) (Additional Requirements for Surface Application Systems)

The following requirements are imposed in addition to those set forth in Section 285.33(d)(2) for an On-Site Sewage Facility utilizing surface application systems:

1. Surface application shall be limited to sprinkler application only.
2. All On-Site Sewage Facilities utilizing surface application shall be designed to facilitate periodic sampling.
3. The site for a surface application system shall be cleared of exposed rock, or the exposed rock shall be covered with at least four (4) inches of soil of suitable composition to support vegetative growth. Trees and shrubs must be maintained in order to allow the even distribution of effluent. Sprinklers need to be located at least 15 feet away from trees within the distribution area that are 24 inch or greater in diameter .
4. The individual sprinkler heads installed for a surface application area shall have a maximum operating height of twenty four (24) inches and a maximum operating pressure of forty (40) pounds per square inch. The receptor (property line, habitable structure, or vegetable garden or orchard producing food for human consumption) separation distance identified in Table 10-2 shall be modified as shown in Table 10-3.

Table 10-3 – Receptor Separation Distances (in Feet) for Various Combinations of Application Radius (Reference Table 10-2)

| Operating Radius (ft) | Receptor Distance (ft) |
|------------------------------|-------------------------------|
| ≤25 | 40 |

| Operating Radius (ft) | Receptor Distance (ft) |
|------------------------------|-------------------------------|
| >25-≤30 | 75 |
| >30 | 90 |

5. The surface application area receiving effluent spray shall have a maximum surface slope of fifteen percent (15%) in any direction. Compliance with this requirement may be achieved through site modification activities such as terracing or grading, provided that the surface is sufficiently stabilized to minimize erosion.
6. Individual sprinkler heads shall be protected from damage by surrounding the heads with a concrete base or other structure acceptable to the Department.
7. Surface application systems shall not be allowed for commercial or institutional operations.
8. All disinfection devices must be listed by the NSF as having passed NSF/ANSI Standard 46 for effluent disinfection devices. Should the treatment unit be upgraded or altered, the disinfection device shall be re-evaluated and shall be upgraded, if necessary, to a device that meets the NSF/ANSI Standard 46 requirements.

R. Amendment to Section 285.34(a) (Septic Tank Effluent Filters)

The following requirement for septic tank effluent filters is imposed in addition to those set forth in Section 285.34(a): the outlet pipe from all standard treatment units shall be fitted with an effluent filter.

S. Amendment to Section 285.34(b)(2) (Pump Tank Sizing)

Pump tanks shall be sized to contain one day of flow above the alarm-on level.

T. Amendment to Section 285.70(a) (Duties of Owners With Malfunctioning OSSFs)

The following requirement for owners with malfunctioning on-site sewage facilities is imposed in addition to those set forth in 30 TAC §285.70(a): the owner of a malfunctioning on-site sewage facility can be given a deadline to initiate and complete repairs to the system of less time than stated in 30 TAC §285.70(a) if the Department believes there is an imminent threat to the public health or environment.

U. Amendment to Section TAC 285.91(12) (OSSF Maintenance Contracts, Affidavit, and Testing/Reporting Requirements)

1. The following requirement for maintenance by owners of on-site sewage facilities is imposed in addition to those set forth in 30 TAC §285.91(12) and as authorized under House Bill 2482, Texas Legislature, 80th Regular Legislative Session: all maintenance, testing and reporting activities conducted on OSSFs under the jurisdiction of Hays County shall be performed by a Maintenance Provider that possesses a current license with the TCEQ. This requirement is specifically adopted to preclude maintenance, testing, and reporting activities from being performed by an OSSF owner unless that OSSF owner is also a licensed Maintenance Provider.
2. Systems maintained by a maintenance provider shall be tested and reports submitted every four (4) months unless otherwise specified on the permit. The first maintenance testing and report submittal of each contract period shall be completed within fourteen (14) days of the start date of the contract.

Subsequent testing and report submittal due dates shall be determined from the start date of the contract. The last testing and reporting shall be within 14 days of the end of the contract period.

3. Each maintenance provider having contracts in Hays County shall register with the Hays County Development Services Division. Maintenance provider registrations shall be effective from the date of registration to December 31st of the same year. Renewal maintenance provider registrations for the next year shall not be accepted before December 1st of the current year. New and renewal maintenance contracts will only be accepted from maintenance providers whose registration is current and in good standing. Maintenance provider registration shall be free of charge.
4. When an on-site sewage facility maintenance report is received by Hays County that indicates the system has less than the required chlorine residual, or is in any other way not functioning properly, the owner of the system shall insure that the system is brought into compliance, retested, and that another report is submitted to the owner and Hays County within ten (10) days of the previous report. Such extra reports shall not alter or postpone the regular maintenance schedule.
5. Maintenance providers who fail to perform maintenance testing at the required intervals, mark an inspection tag, or submit a report on time two (2) or more times during any twelve (12) month period may have their registration suspended for up to one (1) year in addition to any other penalties that may apply. No new or renewal maintenance contracts will be accepted from a maintenance provider during the time their registration is suspended. Outstanding contracts from a suspended maintenance provider will be void and property owners will need to submit a new contract with a registered maintenance provider.
6. Renewal contracts that are started with a provider other than the provider on the previous contract shall be for a term of at least one year and include four inspections including the initial inspection.
7. Contract renewals with the same maintenance provider will not be accepted by the Division unless all of the maintenance reports from the previous contract period have been submitted.

V. Miscellaneous

1. A permit will be required for all On-Site Sewage Facilities, regardless of the size of the lot or acreage onto which it is installed. A permit will not be issued for an On-Site Sewage Facility that is on a tract of land that is found to be in violation of the Hays County Development (Subdivision) Regulations. Any structure or property used for residential, institutional, or commercial purposes shall be connected to an On-Site Sewage Facility permitted by the Department or a centralized sewage treatment facility permitted by the Texas Commission on Environmental Quality.
2. A construction inspection of an On-Site Sewage Facility must be completed within 12 months from the date of issuance of an authorization to construct. Construction of an on-site sewage facility must be completed within 14 months of the date of issuance of an authorization to construct and within eighteen (18) months of the date of application for a permit.
3. French drains used to support and protect On-Site Sewage Facilities shall be upgradient of the On-Site Sewage Facility and shall be designed by a Texas licensed professional engineer to prevent groundwater from entering into the On-Site Sewage Facility. An applicant desiring to install a French drain must demonstrate that its use will afford a greater level of public health by diverting groundwater away from the On-Site Sewage Facility.

4. Effluent holding tanks shall be authorized only for temporary use for 90 days, with one 90 day renewal. The permittee must provide metered water usage and pumping manifests.
5. Composting, incinerating, and “no water” toilets shall be permitted by the Department under these Rules. Planning material submitted shall clearly identify the type of toilet that will be installed and the site specific location of the proposed toilet. The permitted location shall be required to have hand-washing facilities utilizing potable water discharging to an OSSF. Public parks owned by a political subdivision shall be exempt from the hand-washing facilities requirement.
6. All buried standard, non-standard and proprietary treatment compartments and pump tanks shall be provided with at least one at-grade riser that can be accessed without digging. The installed riser shall be water tight.
7. All commercial, institutional and non-residential on-site sewage facilities shall be equipped with a flow metering device capable of measuring and recording the average daily flow rate.

W. Grandfathering, Re-authorization and Re-permitting of Existing Systems

1. **Grandfathering.** An owner of an OSSF is required to comply with the permitting, installation and operational requirements of this order, or any other applicable requirements, in effect at the time the OSSF is installed. Routine maintenance and repairs to an OSSF shall be required to bring the OSSF into compliance with all such applicable requirements.
2. Re-Inspection by Qualified Inspector.
 - (A) If there is a transfer of ownership of an OSSF, the new owner shall submit no later than five (5) days following the effective date of the ownership transfer the following information.
 - (1) Documentation verifying that the OSSF septic tank has been pumped within the previous three years and showing the tank capacity and depth of sludge; and,
 - (2) A copy of an OSSF inspection report prepared by a Qualified OSSF Inspector which contains a verification by the inspector that the OSSF is functioning in compliance with the applicable OSSF requirements. The inspection report form must be pre-approved by the department.
 - (B) Where the Qualified OSSF Inspector or the Department suspect that the effluent disposal/dispersal component(s) are not functioning as designed, the OSSF owner shall have an evaluation of the suitability of the soil profile and infiltration characteristics of the dispersal area performed by a TCEQ licensed site evaluator.
 - (C) Based on a review of the above information and any other available information, the Department or the Commissioners Court may require that the OSSF be subject to re-permitting.
3. **Re-Permitting.** If an OSSF is replaced or subjected to a major alteration, the OSSF shall be required to be re-permitted and upgraded to meet all applicable requirements of the current OSSF regulations, except for minimum lot acreage requirements.

Section 11. DUTIES AND POWERS.

Any individual(s) approved by the Commissioners Court, are herewith declared the designated representative(s) (DR) (30 TAC § 285.2(17)), as defined in the regulations of the Texas Commission on Environmental Quality, for the enforcement of this Order within the jurisdictional area of Hays County. The appointed individual(s) must be approved and certified by the Texas Commission on Environmental Quality before assuming the duties and responsibilities of the Designated Representative of Hays County.

Section 12. COLLECTION OF FEES.

All fees collected for permits and/or inspections shall be made payable to Hays County, Texas. A fee of \$10 will also be collected for each on-site sewage facility permit to be paid to the On-Site Wastewater Treatment Research Council as required by the THSC, Chapter 367.

Fees for Applications for OSSF approvals shall be based on the type of system proposed and the nature of the development the OSSF will serve. Such fees shall be established by the Commissioners Court. Additional fees for reviews, inspections and related items shall be as established by the Commissioners Court. Fees paid to the County are non-refundable.

Section 13. APPEALS.

Persons aggrieved by an action or decision of the designated representative may appeal such action or decision to the Commissioners Court of Hays County, Texas.

Section 14. ENFORCEMENT PLAN

The County of Hays, Texas clearly understands that, at a minimum, it must follow the requirements in 30 TAC § 285.71 Authorized Agent Enforcement of OSSFs.

This Order adopts and incorporates all applicable provisions related to on-site sewage facilities, which includes, but is not limited to, those found in Chapters 341 and 366 of the THSC, Chapters 7, 26, and 37 of the TWC and 30 TAC Chapter 30, Subchapters A and G, and Chapter 285.

An offense under this Order is a Class C misdemeanor punishable by a fine. The County may also seek all other remedies available to it under this Order and all applicable laws of the State of Texas and Rules of the TCEQ, whether referenced herein or not.

Section 15. SEVERABILITY

It is hereby declared to be the intention of the Commissioners Court of Hays County, Texas, that the phrases, clauses, sentences, paragraphs, and sections of this Order are severable, and if any phrase, clause, sentence, paragraph, or section of this Order should be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this Order, since the same would have been enacted by the Commissioners Court without incorporation in this Order of such unconstitutional phrases, clauses, sentences, paragraphs, or sections.

Section 16. RELINQUISHMENT OF ORDER.

If the Commissioners Court of Hays County, Texas decides that it no longer wishes to regulate on-site sewage facilities in its area of jurisdiction, the Commissioners Court, as the authorized agent, and the TCEQ shall follow the procedures outlined in 30 TAC § 285.10 (d) (1) through (4).

After relinquishing its OSSF authority, the authorized agent understands that it may be subject to charge-back fees in accordance with 30 TAC § 285.10 (d) (5) and §285.14 after the date that delegation has been relinquished.

Section 17. Effective Date.

This Order shall be in full force and effect from and after its date of approval as required by law and upon the approval of the TCEQ.

AND IT IS SO ORDERED:

PASSED AND APPROVED THIS _____ DATE OF _____, 2010.

APPROVED:

(SEAL)

Elizabeth (Liz) Sumter, County Judge

ATTEST:

Linda Fritsche, County Clerk

Agenda Item Request Form

Hays County Commissioners' Court

9:00 a.m. Every Tuesday

Request forms are due in the County Judge's Office

no later than **2:00 p.m.** on **WEDNESDAY.**

Phone (512) 393-2205 Fax (512) 393-2282

AGENDA ITEM: Discussion and possible action to authorize the County Judge to execute Change Order #2 with Harris Road Company for the Spring Lake Preserve project.

CHECK ONE: ☐ CONSENT ☒ ACTION ☐ EXECUTIVE SESSION
 ☐ WORKSHOP ☐ PROCLAMATION ☐ PRESENTATION

PREFERRED MEETING DATE REQUESTED: December 21, 2010

AMOUNT REQUIRED: \$11,250

LINE ITEM NUMBER OF FUNDS REQUIRED: 001-754-99-043.5611

REQUESTED BY: Hauff

SPONSORED BY: Conley

SUMMARY:

On October 5, 2010 the Commissioners Court awarded the construction bid for the Spring Lake Preserve project to Harris Road Company of Wimberley, Texas in the amount of \$108,220.00. Change Order #1 was approved by Commissioners Court on December 7, 2010 with no net change to the contract price.

This Change Order (#2) is for the installation of a trail bridge crossing over a dry creek bed, a stone retaining wall at the bridge crossing, an informational sign to address the Golden Cheeked Warbler and restrictions on park use during the nesting season, and framing for signs in two kiosks. This work is being done at the request of the City of San Marcos, and the Change Order will increase the contract amount by \$11,250.00, for a new total contract of \$119,470.00. Funding will be provided by the existing grant from the Texas Parks and Wildlife Department and the City of San Marcos. No County funds are required.

The Spring Lake Preserve project is a joint effort between Texas State University, the City of San Marcos, and Hays County to preserve a significant land resource and provide public access to this area. This project is funded through a grant from the Texas Parks and Wildlife Department (TPWD), with TSU and the City of San Marcos providing additional funding. No County funds have been allocated or are necessary to complete the construction project. The project will include accessible and primitive trail development, interpretive signage, benches, outdoor amphitheater (sundial), composition deck boardwalk over a pond, and other amenities.

Agenda Item Routing Form

DESCRIPTION OF Item: Discussion and possible action to authorize the County Judge to execute Change Order #2 with Harris Road Company for the Spring Lake Preserve project.

PREFERRED MEETING DATE REQUESTED: December 21, 2010

COUNTY AUDITOR

AMOUNT: \$11,250.00

LINE ITEM NUMBER:001-754-99-043.5611

COUNTY PURCHASING GUIDELINES FOLLOWED: Yes

PAYMENT TERMS ACCEPTABLE: Yes

COMMENTS:

Bill Herzog

SPECIAL COUNSEL

CONTRACT TERMS ACCEPTABLE:_____

COMMENTS:

COUNTY JUDGE

Signature Required if Approved

DATE CONTRACT SIGNED:_____

CHANGE ORDER # 2
CITY OF SAN MARCOS, TEXAS
HAYS COUNTY

PROJECT: Spring Lake Preserve
CONTRACTOR: Harris Road Company
ORIGINAL CONTRACT DATE: 10/18/10
CHANGE ORDER DATE: 11/30/10

WORK TO BE ADDED TO OR DELETED FROM SCOPE OF SERVICES

Add a footbridge that is approximately 7' wide by 26' long over a dry creek bed. Bridge will be constructed out of treated lumber. \$2,800

Add one informational sign to address the park closing during the Golden Cheek Warbler breeding season with a description why. \$2,750

Add framing for signs on the two kiosks already existing. (5 total at \$660 each) \$3,300

Add a rock retaining wall on the south side of the foot bridge that is approximately 33' long by an average of 2'6" tall. \$2,400

| | | |
|---|----|------------|
| Previous contract amount: | \$ | 108,220.00 |
| Net increase/decrease in contract amount: | \$ | 11,250.00 |
| Revised contract amount: | \$ | 119,470.00 |

| | | | |
|--|--|-------|------|
| Previous contract time of completion (substantial/final) | | 120 | Days |
| Net increase/decrease in contract time of completion | | 0 | Days |
| Revised contract time of completion (substantial/final) | | / 120 | Days |

Recommended by:

Engineer:

by: 

Date: 12/13/10

CHARLES MABRY, LDP
Printed name, title, Firm name

Requested by:

Contractor: Harris Road Company

by: Jason Pence
Jason Pence

Date: 12/10/2010

Printed name, Project Manager

Approved by:

City of San Marcos:

Date: 12/10/13

by: William Ford
San Marcos Parks

Approved by:

Hays County, TX:

Date: _____

Hays County Judge

Agenda Item Request Form

Hays County Commissioners' Court

9:00 a.m. Every Tuesday

Request forms are due in the County Judge's Office

no later than **2:00 p.m.** on **WEDNESDAY.**

Phone (512) 393-2205 Fax (512) 393-2282

AGENDA ITEM: Discussion and possible action to continue to double fill the Justice of the Peace, Precinct 4 Clerk position in accordance with Hays County Personal Policy Section 6.02 (until approximately the first week in March, 2011).

CHECK ONE: ☐ **CONSENT** ☒ **ACTION** ☐ **EXECUTIVE SESSION**

 ☐ **WORKSHOP** ☐ **PROCLAMATION** ☐ **PRESENTATION**

PREFERRED MEETING DATE REQUESTED: December 21, 2010

AMOUNT REQUIRED: \$5200.00

LINE ITEM NUMBER OF FUNDS REQUIRED: JP 4 Salary Line Item

REQUESTED BY: Kyle

SPONSORED BY: FORD

SUMMARY:

The court approved the double filling of the clerk position October 12, 2010. The employee has not returned to work and so it is necessary to continue double filling the position. Currently the position is being filled by a temporary part time employee, 3 days a week at \$11.60 per hour. Judge Kyle requests that the continuation of the double fill be in accordance with Hays County Personal Policy, Section 6.02 (employee cannot exceed 180 calendar days of total leave taken paid or unpaid within any 12 month period). Judge Kyle also requests that the double fill be up to but not exceed 40 hours a week.

Agenda Item Routing Form

DESCRIPTION OF Item: Discussion and possible action to continue to double fill the Justice of the Peace, Precinct 4 Clerk position in accordance with Hays County Personal Policy Section 6.02 (until approximately the first week in March, 2011).

PREFERRED MEETING DATE REQUESTED: December 21, 2010

COUNTY AUDITOR

AMOUNT: \$3,996.00

LINE ITEM NUMBER: JP 4 Salary Line Item

COUNTY PURCHASING GUIDELINES FOLLOWED: N/A

PAYMENT TERMS ACCEPTABLE: N/A

COMMENTS: Adequate funds are in the salary & fringe benefits line items of the JP # 4's budget

Bill Herzog

SPECIAL COUNSEL

CONTRACT TERMS ACCEPTABLE: _____

COMMENTS:

COUNTY JUDGE

Signature Required if Approved

DATE CONTRACT SIGNED: _____

Agenda Item Request Form

Hays County Commissioners' Court

9:00 a.m. Every Tuesday

Request forms are due in the County Judge's Office

no later than 2:00 p.m. on WEDNESDAY.

Phone (512) 393-2205 Fax (512) 393-2282

AGENDA ITEM: Discussion and possible action to appoint Robert Avera to the Board of Directors for Hays County ESD No. 6.

CHECK ONE: ☐ **CONSENT** ☒ **X ACTION** ☐ **EXECUTIVE SESSION**
☐ **WORKSHOP** ☐ **PROCLAMATION** ☐ **PRESENTATION**

PREFERRED MEETING DATE REQUESTED: December 21, 2010

AMOUNT REQUIRED

LINE ITEM NUMBER OF FUNDS REQUIRED

REQUESTED BY: Ford

SPONSORED BY: Ford

SUMMARY:

See attached resume for Mr. Avera.

ROBERT AVERA
225 B Windy Hills Road Dripping Springs TX 78620
(512) 431-4758

EDUCATION

Baylor University Law School, Waco, Texas
J.D., 2007. Licensed In Texas # 24064113

Colorado State University, Fort Collins, Colorado
M.S., Forest Management, 2002.
B.S., Range and Forest Management, 2000.

ACTIVITIES

- Board Member, Lawyer Referral Service of Central Texas
- Elder, Dripping Springs Presbyterian Church

EMPLOYMENT

Avera Law Firm, PLLC
Attorney

Austin, Texas
Current

- Interpreted ordinances, drafted contracts, and executed wills
- Represented clients in criminal and civil proceedings

State Office of Administrative Hearings
Intern

Austin, Texas
Fall 2007

- Observed administrative hearings
- Drafted administrative orders

United States District Court Western District of Texas
Intern

Waco, Texas
Winter 2006

- Drafted Report and Recommendations regarding 28 U.S.C. § 2254 petitions.
- Drafted Court Orders addressing 42 U.S.C. § 1983 pre-trial motions.

Texas Commission on Environmental Quality
Mickey Leland Intern

Austin, Texas
Summer 2006

- Created the policy argument which became the basis of requiring industrial reuse permit holders to adhere to the revised standards. 30 T.A.C. § 210.
- Participated in contested Certificate of Public Convenience and Necessity application hearings at State Office of Administrative Hearings.

United States Forest Service
Wildland Fire Fighter

Fort Collins & Monument, Colorado
1997 – 2002

- Suppressed 65 forest fires totaling over 400,000 acres in ten states from Florida to Montana.

Agenda Item Request Form

Hays County Commissioners' Court

9:00 a.m. Every Tuesday

Request forms are due in the County Judge's Office

no later than **2:00 p.m.** on **WEDNESDAY.**

Phone (512) 393-2205 Fax (512) 393-2282

AGENDA ITEM: Discussion and Possible action to approve the appointment of Doyle Krumrey to the Hays County ESD#3

CHECK ONE: ☐ CONSENT ☒ ACTION ☐ EXECUTIVE SESSION
 ☐ WORKSHOP ☐ PROCLAMATION ☐ PRESENTATION

PREFERRED MEETING DATE REQUESTED: December 21, 2011

AMOUNT REQUIRED: None

LINE ITEM NUMBER OF FUNDS REQUIRED: N/A

REQUESTED BY: Ingalsbe

SPONSORED BY: Ingalsbe

SUMMARY: Bio will be presented in court.

Agenda Item Request Form

Hays County Commissioners' Court

9:00 a.m. Every Tuesday

Request forms are due in the County Judge's Office

no later than **2:00 p.m. on WEDNESDAY.**

Phone (512) 393-2205

AGENDA ITEM: Discussion and Possible Action to authorize the County Judge to execute an amendment to the Professional Services Agreement with K Friese and Associates for roadwork related to the Economic Development Agreement with U.S. Foods.

TYPE OF ITEM: ACTION

PREFERRED MEETING DATE REQUESTED: December 21, 2010

AMOUNT REQUIRED: N/A

LINE ITEM NUMBER OF FUNDS REQUIRED: N/A

REQUESTED BY: Commissioner Barton

SPONSORED BY: Pct 2 Commissioner Jeff Barton

SUMMARY: Langford and Associates, via the City of Buda, have recently communicated that the Professional Services Agreement that currently exists between the County and K Friese fails to meet all contractual requirements of the City's grant funding through Texas Capital Fund. The City of Buda had extensively reviewed the contract before Commissioners Court approved the contract last month. Since the City has agreed to contribute some of that grant funding to the U.S. Foods project, the Agreement between Hays County and K Friese should minimally comply with the grant requirements.

There are no substantive changes in the deal or contract. The contract and project have been voted on and approved repeatedly in the past by this Court.

Agenda Item Request Form

Hays County Commissioners' Court

9:00 a.m. Every Tuesday

Request forms are due in the County Judge's Office

no later than 2:00 p.m. on WEDNESDAY.

Phone (512) 393-2205 Fax (512) 393-2282

AGENDA ITEM: Discussion and possible action to adopt an Order Prohibiting Outdoor Burning pursuant to Local Government Code 352.081 and other applicable statutes.

CHECK ONE: ☐ CONSENT ☒ ACTION ☐ EXECUTIVE SESSION
 ☐ WORKSHOP ☐ PROCLAMATION ☐ PRESENTATION

PREFERRED MEETING DATE REQUESTED: December 21, 2010

AMOUNT REQUIRED:

LINE ITEM NUMBER OF FUNDS REQUIRED:

REQUESTED BY: Chambers

SPONSORED BY: SUMTER

SUMMARY: The drought index for Hays County is approaching 550 on the KBDI index. This is a level where we start having fires more frequently from outdoor burning that can get out of control. This will be a proactive approach prior to entering a busy winter fire season. Documents attached.

STATE OF TEXAS

COUNTY OF HAYS

ORDER PROHIBITING OUTDOOR BURNING

WHEREAS, the Commissioners Court finds that circumstances present in all or part of the unincorporated area of the county create a public safety hazard that would be exacerbated by outdoor burning;

IT IS HEREBY ORDERED by the Commissioners Court of Hays County that outdoor burning is prohibited in the unincorporated area of the county for 90 days from the 21st of December 2010, unless the restrictions are terminated earlier based on a determination made by the Texas Forest Service of this Court. This Order is adopted pursuant to Local Government Code 352.081, and other applicable statutes. This Order does not prohibit outdoor burning activities related to public health and safety that are authorized by the Texas Commission on Environmental Quality for: (1) firefighter training; (2) public Utility, natural gas pipeline or mining operations; (3) planting or harvesting of agricultural crops; or, (4) burns that are conducted by a prescribed burn manager certified under Section 153.048, Natural Resources Code, and meet the standards of Section 153.047, Natural Resources Code.

In accordance with Local Government Code 352.081(h), a violation of this Order is a Class C misdemeanor, punishable by a fine not to exceed \$500.00.

ADOPTED this 21st day of December, 2010 by a vote of ____ ayes and ____ nays.

County Judge

Attest:

County Clerk

Local Government Code § 352.081

§ 352.081. Regulation of Outdoor Burning

(a) In this section, "drought conditions" means the existence of a long-term deficit of moisture creating atypically severe conditions with increased wildfire occurrence as defined by the Texas Forest Service through the use of the Keetch-Byram Drought Index or, when that index is not available, through the use of a comparable measurement that takes into consideration the burning index, spread component, or ignition component for the particular area.

(b) On the request of the commissioners court of a county, the Texas Forest Service shall determine whether drought conditions exist in all or part of the county. The Texas Forest Service shall make available the measurement index guidelines that determine whether a particular area is in drought condition. Following a determination that drought conditions exist, the Texas Forest Service shall notify the county when drought conditions no longer exist. The Texas Forest Service may accept donations of equipment or funds as necessary to aid the Texas Forest Service in carrying out this section.

(c) The commissioners court of a county by order may prohibit or restrict outdoor burning in general or outdoor burning of a particular substance in all or part of the unincorporated area of the county if:

(1) drought conditions have been determined to exist as provided by Subsection (b); or

(2) the commissioners court makes a finding that circumstances present in all or part of the unincorporated area create a public safety hazard that would be exacerbated by outdoor burning.

(d) An order adopted under this section must specify the period during which outdoor burning is prohibited or restricted. The period may not extend beyond the 90th day after the date the order is adopted. A commissioners court may adopt an order under this section that takes effect on the expiration of a previous order adopted under this section.

(e) An order adopted under this section expires, as applicable, on the date:

(1) a determination is made under Subsection (b) that drought conditions no longer exist; or

(2) a determination is made by the commissioners court that the circumstances identified under Subsection (c)(2) no longer exist.

(f) This section does not apply to outdoor burning activities:

(1) related to public health and safety that are authorized by the Texas Natural Resource Conservation Commission for:

(A) firefighter training;

(B) public utility, natural gas pipeline, or mining operations; or

(C) planting or harvesting of agriculture crops; or

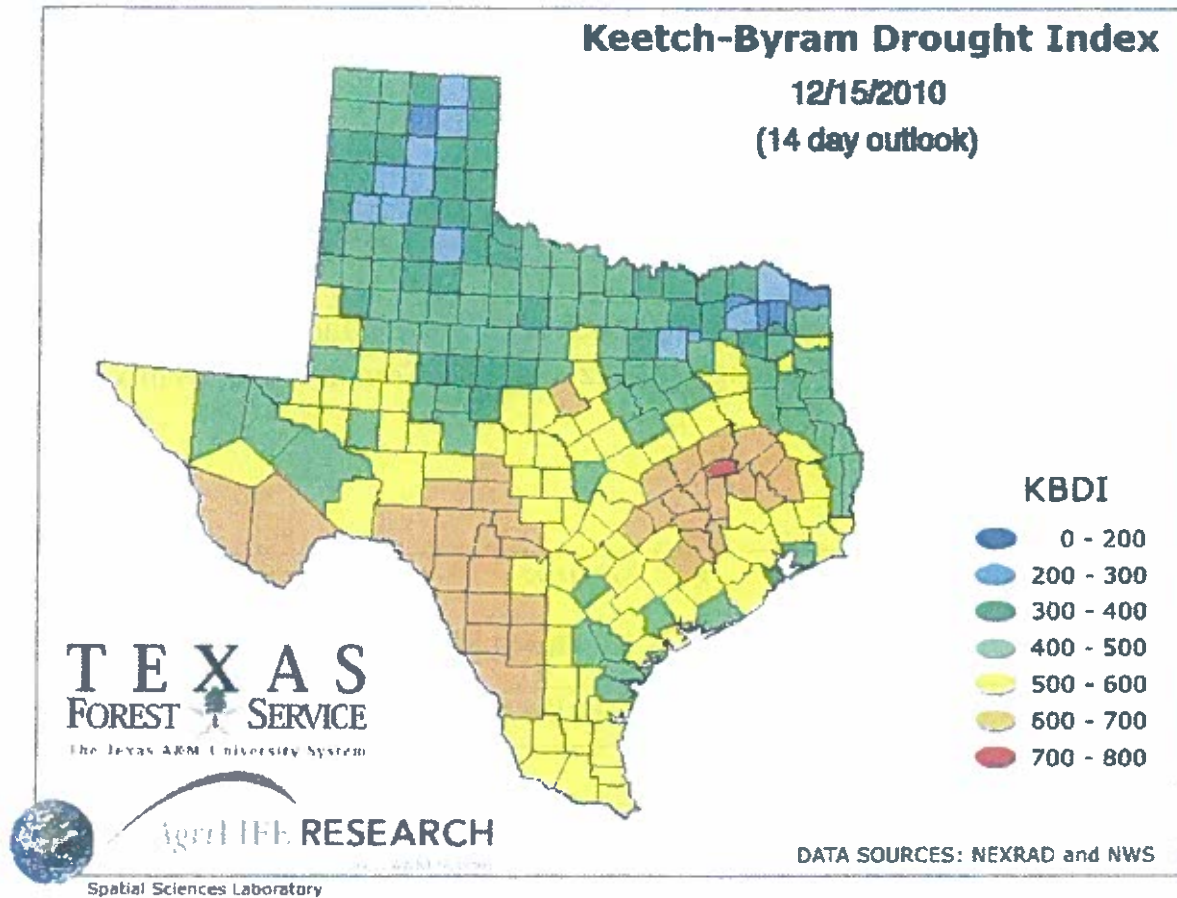
(2) that are conducted by a prescribed burn manager certified under Section 153.048, Natural Resources Code, and meet the standards of Section 153.047, Natural Resources Code.

(g) Any person is entitled to injunctive relief to prevent the violation or threatened violation of a prohibition or restriction established by an order adopted under this section.

(h) A person commits an offense if the person knowingly or intentionally violates a prohibition or restriction established by an order adopted under this section. An offense under this subsection is a Class C misdemeanor.

*Current
Average*

| | | | |
|----------|-----|-----|-----|
| HASKELL | 383 | 574 | 267 |
| HAYS | 527 | 605 | 453 |
| HEMPHILL | 347 | 557 | 76 |



Agenda Item Request Form

Hays County Commissioners' Court

9:00 a.m. Every Tuesday

Request forms are due in the County Judge's Office

no later than **2:00 p.m.** on **WEDNESDAY.**

Phone (512) 393-2205 Fax (512) 393-2282

AGENDA ITEM: Discussion and possible action to appoint Judge-Elect Bert Cobb to the Capital Area Metropolitan Planning Organization and Commissioner Will Conley as the alternate effective January 1, 2011.

CHECK ONE: ☐ CONSENT X ☒ ACTION ☐ EXECUTIVE SESSION
 ☐ WORKSHOP ☐ PROCLAMATION ☐ PRESENTATION

PREFERRED MEETING DATE REQUESTED: December 21, 2010

AMOUNT REQUIRED:

LINE ITEM NUMBER OF FUNDS REQUIRED:

REQUESTED BY: Cobb

SPONSORED BY: SUMTER

SUMMARY:

Agenda Item Request Form

Hays County Commissioners' Court

9:00 a.m. Every Tuesday

Request forms are due in the County Judge's Office

no later than **2:00 p.m.** on **WEDNESDAY.**

Phone (512) 393-2205 Fax (512) 393-2282

AGENDA ITEM: Discussion and possible action to re-instate the Commissioners Court meeting for December 28, 2010.

CHECK ONE: ☐ **CONSENT** ☒ **ACTION** ☐ **EXECUTIVE SESSION**
☐ **WORKSHOP** ☐ **PROCLAMATION** ☐ **PRESENTATION**

PREFERRED MEETING DATE REQUESTED: December 21, 2010

AMOUNT REQUIRED:

LINE ITEM NUMBER OF FUNDS REQUIRED:

REQUESTED BY:

SPONSORED BY: SUMTER

SUMMARY:

I do not anticipate the need to re-instate the December 28, 2010 meeting. This item is here just in case a need arises to re-instate the meeting.

Agenda Item Request Form

Hays County Commissioners' Court

9:00 a.m. Every Tuesday

Request forms are due in the County Judge's Office

no later than **2:00 p.m.** on **WEDNESDAY.**

Phone (512) 393-2205 Fax (512) 393-2282

AGENDA ITEM: Presentation from the Dispute Resolution Center, Executive Director Anna Bartkowski.

CHECK ONE: ☐ **CONSENT** ☐ **ACTION** ☐ **EXECUTIVE SESSION**
☐ **WORKSHOP** ☐ **PROCLAMATION** ☒ **PRESENTATION**

PREFERRED MEETING DATE REQUESTED: December 21, 2010

AMOUNT REQUIRED:

LINE ITEM NUMBER OF FUNDS REQUIRED:

REQUESTED BY: Bartowski

SPONSORED BY: SUMTER

SUMMARY:

Report on a cost-benefit analysis that the Commissioners requested from the DRC.

Hays County Dispute Resolution Center

Annual Report

October 1, 2009 – September 30, 2010

Overview

The Hays County Dispute Resolution Center (DRC) provides mediation services and training to the citizens of Hays County

Our mission:

To provide mediation and conflict resolution services and relevant training for Hays County and its residents in accordance with the Texas Civil Practice & Remedies Code Chapter 154. Alternative Dispute Resolution Procedures through a non-profit organization with funding primarily from the county through ADR fees, minimal additional county funding and some added funding generated by the DRC.

This report covers the DRC's first full year of operation, October 1, 2009 – September 30, 2010. The DRC has initiated seven mediation programs as detailed below. During the period, the DRC has mediated 35 cases involving approximately 170 people. The benefits of mediation are both intangible and tangible. On the intangible side, benefits include the parties ability to craft solutions best suited to their needs, a less stressful and detrimental process than that typically experienced during litigation and a more time-efficient and cost-effective process. More details are provided under the specific programs outlined below. On the tangible side, the most significant impact the DRC has had in 2010 is with the CPS mediation program, where there is a potential savings to the county of as much as \$105,000 for 2010. The \$105,000 cost savings figure represents the cost to the county for three appointed attorneys to participate in a 4 day trial had the eight cases from 2010 not reached mediated settlement agreements. There are clearly other savings attained by avoiding litigation, but with the specific court cost per case not available, it was not possible to calculate a reliable dollar figure. There are tangible savings in law enforcement referred cases where multiple calls to agencies require responses that can cost up to \$240 per response and in some cases can involve over 60 responses totaling \$14,400. From a court standpoint, every case settled in mediation avoids a place on the docket and in the court room, freeing the court to deal with cases more appropriate for adjudication.

On the training side, the DRC has provided training in basic and family mediation skills for potential mediators and in conflict resolution skills for the general public, as well as public and private organizations and associations. In total, over 650 people have participated in these training programs. The DRC generates income through fees from enhanced skills training for professionals but provides conflict resolution skills training to community-based organizations and county programs at no charge.

In providing the mediation services and training, the DRC uses all volunteer mediators, all credentialed through the Texas Mediator Credentialing Association; during the reporting period volunteer mediators contributed 230 volunteer hours. All the trainers are either on the faculty at nearby universities or professionals in their fields and provide their time on a volunteer basis.

Justice of the Peace Courts Mediation Program

There are six JP courts in Hays County, three have referred cases to the DRC. During the first year of operation the DRC has had 23 cases referred and has mediated 13 with resolution being reached in seven of those cases. These are typically contract or business related cases with under \$10,000 in dispute. A number of the cases that are referred to the DRC are settled prior to the mediation because the parties are motivated by the impending mediation.

Intangible benefits include the typical benefits of mediation where the parties are able to craft a solution that will work for both (all) parties and are more likely to be fulfilled. In situations where an ongoing relationship exists, mediation has an advantage over court adjudicated cases of not only having a less negative impact on that relationship but perhaps strengthening it.

Tangible benefits include relieving the court docket of those cases that are mediated and allowing more resources to deal with cases that are more appropriately adjudicated and facilitating speedier movement of all cases through the system. The cost of trying these cases is saved but that cost per case has not been determined as the actual cost per case handled by the court is not available.

Testimonial: “[We need] pre-filing mediation to avoid the expense and time of litigation.” – an attorney representing a party in mediation

County Courts/District Courts Mediation Program

These are cases referred by the County and District Courts in Hays County. Hays County has one full District Court and shares three with neighboring counties and two County Courts-at-Law. These cases involve any civil action handled by the courts but the DRC only accepts cases valued under \$50,000. This program is in the very early stages of development and there have only been two referrals during the reporting period. Of the two, one was mediated and settled.

The intangible benefits parallel those of the JP program. Since cases coming out of these courts are generally more complex than JP cases there may be significantly less delay through mediation than through the normal legal process.

On the tangible side, the benefits are similar to the JP cases with unburdening the courts and avoiding the court costs, although again, not determined without the court cost per case. Additionally, the legal costs to the parties are likely to be less.

Law Enforcement Mediation Program

The law enforcement agencies in Hays County have been made aware of the services of the DRC and in appropriate cases may refer community disputes to mediation. The agencies include the normally sheriff's department, constables and municipal police forces, as well as animal control. The kind of cases that may be included in this category are non-criminal and may include disputes such as barking dogs and neighbor disputes where the law enforcement officers have no legal basis to take action. During the past year seven cases have been referred. Two of these are currently scheduled for mediation and one has been mediated in the 2010-2011 year.

Intangible benefits include resolution of the problem and in some cases restoration of neighbor relationships.

Tangible benefits include avoidance of further calls to the agencies and associated savings in the costs. In one case there had been sixty calls over a three year period at a cost to the agencies involved of ~\$240 per call representing a total avoidance of ~\$14,400.

Testimonial: “I really appreciate all you’ve done for me to help me make peace with my neighbors.” – party in mediation

Community Mediation Program

Members of the community call the DRC directly with disputes that involve some disagreement with their neighbors, which is causing discord in the neighborhood. These disputes may or may not have a legal basis but the parties contact the DRC before they initiate any legal action. Situations involving noise and other disruptive behavior are typical. During the reporting period seven cases were brought to the DRC and five were mediated, all were settled.

The intangible benefits are similar to those in the Law Enforcement Mediation Program such as resolution of the problem and in some cases restoration of neighbor relationships.

Tangible benefits are also similar to those in the Law Enforcement Mediation Program but may also include total avoidance of the cost of legal action and avoidance of even filing a case with the courts and the attendant unbundling the courts with these cases. With the total avoidance of any court action, the court docket is lightened and the court can focus on cases more appropriate for adjudication, both a cost and efficiency savings for the courts. Some cases may be JP level cases and some district court or county court at law and not knowing the actual cost of either case in the courts the savings cannot be estimated but it certainly is finite.

Testimonial: *"Although no resolution came, it was very helpful to see both sides."* – party in mediation

Texas State University Mediation Program

Disputes involving contract issues, landlord/tenant issues, neighborhood disagreements arise between the students and/or non-student residents or businesses and in some cases family situations. With TSU situated in the heart of San Marcos these conflicts impact or potentially impact on the community resources and courts. Typically these cases are referred by the TSU student attorney's office. Eight cases have been referred to the DRC and five have been mediated with three reaching settlement.

While there is the obvious intangible benefit of resolving the dispute, in these cases there is the additional benefit of the students learning appropriate skills in resolving personal and community conflict and encouragement of local businesses and apartment communities to treat students fairly.

As in the previous mediation programs, the tangible benefits relate to the potential avoidance of legal action and unbundling of the courts, again not estimable without knowing the cost to the courts for processing and trying cases.

Testimonial: *"This was a case where a neutral third party was necessary for communication."* – party in mediation

Family Law Mediation Program

Family cases involve divorce, SAPCR (Suits Affecting Parent Child Relationships), and modification and enforcement of related decrees. The DRC receives a number of calls in this category and has cautiously accepted only some (five) for mediation as they can be quite legally complicated. Of the five, four have been mediated and three have settled.

Intangible benefits in these types of cases include a quicker resolution than is typically experienced in court-based resolution and the overall atmosphere of a less confrontational process especially if there are children involved. Co-parenting and collaboration can begin during the divorce process when the parties agree to work together in a mediation setting. Another essential benefit of mediation in family cases is that the parties can craft solutions that meet their particular needs that a court may not be in a position to consider.

In the area of tangible benefits, as with the previous mediation programs, the potential avoidance of legal action and unbundling of the courts is not estimable without knowing the cost to the courts for processing and trying cases. There is the real cost avoidance for the parties in reduced legal costs for attorneys.

Dept of Family and Protective Services Mediation Program

Commonly known as CPS (“child protective services”) cases, these cases are referred from District Court and District Attorney’s office and involve CPS and parental rights termination cases. There have been eight cases referred to the DRC and all have been mediated with seven reaching settlement. These are often complex and highly emotional cases involving mediations of up to twelve hours and in some cases, multiple sessions. They typically involve multiple parties (four or more) and multiple attorneys.

The intangible benefits in these cases are very significant in that they affect the future well being of children. In mediation, the parties are able to develop solutions that will best meet the needs of the children and be acceptable and reasonable to the parties. The solutions are developed after many hours of in-depth discussions by the parties with direct knowledge and interest in the lives of the families and children involved. The courts are not able to fashion agreements with the same degree of essential knowledge and involvement. In addition, the parties are family members, with a future of ongoing relationship with each other. The mediation allows the parties to collaborate and communicate with each other as opposed to engaging in a hostile courtroom battle.

The tangible benefits may be very substantial if a case can be settled without having to go to trial. The can be as much as \$15,000 per case for attorneys’ alone, which the county pays as appointed legal representation costs for the children’s ad litem and parents’ representation. The costs for a two-week preparation and four-day trial for the District Attorney’s office and CPS, as well as the resources for the courts and clerks of the county are in addition to these expenses and incalculable without more information. If all the cases that were mediated and settled (seven) had proceeded to a full trial the potential cost is as much as \$105,000.

Testimonial: “The DRC has helped us reach resolution on cases I thought would never settle. In fact, I think that we have resolved cases that I don’t know would have settled if it weren’t for the DRC.” – Asst. DA

Mediation and Conflict Resolution Training

The DRC offers training in two primary categories, mediation skills and practices for those who want to become mediators or enhance their professional skill base and general conflict resolution skills for the general public or for public or private associations or agencies. In the mediation training program, the DRC has provided 40 Hour Basic Mediation Training and 30 Hour Family Mediation Training. Twenty-two people have received certificates for training in these two programs. In the conflict resolution skills training programs, the DRC has offered interest-based negotiation and conflict resolution skills training to the general public, to social workers and district clerks through their professional organizations and through the Hays County District Resource Center to participants in the Hays County Jail’s Day Treatment Program. Over 650 people have participated in these training programs.

Program Statistics and Tangible Benefits

Mediation Programs

| Program | Impacted | Cases Received | Cases mediated | Cases settled | Volunteer hours | Dollars saved |
|------------------------|--|----------------|----------------|---------------|-----------------|--|
| JP Program | 58 individuals 12 businesses 9 attorneys | 23 | 13 | 7 | 81 | ** |
| County/District Courts | 2 individuals 2 businesses 2 attorneys | 2 | 1 | 1 | 9 | ** |
| Law Enforcement | 26 individuals 2 businesses | 7 | 1* | 1* | 32* | \$480/wk |
| Community | 10 individuals 3 businesses 3 attorneys | 7 | 5 | 5 | 23.5 | *** |
| Tx State Univ | 16 individuals 3 businesses | 8 | 5 | 3 | 22.5 | *** |
| Family Law | 8 households | 5 | 4 | 3 | 30 | *** |
| DFPS | 12 families 3 agencies 18 attorneys | 8 | 8 | 7 | 63 | \$105,000 trial plus \$8,000 mediation |

*law enforcement case mediation occurred in Q1 2011

** not calculated, court cost per case not available

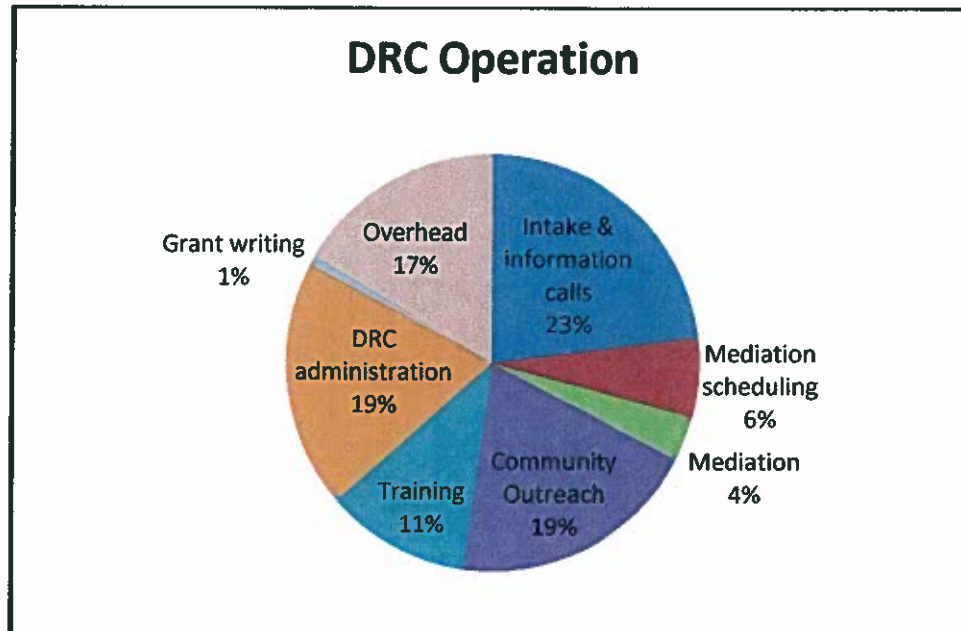
*** not reasonably calculable

Training Programs:

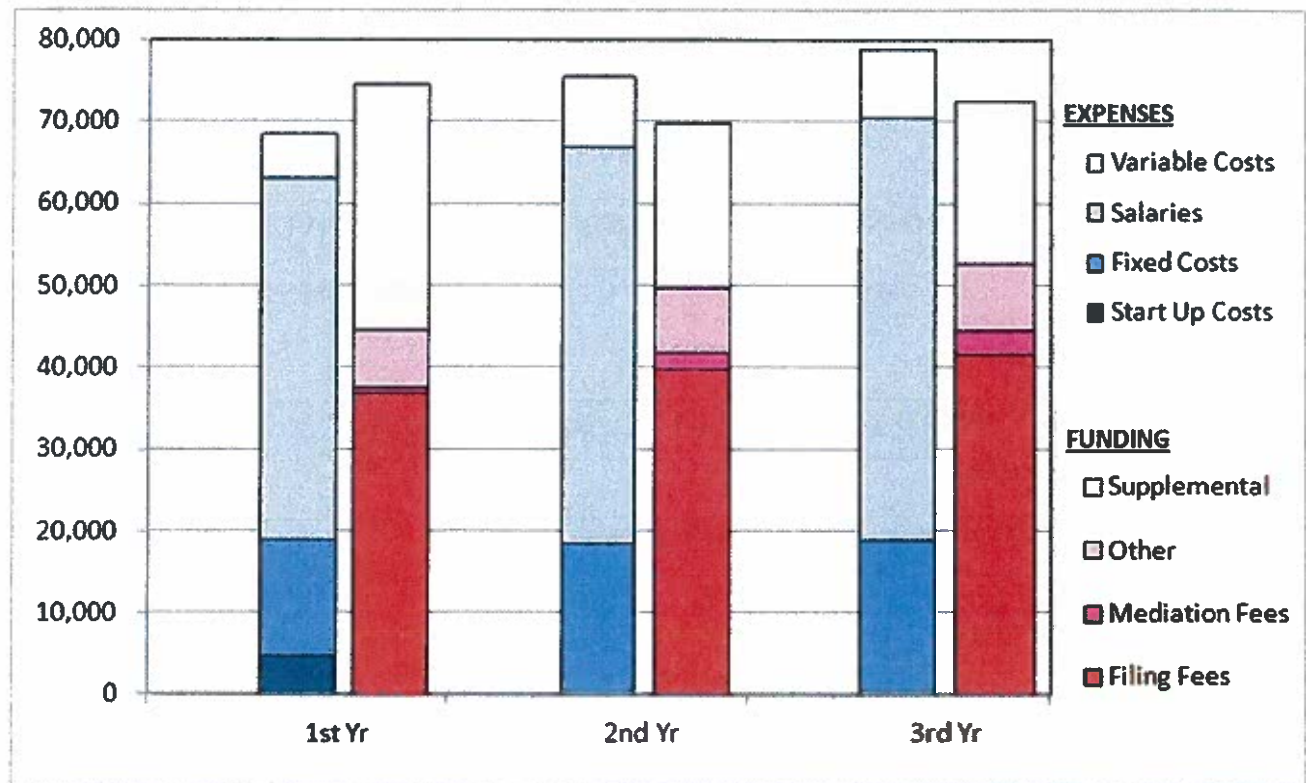
| Program | People impacted |
|------------------------------|-----------------|
| Basic 40 hour mediation | 12 |
| Adv 30 hour family mediation | 10 |
| District Resource Center | 135 |
| Conflict Resolution Skills | 508 |
| Interest Based Negotiation | 10 |

DRC Operation

During the reporting period, the distribution of effort in operating the DRC is shown in the chart below.



Annual Budget and Funding



| <u>EXPENSES</u> | | | | <u>FUNDING</u> | | | |
|-----------------|---------------|---------------|---------------|----------------|---------------|---------------|---------------|
| | <u>1st Yr</u> | <u>2nd Yr</u> | <u>3rd Yr</u> | | <u>1st Yr</u> | <u>2nd Yr</u> | <u>3rd Yr</u> |
| Start Up Costs | 4,586 | 0 | 0 | Filing Fees | 37,191 | 40,163 | 42,000 |
| Fixed Costs | 14,230 | 18,443 | 18,803 | Mediation Fees | 660 | 2,000 | 3,000 |
| Salaries | 44,303 | 48,450 | 51,700 | Other | 7,150 | 8,000 | 8,000 |
| Variable Costs | 5,399 | 8,500 | 8,304 | Supplemental | 30,000 | 20,000 | 20,000 |
| Total | 68,518 | 75,393 | 78,807 | Total | 75,001 | 70,163 | 73,000 |

Agenda Item Request Form

Hays County Commissioners' Court

9:00 a.m. Every Tuesday

Request forms are due in the County Judge's Office

no later than 2:00 p.m. on WEDNESDAY.

Phone (512) 393-2205 Fax (512) 393-2282

AGENDA ITEM: Presentation by the Hays County web development team of the new Hays County website.

CHECK ONE: ☐ **CONSENT** ☐ **ACTION** ☐ **EXECUTIVE SESSION**

☐ **WORKSHOP** ☐ **PROCLAMATION** **X** ☐

PRESENTATION

PREFERRED MEETING DATE REQUESTED: December 21, 2010

AMOUNT REQUIRED

LINE ITEM NUMBER OF FUNDS REQUIRED

REQUESTED BY: Ford

SPONSORED BY: Ford

SUMMARY:

Agenda Item Request Form

Hays County Commissioners' Court

9:00 a.m. Every Tuesday

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no later than **2:00 p.m.** on **WEDNESDAY.**

Phone (512) 393-2205 Fax (512) 393-2282

AGENDA ITEM: Discussion and possible action to accept the final report on priorities and “next steps” from the criminal justice task force and MGT consultants, and to establish a permanent Criminal Justice Coordinating Committee in Hays County, appoint initial members, and memorialize bylaws.

TYPE OF ITEM: ACTION

PREFERRED MEETING DATE REQUESTED: December 21, 2010

AMOUNT REQUIRED: N/A

LINE ITEM NUMBER OF FUNDS REQUIRED: No Hays County funding or match is required at this time.

REQUESTED BY: The task force, MGT and Commissioner Barton

SPONSORED BY: Pct 2 Commissioner Jeff Barton and Pct. 3 Commissioner Will Conley

SUMMARY: On July 20, 2010, Commissioners Court contracted with MGT of America to work with the county's criminal justice system stakeholders to: 1) prioritize the recommendations of the Criminal Justice System Assessment and Jail Population Study for Hays County, Texas, and to 2) develop the structure for a Criminal Justice Coordinating Committee for Hays County. Because of holidays and scheduling, the deadline for the report was extended to the end of 2010. The stakeholders have now completed this phase of work, facilitated by MGT. MGT and some of the stakeholders will be in Court to present their findings and recommendations, including bylaws and membership for a permanent coordinating committee. Commissioner Barton has chaired these efforts, with Commissioner Conley also involved as a representative of the Court. With Commissioner Barton leaving office, the Court should consider appointing Commissioner Conley to take over as the lead for the Commissioners Court. The task force has already achieved general consensus on most key questions. A final draft of the bylaws and recommendations will be presented and explained in open Court on the 21st.

Agenda Item Request Form

Hays County Commissioners' Court

9:00 a.m. Every Tuesday

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no later than **2:00 p.m.** on **WEDNESDAY.**

Phone (512) 393-2205 Fax (512) 393-2282

AGENDA ITEM: Executive Session pursuant to 550.074 to discuss personnel matters and to deliberate the evaluation of Department Heads. Possible action may follow in open court.

CHECK ONE: ☐ **CONSENT** ☐ **ACTION** ☒ **EXECUTIVE SESSION**
 ☐ **WORKSHOP** ☐ **PROCLAMATION** ☐ **PRESENTATION**

PREFERRED MEETING DATE REQUESTED: December 21, 2010

AMOUNT REQUIRED:

LINE ITEM NUMBER OF FUNDS REQUIRED:

REQUESTED BY: Ingalsbe

SPONSORED BY: Ingalsbe

SUMMARY: