

Commissioners Court -January 4, 2011  
NOTICE OF A MEETING OF THE  
COMMISSIONERS COURT OF HAYS COUNTY, TEXAS



This Notice is posted pursuant to the Texas Open Meetings Act. (VERNON'S TEXAS CODES ANN. GOV. CODE CH.551). The Hays County Commissioners Court will hold a meeting at **9:00 A.M.** on the **4<sup>TH</sup> day of January, 2011**, 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**

1	3	Presentation of ceremonial swearing in of all newly and re-elected officials to Hays County and approve the Official Bonds. <b>INGALSBE/CONLEY</b>
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**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

2	4	Approve payments of county invoices. <b>HERZOG</b>
3	5-19	Approve Commissioner Court Minutes of December 14 & 21, 2010. <b>SUMTER/COBB/FRITSCHER/GONZALEZ</b>
4	20-22	Approve renewal of RFP #2005-P01 "Inmate Telephone System" with Securus for one (1) additional year as provided for in the original proposal. <b>SUMTER/COBB/HERZOG/MAIORKA/ROBINSON</b>
5	23	Approve re-appointment of Parks and Open Space Advisory Board members. <b>SUMTER/COBB/HAUFF</b>
6	24-26	Ratify acceptance of a grant award from the Task Force on Indigent Defense for \$71,325.00. <b>SUMTER/COBB/HAUFF</b>
7	27	Authorize disposal of additional computer equipment in the County's auction. <b>SUMTER/COBB/HERZOG</b>

**ACTION ITEMS**

**MISCELLANEOUS**

8	28-29	Discussion and possible action to appoint Sharri Boyett to the San Marcos Animal Shelter Advisory Committee. <b>INGALSBE</b>
9	30-39	Discussion and possible action to authorize County Judge to sign the Advance Funding Agreement with the Texas Department of Transportation for the priority road bond project consisting of the construction of turn lanes on US 290 from RR 12 (Mighty Tiger Lane) to McGregor Lane. <b>FORD/WHISENANT</b>

**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.

**ADJOURNMENT**



Posted by 5:00 o'clock P.M. on the 31<sup>TH</sup> day of December, 2010

**COMMISSIONERS COURT, HAYS COUNTY, TEXAS**

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**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 ceremonial swearing in of all newly elected officials to Hays County.**

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

**PREFERRED MEETING DATE REQUESTED: January 4, 2011**

**AMOUNT REQUIRED: N/A**

**LINE ITEM NUMBER OF FUNDS REQUIRED: N/A**

**REQUESTED BY: Debbie Ingalsbe/Will Conley**

**SPONSORED BY: Debbie Ingalsbe/Will Conley**

**SUMMARY: Presentation where the newly elected Hays County Officials may be publically sworn in and speak if they choose.**

## *Agenda Item Request Form*

### **Hays County Commissioners' Court**

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**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: Approve payments of County invoices**

<b>CHECK ONE:</b>	<input checked="" type="checkbox"/> <b>CONSENT</b>	<input type="checkbox"/> <b>ACTION</b>	<input type="checkbox"/> <b>EXECUTIVE SESSION</b>
	<input type="checkbox"/> <b>WORKSHOP</b>	<input type="checkbox"/> <b>PROCLAMATION</b>	<input type="checkbox"/> <b>PRESENTATION</b>

**PREFERRED MEETING DATE REQUESTED: 1/4/11**

**AMOUNT REQUIRED: \$**

**LINE ITEM NUMBER OF FUNDS REQUIRED:**

**REQUESTED BY: Bill Herzog**

**SPONSORED BY: Cobb**

**SUMMARY:**

## *Agenda Item Request Form*

### **Hays County Commissioners' Court**

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**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 14<sup>TH</sup> & 21<sup>ST</sup>, 2010**

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

**PREFERRED MEETING DATE REQUESTED: JANUARY 4, 2011**

**AMOUNT REQUIRED:**

**LINE ITEM NUMBER OF FUNDS REQUIRED:**

**REQUESTED BY: FRITSCHER/GONZALEZ**

**SPONSORED BY: SUMTER/COBB**

**SUMMARY:**



STATE OF TEXAS \*  
COUNTY OF HAYS \*

ON THIS THE 14<sup>TH</sup> 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
LINDA C. FRITSCHKE	COUNTY CLERK

**AND THE FOLLOWING PROCEEDINGS WERE HAD, THAT IS:**

Dee Dee Baen Human Resources Director introduced new employees.

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

**PUBLIC COMMENTS**

Jimmy Skipton made public comment.

**27652 APPROVE PAYMENTS OF COUNTY INVOICES**

A motion was made by Commissioner Ingalsbe, seconded by Commissioner Ford to approve payments of county invoices in the amount of \$3,298,919.99 as submitted by the County Auditor. All voting "Aye". MOTION PASSED

**27653 AMEND THE FY11 BUDGET FOR THE CAPCOG HOUSEHOLD HAZARDOUS WASTE COLLECTION GRANT**

The CAPCOG Household Hazardous Waste Collection Grant Contract was executed on January 26, 2010. This amendment allows the County to spend the grant in FY11 with no county match required. Budget Amendment: 001-716-99-052.4301 -\$27,000, 001-716-99-052.5031 +\$465, 001-716-99-052.5101 +\$35, 001-716-99.5210 +\$500, 001-716-99-052.5211 +\$200, 001-716-99-052.5448 +\$25,000, 001-716-99-052.5461 +\$300, 001-716-99-052.5462 +\$500. A motion was made by Commissioner Ingalsbe, seconded by Commissioner Ford to amend the FY11 Budget for the CAPCOG Household Hazardous Waste Collection Grant. All voting "Aye". MOTION PASSED

**27654 AMEND THE FY11 BUDGET TO MOVE EXPENDITURES INCURRED FOR INDIGENT DEFENSE CASES HEARD IN COUNTY COURT AT LAW NO. 1 OUT OF THE COUNTY COURT AT LAW NO. 2 BUDGET**

This amendment is necessary in order to comply with the reporting requirements set by the Texas Task Force on Indigent Defense. Budget Amendment: 001-612-00.5440 -\$115,916, 001-611-00.5440 +\$115,916. A motion was made by Commissioner Ingalsbe, seconded by Commissioner Ford to amend the FY11 Budget to move expenditures incurred for Indigent Defense Cases heard in County Court at Law No. 1 out of the County Court at Law No. 2 Budget. All voting "Aye". MOTION PASSED

**27655 ACCEPT INSTITUTIONAL OSSF PERMIT FOR A OFFICE/WAREHOUSE LOCATED AT 31866 RANCH ROAD 12, DRIPPING SPRINGS, TX 78620, IN PRECINCT 4**

James Bailey (BPX Venture a LLC) is proposing an OSSF to serve an office/warehouse. This property is located at 31866 Ranch Road 12, Dripping Springs, TX in Precinct 4. The property is 0.47 acres. It is an Aerobic Treatment Unit using drip irrigation designed by Don Perry, R. S. The On Site Sewage Facility is designed for a maximum wastewater flow of 160 gpd for a maximum of 20 employees. Water is supplied by rainwater collection. A motion was made by Commissioner Ingalsbe, seconded by Commissioner Ford to accept Institutional OSSF permit for a office/warehouse located at 31866 Ranch Road 12, Dripping Springs, TX 78620, in Precinct 4. All voting "Aye". MOTION PASSED

**27656 RE-APPOINT JULIA RAMSEY NEW AND ALLAN KIMBALL TO ESD #7**

All of these terms have expired. We would like to re-appoint these positions for the next term. A motion was made by Commissioner Ingalsbe, seconded by Commissioner Ford to re-appoint Julia Ramsey New and Allan Kimball to ESD #7. All voting "Aye". MOTION PASSED



**DECEMBER 14, 2010**

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**VOLUME U PAGE 503****27657 RE-APPOINT KEN DOWNING, RON SPANGENBERG AND EDDIE GUMBERT TO ESD #4**

A motion was made by Commissioner Ingalsbe, seconded by Commissioner Ford to re-appoint Ken Downing, Ron Spangenberg and Eddie Gumbert to ESD #4. All voting "Aye". MOTION PASSED

**27658 AUTHORIZE ON-LINE AUCTION WITH RENE BATES AUCTIONEERS OF SURPLUS PROPERTY NO LONGER OF USE FOR THE PURPOSE FOR WHICH IT WAS ORIGINALLY INTENDED FROM VARIOUS COUNTY OFFICES**

List of items for auction may be reviewed in the Purchasing Office. This includes items collected from County Offices and are being stored at the Building Maintenance warehouse. A motion was made by Commissioner Ingalsbe, seconded by Commissioner Ford to authorize on-line auction with Rene Bates Auctioneers of surplus property no longer of use for the purpose for which it was originally intended from various county offices. All voting "Aye". MOTION PASSED

**27659 APPROVE AND CONFIRM THE APPOINTMENT OF OLAN ARTHUR KELLEY IV AS DEPUTY CONSTABLE FOR PRECINCT 1**

Justice of the Peace Pct 1-2, Margie Hernandez did the swearing in of Olan Arthur Kelley IV as Deputy Constable Precinct 1. According to Chapter 86 Subchapter B 86.011 (a) The Commissioners' Court shall approve and confirm the appointment of a Deputy Constable. A motion was made by Commissioner Ingalsbe, seconded by Judge Sumter to approve and confirm the appointment of Olan Arthur Kelley IV as Deputy Constable for Precinct 1. All voting "Aye". MOTION PASSED

**27660 ACCEPT REPORT TO COMMISSIONERS COURT IDENTIFYING ENVIRONMENTAL HEALTH ADMINISTRATIVE APPROVALS ISSUED DURING THE MONTH OF NOVEMBER, 2010**

In conformance with Hays County's Development Regulations this report identifies all administrative approvals issued by the department during the month of November, 2010. A motion was made by Commissioner Ingalsbe, seconded by Commissioner Ford to accept report to Commissioners Court identifying Environmental Health Administrative approvals issued during the month of November 2010. All voting "Aye". MOTION PASSED

**27661 AUTHORIZE THE COUNTY JUDGE TO EXECUTE AMENDMENT #4 TO THE GRANT PROJECT AGREEMENT WITH TEXAS PARKS AND WILDLIFE DEPARTMENT FOR THE SAN MARCOS SPRINGS CONSERVATION PARK, EXTENDING THE AGREEMENT TERMINATION DATE TO JULY 15, 2011**

On April 17, 2007 the Commissioners Court authorized a grant agreement with the Texas parks and Wildlife Department for funding for the San Marcos Springs Conservation Park (Spring Lake Preserve). Construction is underway, and most major elements will be completed by the end of the year. Production and installation of interpretive signs and other grant-related elements, as well as submission or required documentation for project closeout, are likely to push us past the current grant termination date. The current grant agreement expires on January 31, 2011 and this Amendment will extend the grant termination date to July 15, 2011 to accommodate the above items. The San Marcos Springs Conservation park development is a partnership project between Texas State University, the City of San Marcos, and Hays County. No County matching funds are necessary for this grant project. A motion was made by Commissioner Ingalsbe, seconded by Commissioner Ford to authorize the County Judge to execute Amendment #4 to the Grant Project Agreement with Texas parks and Wildlife Department for the San Marcos Springs Conservation park, extending the Agreement termination date to July 15, 2011. All voting "Aye". MOTION PASSED



**27662 VACATION AND RE-PLAT OF LOT 2 AND LOT 3 WERTH SUBDIVISION [10-4-29 - 6  
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 Clint Garza gave staff recommendation. The Werth Subdivision was originally platted in 1999 as a 4 lot subdivision. The owner of Lot 3, also the original developer, wishes to further subdivide said 34.22 acres and a 0.04 acre portion of Lot 2 to create 6 newly configured lots. The new configuration is as follows: Lot 2A 2.77 acres Lot 3A 2.63 acres, Lot 3B 2.72 acres, Lot 3C 3.60 acres, Lot 3D 2.40 acres, and Lot 3E 22.90 acres. A 14.38 acre conservation easement is being recorded over portions of Lots 3B-3E. The intention of this conservation easement is to preserve a natural drainage area. The 0.04 acre portion of Lot 2 is being reconfigured because there is an existing driveway which will serve lot 3#. Both property owners have agreed to terms of sale. The developer will plat restrict all lots to rainwater collection only and will utilize class I permitted on-site sewage facilities. All lots are sized adequately for either commercial or residential development. The intended use for Lot 3E has not been placed under contract; however the developer wishes to keep consistent with the rest of the subdivision and will likely build multi-family residential or cluster/conservation development. In short, the developer wishes the future use of Lot 3E to serve as a model for future developments in the western portion of Hays County. A motion was made by Commissioner Ford, seconded by Commissioner Conley to approve final plat of vacation and re-plat of Lot 2 and Lot 3 Werth Subdivision. All voting "Aye". MOTION PASSED

**27663 APPROVE THE PAYMENT OF AN INVOICE OVERAGE FOR LOOMIS PARTNERS  
RELATED TO THE HABITAT CONSERVATION PROJECT**

The County was awarded a grant for the Habitat Conservation plan in 2006 for \$1,005,000 with a 25% county match. A portion of that award was a \$5,000 administrative fee that could be billed by TP&W. The County actually committed that \$5,000 in service contracts creating a shortage in the grant budget in the end. This grant was closed out in July 2010 and since Loomis Partner's was the last contractor working on this project, their invoice was short paid due to no project funds available. The balance due to Loomis on their final invoice is \$4,135.26. This would include an overage billed on their original contracts (\$546,000) of \$563.30. The balance due to Loomis per their contracts is \$3,571.96. A motion was made by Commissioner Conley, seconded by Commissioner Ford to approve the payment of an invoice overage for Loomis partners related to the Habitat Conservation Project in an amount of \$4,135.26. All voting "Aye". MOTION PASSED

**27664 AUTHORIZE COMMISSIONER FORD WITH ASSISTANCE FROM SPECIAL  
COUNSEL TO NEGOTIATE AN INTERLOCAL AGREEMENT BETWEEN HAYS  
COUNTY AND CITY OF DRIPPING SPRINGS REGARDING THE GRANT FUNDING  
OF HARRISON RANCH PARK AND AUTHORIZE THE COUNTY JUDGE TO  
EXECUTE THE INTERLOCAL AGREEMENT**

On November 23, 2010 the Court approved the award of \$1.7 Million in Park Bond funds for Harrison Ranch Park based on the scoring criteria from the POSAB. A motion was made by Commissioner Ford, seconded by Judge Sumter to authorize Commissioner Ford, with assistance from Special Counsel, to negotiate an Interlocal Agreement between Hays County and City of Dripping Springs regarding the grant funding of Harrison Ranch Park and authorize the County Judge to execute the Interlocal Agreement with the following changes made: term will be a 3-year period starting January 1, 2011, a description of the project as one of the exhibits including a budget and a location and site-plan and the legal description of the property and all of the funding sources will be listed, will ask for a change in the project clause. All voting "Aye". MOTION PASSED

**27665 AUTHORIZE THE COUNTY JUDGE TO EXECUTE A RIGHT OF ENTRY WITH THE  
CITY OF SAN MARCOS FOR ACCESS TO THE COUNTY'S PROPERTY ON UHLAND  
ROAD FOR THE PURPOSES OF APPRAISAL WORK RELATED TO REAL  
PROPERTY NEEDED FOR A CITY OF SAN MARCOS WASTEWATER EASEMENT**

The City's proposal is to take a small portion of the Northwest corner of the County's property on Uhland Road. A motion was made by Commissioner Ingalsbe, seconded by Judge Sumter to authorize the County Judge to execute a Right of Entry with the City of San Marcos for access to the County's property on Uhland road for the purposes of appraisal work related to real property needed for a City of San Marcos Wastewater Easement. All voting "Aye". MOTION PASSED



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**CONSIDER 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**

The change order will allow construction of a "connector" to tie Kyle Crossing (CR210) 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 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 and the proposed ROW is 80 feet. A motion was made by Commissioner Barton, seconded by Commissioner Ingalsbe to accept the ROW donation as described in the Escrow Agreement dated December 9, 2010 and styled "Escrow Agreement Kyle Connector" provided that it is acceptable with Mark Kennedy and Ellie Dietz our Legal Counsel and authorize staff to prepare and Commissioner Pct 2 to execute a Change Order with constructor and related documents with the City of Kyle and TXDOT to construct a public connector street to be deeded to the City of Kyle upon completion in an amount not to exceed \$240,000. Motion withdrawn. Court will bring this item back at a later date.

**27666 APPROVE STORM WATER MANAGEMENT PROGRAM (SWMP) DRAFT DOCUMENT AND AUTHORIZE THE COUNTY JUDGE TO SIGN NOTICE OF INTENT (NOI) FOR STORM WATER DISCHARGES FROM SMALL MUNICIPAL SEWER SYSTEMS AS REQUIRED UNDER THE TPDES PHASE II GENERAL PERMIT (TXR040000); POST DOCUMENTS TO COUNTY WEBSITE; SUBMIT NOI AND SWMP TO TCEQ FOR APPROVAL**

Natural Resources Program staff has been developing a Storm Water Management Program to ensure compliance with State of Texas Environmental Regulations under the TPDES Phase II MS4 permit (TXR040000). The initial draft document has been reviewed for compliance with permit regulations by a third party environmental consulting firm (URS Corporation). There is a requirement to post a copy of the draft online for a period of two weeks prior to submittal; NOI and SWMP will then be submitted to TCEQ for review; after reviewing Hays County NOI and SWMP, TCEQ will issue the executive director's preliminary decision. Following preliminary approval, notice must be published in the largest circulated paper in the County to provide opportunity for the public to submit comments to TCEQ on NOE and SWMP. A public meeting will help if TCEQ determines there is sufficient interest. There is an application fee in the amount of \$100. Annual renewal fee is \$100. Betty Lambright of the RTPD Department spoke of approvals acquired. A motion was made by Commissioner Barton, seconded by Commissioner Ingalsbe to approve Storm Water Management Program (SWMP) draft document and authorize the County Judge to sign Notice of Intent (NOI) for Storm Water discharges from small municipal separate storm sewer systems as require under the TPDES Phase II General Permit (TXR040000); post documents to County Website and submit NOI and SWMP to TCEQ for approval. All voting "Aye". MOTION PASSED

**27667 APPROVE SUPPLEMENT NO. 1 TO WORK AUTHORIZATION NO. 1 FOR HDR ENGINEERING, INC. SERVING AS PROGRAM MANAGER FOR THE PRIORITY ROAD BOND PROGRAM**

The Professional Services Agreement (PSA) for HDR Engineering, Inc. approved by the Court on April 7, 2009, was based on a budget through the end of 20112 to provide program management services for the Priority Road Bond Program. Work Authorization No. 1 for this PSA, also approved by the Commissioner's Court on April 7, 2009 included the estimated fees for the period extending through December 31, 2010. Through October 2010, HDR had expended approximately \$814,000 compared to a budgeted expenditure of approximately \$1,056,000 through the same timeframe. A motion was made by Commissioner Conley, seconded by Commissioner Ford to approve Supplement No. 1 to Work Authorization No. 1 for HDR Engineering, Inc. serving as Program Manger for the Priority Road Bond Program. All voting "Aye". MOTION PASSED



**27668 APPROVE SALARY FOR JUVENILE PROBATION OFFICER ABOVE 25<sup>TH</sup> PERCENTILE IN THE SALARY RANGE AND AMEND THE BUDGET ACCORDINGLY**

Shelly Williams, Juvenile Director spoke of experience of the applicant and requesting the hiring above the 25<sup>th</sup> percentile. The applicant would start on January 1, 2011. In the Juvenile Probation Department, the current Intensive Supervision Program Officer (grade 110) is promoting and transferring to the Compliance Officer/Investigator (grade 113) position at the Juvenile Detention Office. The resulting vacancy left at Juvenile Probation is for a highly specialized probation officer that has experience with serious violent offenders and chronic non-violent offenders as well as sex offenders. This specialization under consideration comes with a BS in Sociology, 8 years in criminal justice field, 7 years as Juvenile Probation Office and 5 years as an ISP Officer. Request is for a salary at the 42.8 percentile of grade 110. County-wide salary adjustment funds will be used to fund this budget amendment as needed. A motion was made by Commissioner Ingalsbe, seconded by Commissioner Barton to approve salary for Juvenile Probation Officer above 25<sup>th</sup> percentile in the salary range and to amend the budget accordingly. All voting "Aye". MOTION PASSED

**27669 APPROVE DISTRICT CLERK OFFICE REORGANIZATION PLAN SUBMITTED DURING THE BUDGET PROCESS FY 2011**

The new District Clerk wants to completely restructure the organization to insure oversight and training is a priority in the office. At our requests, the HR Department did desk audits of certain positions within the office and made recommendations to the Commissioners Court. After submitting a request for additional funding to accomplish our goals during the budget process, the Court abated our request to wait for the new District Clerk to make the request. The auditor and HR Department have determined that the funding is already in our current budget, therefore, additional funding is not needed. A motion was made by Commissioner Conley, seconded by Commissioner Ford to approve District Clerk Office reorganization plan submitted during the budget process FY 2011 with the ability to post the positions immediately and the pay effective as of January 1, 2011. All voting "Aye". MOTION PASSED

**WORKSHOP: 11:00 AM LEGISLATIVE NOISE ORDINANCE PROPOSAL. PRESENTATION OF HAYS COUNTY CURRENT CONDITIONS, POSSIBLE SOLUTIONS AND REQUEST FOR SUPPORT OF LEGISLATIVE REMEDIES BY KIMLY WEST**

Kimly West spoke of noise problems and requesting the County's assistance in acquiring some kind of legislation for a noise ordinance. Mike Overton, Carolyn Huebner, Manuel & Anna Pena, Dan & Karen Evans all spoke of the noise issues/problems that are occurring in the Precinct 4 area. The Sheriff's Office has been called out numerous times and the problem is still occurring. They have even taken up this issue with the District Attorney and even the State Representatives. The state law speaks of noise not being louder than 85 decibels.

**PRESENTATION BY THE HAYS COUNTY HISTORICAL COMMISSION SCREENING OF THE RECENTLY COMPLETED DOCUMENTARY OF FAMOUS LOCAL ARTIST BUCK WINN**

Hays County Historical Commission Chair Kate Johnson played the recently completed documentary of famous local artist Buck Winn and presented a copy of the video to members of the court.

**EXECUTIVE SESSION PURSUANT TO 551.071 OF THE TEXAS GOVERNMENT CODE: CONSULTATION WITH COUNSEL REGARDING EXISTING AND/OR CONTEMPLATED LITIGATION RELATED TO CLAIMS BY JAMES SKIPTON**

Court convened into closed executive session at 10:50 a.m. and reconvened into open meeting at 11:35 a.m. No action taken.

**Clerk's Note - Agenda Item #23 RE: 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 - was pulled**

**DISCUSSION OF ISSUES RELATED TO THE ROAD BOND PROJECTS, INCLUDING UPDATES FROM MIKE WEAVER, PRIME STRATEGIES AND JEFF CURREN, HDR**

Jeff Curren of HDR spoke of the Road Bond Projects.



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Court was adjourned.

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I, LINDA C. FRITSCHKE, 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 14, 2010.



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

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STATE OF TEXAS \*  
COUNTY OF HAYS \*

ON THIS THE 21<sup>ST</sup> 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  
DEBBIE GONZALES INGALSBE  
JEFFERSON W. BARTON  
WILL CONLEY  
KAREN FORD  
LIZ Q. GONZALEZ

COUNTY JUDGE  
COMMISSIONER, PCT. 1  
COMMISSIONER, PCT. 2  
COMMISSIONER, PCT. 3  
COMMISSIONER, PCT. 4  
DEPUTY COUNTY CLERK

AND THE FOLLOWING PROCEEDINGS WERE HAD, THAT IS:

Terry Kyle, Justice of the Peace Pct 4, gave the invocation and Commissioner Conley led the court in the pledge of allegiance to the flags. Judge Sumter called the meeting to order.

**PRESENTATION OF CHRISTMAS CAROLS FROM THE SCHEIB CHOIR DIRECTED BY DONNA BROWN, CHOIR DIRECTOR**

This is the second year Scheib Choir has sung Christmas Carols for Commissioners Court.

**PRESENTATION OF ELECTED OFFICIAL AND STAFF AWARDS, RETIREMENT AND SERVICE GIFTS. REFRESHMENTS TO FOLLOW**

Service Awards for Elected Officials: Cecelia Adair has served 15 years 4 months as the Hays County District Clerk; Jeff Barton has served 10 years 9 months as Hays County Commissioner Precinct 2 (2007-2010); Karen Ford has served 4 years as Hays County Commissioner Precinct 4; Linda Fritsche has served 41 years 4 months in the Hays County Clerk's Office including the last four years as Hays County Clerk; Elizabeth Sumter has served 4 years as Hays County Judge; Tommy Ratliff as served 1 year 10 months service as Hays County Sheriff; Anna Martinez Boling has served 1 year 3 months as Hays County Court at Law Judge. Hays County Employee Retirees are: Sherman Brodbeck 20 years 1 month service with Hays County Sheriff's Office including 4 years 7 months as Chief Deputy; Jimmie Robinson has served 3 years 10 months as Administrative Assistant in the County Judge's Office.

**PUBLIC COMMENTS**

Jim Camp Chair, Hays County POSAB thanking out going Commissioner Court members for their service. Jimmy Skipton also thanked the out going court members for their service.

**27670 APPROVE PAYMENTS OF COUNTY INVOICES**

A motion was made by Commissioner Ford, seconded by Commissioner Conley to approve payments of county invoices in the amount of \$762,628.93 as submitted by the County Auditor. All voting "Aye".  
MOTION PASSED

**27671 APPROVE COMMISSIONER COURT MINUTES OF DECEMBER 7, 2010**

A motion was made by Commissioner Ford, seconded by Commissioner Conley to approve Commissioner Court Minutes of December 7, 2010 as presented by the County Clerk. All voting "Aye".  
MOTION PASSED

**27672 AMEND JUVENILE PROBATION TJPC X GRANT TO USE SAVINGS IN CONTRACT SERVICES TO PURCHASE GASOLINE**

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(travel), 001-686-99-035.5448 - \$3,000(Contract Services). A motion was made by Commissioner Ford, seconded by Commissioner Conley to amend Juvenile Probation TJPCX Grant to use savings in Contract Services to purchase gasoline. All voting "Aye". MOTION PASSED



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**27673 APPROVE AWARD OF BID #2011-B01 PRESCRIPTION DRUGS FOR INDIGENT HEALTH CARE PROGRAM TO THORPE LANE PHARMACY**

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. A motion was made by Judge Sumter, seconded by Commissioner Ingalsbe to approve award of Bid #2011-B01 Prescription Drugs for Indigent Health Care Program to Thorpe Lane Pharmacy. All voting "Aye". MOTION PASSED

**27674 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**

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. Budget Amendment: 001-618-99-066.4301 - \$25,000(Intergovernmental), 001-618-99-068.5719 + \$25,000 (Misc Eqpt). A motion was made by Commissioner Ford, seconded by Commissioner Conley to 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. All voting "Aye". MOTION PASSED

**27675 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**

A motion was made by Commissioner Ford, seconded by Commissioner Conley to 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. All voting "Aye". MOTION PASSED

**27676 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**

A motion was made by Commissioner Ford, seconded by Commissioner Conley to 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. All voting "Aye". MOTION PASSED

**27677 APPROVE RE-APPOINTMENT OF HARRELL ROBINSON, 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**

A motion was made by Commissioner Ford, seconded by Commissioner Conley to approve re-appointment of Harrell Robinson, 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. All voting "Aye". MOTION PASSED

**27678 APPROVE RE-APPOINTMENT OF FRED ROTHERT AS DIRECTOR FOR THE PLUM CREEK CONSERVATION DISTRICT FOR A FOUR YEAR TERM BEGINNING JANUARY 1, 2011**

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. A motion was made by Commissioner Ford, seconded by Commissioner Conley to approve re-appointment of Fred Rothert as Director for the Plum Creek Conservation District for a four year term beginning January 1, 2011. All voting "Aye". MOTION PASSED



**27679 CALL FOR A PUBLIC HEARING ON JANUARY 11, 2011 TO ESTABLISH TRAFFIC REGULATIONS ON PEABODY PLACE DRIVE**

This will 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. A motion was made by Commissioner Ford, seconded by Judge Sumter to call for a public hearing on January 11, 2011 to establish traffic regulations on Peabody Place Drive. All voting "Aye". MOTION PASSED

**27680 CALL FOR A PUBLIC HEARING ON JANUARY 11, 2011 TO ESTABLISH TRAFFIC REGULATIONS ON MARSH LANE IN SHADOW CREEK SUBDIVISION**

This will establish a 15 MPH school zone speed limit w/flasher light and accompanying pedestrian signs on Marsh Lane in Shadow Creek Subdivision Ralph Pfluger Elementary School. A motion was made by Commissioner Barton, seconded by Commissioner Ingalsbe to call for a public hearing on January 11, 2011 to establish traffic regulations on Marsh Lane in Shadow Creek Subdivision. All voting "Aye". MOTION PASSED

**27681 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**

Judge Sumter declared the public hearing open. No public input was received and the public hearing was closed. Piedras Pass is currently a private caliche road about 6000 feet in length and located in Rocky Ranch Acres, Section 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 \$145,000 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 assess for the full cost of materials over a period of not more than ten years. A motion was made by Commissioner Ford, seconded by Judge Sumter to approve the proposed improvement to Piedras Pass in Hays County to cause the roadway to comply with Hays County Road Standards and 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 that this is to provide for the public. All voting "Aye". MOTION PASSED An amended motion was made by Commissioner Ford, seconded by Judge Sumter to include the assessment will be assessed in a period not to exceed 7 years. All voting "Aye". MOTION PASSED

**27682 POLO CLUB CENTER SUBDIVISION PHASE 2 [10-4-28 - 5 LOTS] APPROVE FINAL PLAT**

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. A motion was made by Commissioner Ford, seconded by Commissioner Conley to approve final plat of Polo Club Center Subdivision Phase 2. All voting "Aye". MOTION PASSED

**27683 GREAT HILLS TRAIL SUBDIVISION SECTION ONE-B [10-2-46 - 4 LOTS] APPROVE FINAL PLAT**

The Great Hill 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: Lot 1 - .332 ac, Lot 2 - .272 ac, Lot 3 - .273 ac and Lot 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. A motion was made by Commissioner Barton, seconded by Commissioner Ingalsbe to approve final plat of Great Hills Trail Subdivision Section 1B. All voting "Aye". MOTION PASSED





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**27684 APPOINT JUDGE LINDA RODRIGUEZ TO THE BAIL BOND BOARD**

Pursuant to Bail Board Composition Section 1704.053 of Occupations Code. A motion was made by Commissioner Ingalsbe, seconded by Judge Sumter to appoint Judge Linda Rodriguez to the Bail Bond Board. All voting "Aye". MOTION PASSED.

**27685 APPROVE THE APPOINTMENT OF DENNIS ROSE TO THE SOUTH CENTRAL TEXAS WATER ADVISORY COMMITTEE (SCTWAC)**

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. A motion was made by Commissioner Ingalsbe, seconded by Judge Sumter to approve the appointment of Dennis Rose to the South Central Texas Water Advisory Committee (SCTWAC). Commissioner Ingalsbe, Commissioner Barton, Commissioner Ford and Judge Sumter voting "Aye". Commissioner Conley was not present for vote. MOTION PASSED

**27686 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**

A motion was made by Judge Sumter, seconded by Commissioner Ingalsbe 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 and authorizing other matters incident and related thereto and providing an effective date. Commissioner Ingalsbe, Commissioner Barton, Commissioner Ford and Judge Sumter voting "Aye". Commissioner Conley was not present for vote. MOTION PASSED

**27687 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**

The change order will allow construction of a "connector" to the 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 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 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. A motion was made by Commissioner Barton, seconded by Commissioner Ingalsbe accept donation of right of way as described in escrow agreement dated Dec 9, 2010 and styled "Escrow Agreement (Kyle Crossing Connector) and furthermore, and instruct the county's consulting engineers and staff of obtain a final and formal cost for that certain connector rd approx 300 ft as described in Commissioners Court packets Dec 14, 2010 and Dec 21, 2010 and furthermore to authorize the Pct 2 Commissioner to execute a change order to accomplish construction of the connector as part of the on-going I-35 work, provided that; (A) total costs to Hays County do not exceed \$240,000 and (B) the county auditor and D.A.'s office in consultation with the county's bond counsel determine the project is eligible to be pd for from savings in the I-35 project (local, state, or city) and furthermore that is for any reason it is determined that the connector is not eligible for funding from the preferred source noted in paragraph (b) above, the staff prepare a reimbursement resolution to brought back to Commissioners Court in January to provide for funding from the county reserve fund back on future reimbursement by the priority bond funds or the City of Kyle (via reimbursements to the city from the project savings) or from other sources to be determined by the court. All voting "Aye". MOTION PASSED



- 27688 APPROVE A WORK AUTHORIZATION FOR IMPROVEMENTS FOR FREESE & NICHOLAS TO DESIGN DRAINAGE IMPROVEMENTS ALONG NUTTY BROWN ROAD.**

Jay Scanlon spoke of the drainage improvements. Jimmy Skipton spoke of cost concerns. A motion was made by Commissioner Ford, seconded by Judge Sumter to approve a Work Authorization and authorize Commissioner Pct 4 to execute document for design drainage improvements along Nutty Brown Road in an amount not to exceed \$25,000 to relieve adverse drainage issues to property owners at 2705 Nutty Brown Road and others in the area and instruct staff to proceed with construction before the end of fy2011 and have Special Counsel draw up Release of Claims with the Lieberstadt's based on the success of the engineered solution and timely effect of construction and hold a certain amount of funds for construction and want the construction done and the drainage problem mitigated in FY2011 (money could be in the \$80 - \$100K range, based on estimate). All voting "Aye". MOTION PASSED

- 27689 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**

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 request is for HDR to 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. A motion was made by Commissioner Ingalsbe, seconded by Commissioner Barton to negotiate a Contract with HDR to study/design the intersection of Stagecoach Trail and Wonder World to determine the best engineering solution regarding traffic entering and exiting Stagecoach Trail to the new Government Center. Commissioner Ingalsbe, Commissioner Barton, Commissioner Conley, Commissioner Ford voting "Aye". Judge Sumter voting "No". MOTION PASSED

- 27690 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**

Dr Betty R Starling of San Marcos spoke about The OSSF Rules concerning 10 acres if the land owner would like to split out for family or other residential use. Jimmy Skipton spoke of hand washing facilities in a public park. A motion was made by Judge Sumter, seconded by Commissioner Barton to adopt the OSSF Rules and Regulations and adopt a Resolution supporting the proposed changes Hays County Development Regulations. All voting "Aye". MOTION PASSED

- 27691 AUTHORIZE THE COUNTY JUDGE TO EXECUTE CHANGE ORDER #2 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. 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 for a new total contract of \$119,470. 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. A motion was made by Commissioner Conley, seconded by Commissioner Ford to authorize the County Judge to execute Change Order #2 with Harris Road Company for the Spring Lake Preserve Project. All voting "Aye". MOTION PASSED



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**27692 CONTINUE TO DOUBLE FILL THE JUSTICE OF THE PEACE, PRECINCT 4 CLERK POSITION IN ACCORDANCE WITH HAYS COUNTY PERSONNEL POLICY SECTION 6.02 (UNTIL APPROXIMATELY THE FIRST WEEK IN MARCH, 2011)**

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 Personnel 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. A motion was made by Commissioner Ford, seconded by Commissioner Conley to continue to double fill the Justice of the Peace, Precinct 4 Clerk position in accordance with Hays County Personnel Policy Section 6.02 (until approximately the first week in March 2011). All voting "Aye". MOTION PASSED

**27693 APPOINT ROBERT AVERA TO THE BOARD OF DIRECTORS FOR HAYS COUNTY ESD #6 FOR A TWO YEAR TERM BEGINNING JANUARY 1, 2011**

A motion was made by Commissioner Ford, seconded by Commissioner Ingalsbe to appoint Robert Avera to the Board of Directors for Hays County ESD #6 for a two year term beginning January 1, 2011, replacing Willie Wisco. All voting "Aye". MOTION PASSED

**27694 APPROVE THE APPOINTMENT OF DOYLE KRUMREY TO THE HAYS COUNTY ESD #3 FOR A TWO YEAR TERM BEGINNING JANUARY 1, 2011**

A motion was made by Commissioner Ingalsbe, seconded by Commissioner Barton to approve the appointment of Doyle Krumrey to the Hays County ESD #3 for a two year term beginning January 1, 2011, replacing Grant Sibley. All voting "Aye". MOTION PASSED

**27695 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**

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. A motion was made by Commissioner Barton seconded by Commissioner Ingalsbe to authorize Special Counsel Mark Kennedy to make contract amendments as deemed appropriate as recommended by the City of Buda to come into compliance and authorize the County Judge to execute the revised Professional Services Agreement with K Friese and Associates for roadwork related to the Economic Development Agreement with US Foods. All voting "Aye". MOTION PASSED

**27696 ADOPT AN ORDER PROHIBITING OUTDOOR BURNING PURSUANT TO LOCAL GOVERNMENT CODE 352.081 AND OTHER APPLICABLE STATUTES**

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. A motion was made by Judge Sumter seconded by Commissioner Conley to adopt an Order prohibiting outdoor burning pursuant to Local Government Code 352.081 and other applicable statutes finding that it seems to be dry enough and that a hazard is possible. All voting "Aye". MOTION PASSED

**Clerk's Note Agenda item #30 RE; APPOINT JUDGE-ELECT BERT COBB TO THE CAPITAL AREA METROPOLITAN PLANNING ORGANIZATION AND COMMISSIONER WILL CONLEY AS THE ALTERNATE EFFECTIVE JANUARY 1, 2010 - WAS PULLED**

**Clerks note Agenda item #31 RE; RE-INSTATE THE COMMISSIONERS COURT MEETING FOR DECEMBER 28, 2010 - WAS PULLED**



### **DISPUTE RESOLUTION CENTER, EXECUTIVE DIRECTOR ANNA BARTKOWSKI**

Anna Bartkowski gave a brief overview of the Dispute Resolution Center and the Court took no action.

### **HAYS COUNTY WEB DEVELOPMENT TEAM OF THE NEW HAYS COUNTY WEBSITE**

Rafael Marquez from IT Web Master gave a brief over view of the new website. After brief discussion the court decided to launch website next week.

### **27697 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**

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 Populations 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 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 motion was made by Commissioner Barton, seconded by Commissioner Ingalsbe to accept the preliminary time lines and the priorities as recommended by the task force report and establish a Criminal Justice Coordinating Committee and accept and approve the proposed bylaws and initial appointments as recommended in the report and appoint Commissioner Conley as the Commissioners Court Representative. All voting "Aye". MOTION PASSED

### **EXECUTIVE SESSION PURSUANT TO 550.074 TO DISCUSS PERSONNEL MATTERS AND TO DELIBERATE THE EVALUATION OF DEPARTMENT HEADS**

Court convened into closed executive session at 4:07 p.m. and reconvened into open meeting at 4:35 p.m. No action taken.

**COUNTY CLERKS NOTE AGENDA ITEM #36 RE; 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 – WAS PULLED**

### **27698 AUTHORIZE THE COUNTY JUDGE TO AMEND THE PROFESSIONAL SERVICES AGREEMENT WITH HDR ENGINEERING, INC. TO INCREASE THE AMOUNT FOR ADDITIONAL SERVICES RELATED TO THE WATER/WASTEWATER FACILITIES PLANNING STUDY**

On January 27, 2009 the Commissioners Court authorized a Professional Services Agreement with HDR Engineering, Inc. for preparation of a Water/Wastewater Facility Planning Study, supported in part by a grant from the Texas Water Development Board. This study has involved additional coordination and meetings with various water providers and affected parties, including Commissioners Court members, to facilitate development of the Plan, above and beyond the scope of the initial Agreement. HDR is requesting additional funding to cover the expenses associates with this effort, in the amount of \$15,000. On December 4, 2007 the Commissioners Court authorized up to \$75,000 from the LCRA Service Fee Fund to be utilized as match for the TWDB grant of \$100,000 to conduct the study. Partner contributions of \$60,000 have been received for the project and, with \$40,000 necessary from the County to meet the TWDB match requirement, there are allocated County funds available for the additional cost. A motion was made by Judge Sumter, seconded by Commissioner Ford to authorize the County Judge to amend the Professional Services Agreement with HDR Engineering, Inc. to increase the amount for additional services related to the Water/Wastewater Facilities Planning Study in the amount of \$15,000 and to amend the budget accordingly. All voting "Aye". MOTION PASSED

Court was adjourned.



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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 21, 2010.



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

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## *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 renewal of RFP #2005-P01 "Inmate Telephone System" with Securus for one (1) additional year as provided for in the original proposal.**

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

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

**PREFERRED MEETING DATE REQUESTED: January 4, 2011**

**AMOUNT REQUIRED:**

**LINE ITEM NUMBER OF FUNDS REQUIRED:**

**REQUESTED BY: Herzog/Maiorka/Robinson**

**SPONSORED BY: Cobb**

**SUMMARY: The Sheriff's department is pleased with the services of Securus and wishes to renew. All terms and conditions remain unchanged and in full force and effect as provided in original proposal.**



December 16, 2010

Cindy Maiorka  
Hays County Purchasing Office  
111 East San Antonio Street  
Suite 101  
San Marco, TX 78666

Dear Ms. Maiorka:

Enclosed, please find an executed copy of the Renewal Letter between Hays County and SECURUS Technologies.

We would like to thank you at this time for continuing to choose SECURUS as your inmate phone provider.

Should you need further assistance, please contact your SECURUS Representative.

Valerie Strzelecki  
SECURUS Technologies  
Contracts Administrator  
Accounting Department



**COPY**

**OFFICE OF THE COUNTY AUDITOR**

Hays County Purchasing  
111 E. San Antonio Street, Suite 101  
San Marcos, Texas 78666  
512-393-2273  
Fax: 512-393-2276  
[www.co.hays.tx.us](http://www.co.hays.tx.us)

**Bill Herzog, CPA**  
County Auditor  
[bherzog@co.hays.tx.us](mailto:bherzog@co.hays.tx.us)

**Cindy Maiorka, CPPB**  
Purchasing Manager  
[cindym@co.hays.tx.us](mailto:cindym@co.hays.tx.us)

Securus Technologies  
Attn: Sally Zeitvogel  
20903 Cactus Peak  
San Antonio, Texas 78258


December 7, 2010

The proposal for "Inmate Telephone Service" will expire soon. This letter will serve as notice that Hays County would like to renew your existing contract for one (1) additional year, provided all terms and conditions remain unchanged and in full force and effect as provided in original proposal. If you are in agreement with this, please sign below and mail back to Hays County Purchasing Office, 111 E. San Antonio Street, Suite 101, San Marcos, Texas 78666

If you have any questions please feel free to contact me at 512-393-2271.

Please find enclosed the tabulation sheet.

Sincerely,  
  
Cindy Maiorka CPPB  
Purchasing Manager

Signature  Date 12-16-10  
Printed Name Robert Pickens  
Company Name Securus Technologies

**RECEIVED**  
DEC 15 2010



## *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 re-appointment of Parks and Open Space Advisory Board members.**

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

**PREFERRED MEETING DATE REQUESTED: January 4, 2011**

**AMOUNT REQUIRED:**

**LINE ITEM NUMBER OF FUNDS REQUIRED:**

**REQUESTED BY: Hauff**

**SPONSORED BY: COBB**

**SUMMARY: Re-appointment by County Judge are Jon Engel, Kathy Boydston and Linda Tenorio; by Precinct 2 Commissioner are Jim Camp, Barbara Vinson and Jeff Kaufmann; and by Precinct 4 Commissioner are Nancy Potter, Melinda Mallia, Martha Brown and Donna Brasher.**

## *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: Ratify acceptance of a grant award from the Task Force on Indigent Defense for \$71,325.00.**

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

**PREFERRED MEETING DATE REQUESTED: January 4, 2011**

**AMOUNT REQUIRED: N/A**

**LINE ITEM NUMBER OF FUNDS REQUIRED: N/A**

**REQUESTED BY: Hauff**

**SPONSORED BY: Cobb**

**SUMMARY:**

On September 28, 2010 the Commissioners Court authorized submission of a grant application to the Task Force on Indigent Defense for \$71,325.00. This is a formula grant available annually to the County to assist in the implementation of the provisions of the Fair Defense Act and the improvement of indigent criminal defense services. Under a Resolution submitted with the grant application, the County Judge was designated as the Authorized Official to apply for, accept, decline, modify, or cancel the grant application for the Indigent Defense Formula Grant Program and all other necessary documents to accept said grant. Notice of Award has been received, and County Judge Liz Sumter signed the award document. Commissioners Court action is necessary to accept the funds into the County budget.



**Task Force on Indigent Defense  
Statement of Grant Award  
FY2011 Formula Grant**

Grant Number: 212-11-105  
Grantee Name: Hays County  
Program Title: Indigent Defense Services  
Grant Period: 10/01/2010-9/30/2011  
Grant Award Amount: The sum of \$5000.00 and 0.623433% of the remaining funds budgeted for FY11 formula grants by the Task Force. Based on the initial funds budgeted, this amount is estimated to be \$71,325.

The Task Force on Indigent Defense (Task Force) has awarded the above-referenced grant for indigent defense services. Formula Grants are provided by the Task Force to meet its statutory mandates and to promote Texas counties' compliance with standards adopted by the Task Force. The authorized official named on the grant application must sign this Statement of Grant Award and return it to the Task Force by **January 21, 2011**. The grantee will not receive any grant funds until this notice is executed and returned to the Task Force.

**Standard Grant Conditions:**

- The authorized official for the grantee accepts the grant award.
- The authorized official, financial officer, and program director, referred to below as grant officials, agree to the terms of the grant as written in the Request for Applications issued on September 1, 2010, including the rules and documents adopted by reference in the Task Force on Indigent Defense's Grant Rules in Title 1, Part 8, Chapter 173, Texas Administrative Code.
- The grant officials understand that a violation of any term of the grant may result in the Task Force placing a temporary hold on grant funds, permanently deobligating all or part of the grant funds, requiring reimbursement for funds already spent, or barring the organization from receiving future grants.
- Disbursement of funds is always subject to the availability of funds.
- Any plan documents submitted to the Task Force must continue to meet all grant eligibility requirements.

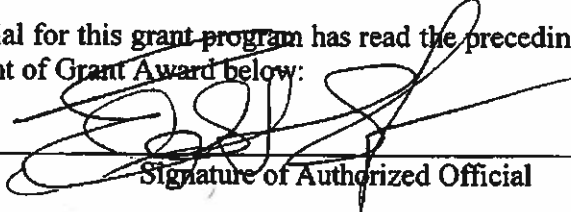
**Special Grant Conditions:**

**The grant officials understand that they must satisfy all special conditions placed on this grant if indicated below before receiving any funds:**

- \_\_\_ The financial officer shall submit by May 1, 2011 an expenditure report showing the indigent defense expenditures by the county from October 1, 2010-March 31, 2011. No funds will be disbursed to the county under the FY 2011 Formula Grant Award until the county demonstrates to the Task Force that it has expended the same amount it expended in its FY 2001 baseline plus a portion of the FY 2011 formula grant funds.

- ☐ The county must remit unexpended balances from the FY 2010 Formula Grant in the amount of required to be submitted to the Task Force by February 1, 2011.
- ☐ The County must mail or fax to the Task Force the Resolution/Internet Submission Form authorizing the county to apply for the grant. The resolution must have been adopted by the commissioners' court of the county.
- ☒ The judges hearing criminal matters and the juvenile board in the county shall amend their indigent defense plan(s) to meet all requirements of the 2009 Biennial Indigent Defense Plan Submission process as required by Government Code §71.0351. The plan level marked by an "X" have not been completely submitted to the Task Force: ☒ District Court Plan ☐ County Court Plan ☐ Juvenile Board Plan
- ☐ The Official District/ County Court Monthly Report shall be submitted to the Office of Court Administration unless a waiver has been obtained.

The authorized official for this grant program has read the preceding and indicates agreement by signing this Statement of Grant Award below:

  
 \_\_\_\_\_  
 Signature of Authorized Official

Elizabeth "Liz" Sumter, Hays County Judge  
 Name & Title (must print or type)

December 22, 2010  
 Date

## *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: Authorize disposal of additional computer equipment in the County's auction.**

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

**PREFERRED MEETING DATE REQUESTED: January 4, 2011**

**AMOUNT REQUIRED: N/A**

**LINE ITEM NUMBER OF FUNDS REQUIRED: N/A**

**REQUESTED BY: Herzog**

**SPONSORED BY: Sumter/Cobb**

**SUMMARY: We need to dispose of the Macintosh computer equipment in the County's current auction. These are the computers used by Commissioner's Barton & Ford. Jeff McGill wants to only keep one of the laptops. Jeff feels we have no need for the other equipment.**

**Bill Herzog**

## *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 Sharri Boyett to the San Marcos Animal Shelter Advisory Committee.**

**CHECK ONE:**

☐ **CONSENT**

☒ **ACTION**

☐ **EXECUTIVE SESSION**

☐ **WORKSHOP**

☐ **PROCLAMATION**

☐ **PRESENTATION**

**PREFERRED MEETING DATE REQUESTED: January 4, 2011**

**AMOUNT REQUIRED: N/A**

**LINE ITEM NUMBER OF FUNDS REQUIRED: N/A**

**REQUESTED BY: Debbie Ingalsbe**

**SPONSORED BY: Debbie Ingalsbe**

**SUMMARY: Please see attached bio.**

**When Hays County and the City of San Marcos partnered to expand and combine animal shelter services, a committee was formed to review and address animal shelter needs and review matters involving compliance with state laws and regulations of animal shelters.**

**Frank Cheatham, a county animal control employee, has served on the committee for two years and will be replaced by Sharri Boyett.**

**Sharri Boyett, Executive Director**

**Twenty-three years of professional experience in animal welfare fundraising, event planning, marketing, public relations, business administration, contracts, and purchasing management.**

**Pet Prevent A Litter (PALS) of Central Texas**

**BBA, University of Texas at Austin, 1982**

**MBA, University of Houston CLC, 1986**

**2631 Oak Haven Dr.**

**San Marcos, TX 78666**

**512-392-9749**

## *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: AGENDA ITEM: Discussion and possible action to authorize County Judge to sign the Advance Funding Agreement with the Texas Department of Transportation for the priority road bond project consisting of the construction of turn lanes on US 290 from RR 12 (Mighty Tiger Lane) to McGregor Lane.**

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

**PREFERRED MEETING DATE REQUESTED: January 4, 2011**

**AMOUNT REQUIRED**

**LINE ITEM NUMBER OF FUNDS REQUIRED**

**REQUESTED BY:**

**SPONSORED BY: Ford/ Whisenant**

**SUMMARY: see AFA attached.**





# **Texas Department of Transportation**

P.O. BOX 15426 • AUSTIN, TEXAS 78761-5426 • (512) 832-7000

December 21, 2010

Hays County  
CSJ: 0113-07-050  
US 290 from McGregor to RR 12

The Honorable Karen Ford  
County Commissioner  
Precinct 4  
Hays County  
195 Roger Hanks Parkway  
Dripping Springs, Texas 78620

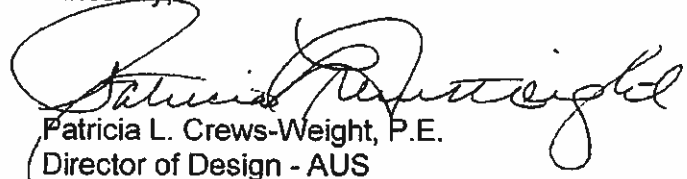
Dear Commissioner Ford:

Enclosed are two Advance Funding Agreements for the above project. The Project consists of the construction of turn lanes on US 290 from RR 12 to McGregor. At the request of the County, Article 3 includes incremental payments and Attachment A includes public outreach coordination.

Please have Agreements signed, dated and returned to me for further execution. One original executed copy of the Agreement will be returned for your records.

If you have any questions, please contact me at (512) 832-7050.

Sincerely,



Patricia L. Crews-Weight, P.E.  
Director of Design - AUS

## **Attachments**

cc: Donald E. Nyland, P.E., South Travis Area Office  
Elizabeth Sumter, County Judge, Hays County

THE TEXAS PLAN  
REDUCE CONGESTION • ENHANCE SAFETY • EXPAND ECONOMIC OPPORTUNITY • IMPROVE AIR QUALITY  
INCREASE THE VALUE OF OUR TRANSPORTATION ASSETS

*An Equal Opportunity Employer*



THE STATE OF TEXAS §

THE COUNTY OF TRAVIS §

**ADVANCE FUNDING AGREEMENT FOR VOLUNTARY  
LOCAL GOVERNMENT CONTRIBUTIONS  
TO TRANSPORTATION IMPROVEMENT  
PROJECTS WITH NO REQUIRED MATCH**

**THIS AGREEMENT IS MADE BY AND BETWEEN** the State of Texas, acting by and through the Texas Department of Transportation, hereinafter called the "State", and Hays County, acting by and through its duly authorized officials, hereinafter called the "Local Government."

**WITNESSETH**

**WHEREAS**, Transportation Code, Chapters 201, 221, 227, and 361, authorize the State to lay out, construct, maintain, and operate a system of streets, roads, and highways that comprise the State Highway System; and,

**WHEREAS**, Government Code, Chapter 791, and Transportation Code, §201.209 and Chapter 221, authorize the State to contract with municipalities and political subdivisions; and,

**WHEREAS**, Commission Minute Order Number 110753 authorizes the State to undertake and complete a highway improvement generally described as roadway improvements; and,

**WHEREAS**, the Local Government has requested that the State allow the Local Government to participate in said improvement by funding that portion of the improvement described as the construction of a continuous turn lane and improved shoulders on US 290 from RR 12 to McGregor, hereinafter called the "Project";

**WHEREAS**, the State has determined that such participation is in the best interest of the citizens of the State;

**NOW, THEREFORE**, in consideration of the premises and of the mutual covenants and agreements of the parties hereto, to be by them respectively kept and performed as hereinafter set forth, the State and the Local Government do agree as follows:

**AGREEMENT**

**Article 1. Time Period Covered**

This agreement becomes effective when signed by the last party whose signing makes the agreement fully executed, and the State and the Local Government will consider it to be in full force and effect until the Project described herein has been completed and accepted by all parties or unless terminated, as hereinafter provided.

**Article 2. Project Funding and Work Responsibilities**

The State will authorize the performance of only those Project items of work which the Local Government has requested and has agreed to pay for as described in Attachment A, Payment Provision and Work Responsibilities which is attached to and made a part of this contract.

ORIGINAL 

In addition to identifying those items of work paid for by payments to the State, Attachment A, Payment Provision and Work Responsibilities, also specifies those Project items of work that are the responsibility of the Local Government and will be carried out and completed by the Local Government, at no cost to the State.

At least sixty (60) days prior to the date set for receipt of the construction bids, the Local Government shall provide  $\frac{1}{4}$  of its funding share towards the construction costs. Upon award of the construction contract the Local Government shall remit the balance of their financial share in six (6) equal monthly payments, by the 5<sup>th</sup> of the month beginning with the month after receipt of bids.

In the event that the State determines that additional funding by the Local Government is required at any time during the Project, the State will notify the Local Government in writing. The Local Government shall make payment to the State within thirty (30) days from receipt of the State's written notification.

Whenever funds are paid by the Local Government to the State under this Agreement, the Local Government shall remit a check or warrant made payable to the "Texas Department of Transportation Trust Fund." The check or warrant shall be deposited by the State in an escrow account to be managed by the State. Funds in the escrow account may only be applied by the State to the Project. If, after final Project accounting, excess funds remain in the escrow account, those funds shall be refunded to the Local Government.

### **Article 3. Right of Access**

If the Local Government is the owner of any part of the Project site, the Local Government shall permit the State or its authorized representative access to the site to perform any activities required to execute the work.

### **Article 4. Adjustments Outside the Project Site**

The Local Government will acquire all necessary right-of-way needed for performance of the work. The State will provide for all necessary utility adjustments needed for performance of the work.

### **Article 5. Responsibilities of the Parties**

The State and the Local Government agree that neither party is an agent, servant, or employee of the other party and each party agrees it is responsible for its individual acts and deeds as well as the acts and deeds of its contractors, employees, representatives, and agents.

### **Article 6. Document and Information Exchange**

The Local Government agrees to electronically deliver to the State all general notes, specifications, contract provision requirements and related documentation in a Microsoft® Word or similar document. If requested by the State, the Local Government will use the State's document template. The Local Government shall also provide a detailed construction time estimate including types of activities and month in the format required by the State. This requirement applies whether the local government creates the documents with its own forces or by hiring a consultant or professional provider. At the request of the State, the Local Government shall submit any information required by the State in the format directed by the State.

#### **Article 7. Interest**

The State will not pay interest on funds provided by the Local Government. Funds provided by the Local Government will be deposited into, and retained in, the State Treasury.

#### **Article 8. Inspection and Conduct of Work**

Unless otherwise specifically stated in Attachment A, Payment Provision and Work Responsibilities, to this contract, the State will supervise and inspect all work performed hereunder and provide such engineering inspection and testing services as may be required to ensure that the Project is accomplished in accordance with the approved plans and specifications. All correspondence and instructions to the contractor performing the work will be the sole responsibility of the State. Unless otherwise specifically stated in Attachment A to this contract, all work will be performed in accordance with the *Standard Specifications for Construction and Maintenance of Highways, Streets, and Bridges* adopted by the State and incorporated herein by reference, or special specifications approved by the State.

#### **Article 9. Increased Costs**

In the event it is determined that the funding provided by the Local Government will be insufficient to cover the State's cost for performance of the Local Government's requested work, the Local Government will pay to the State the additional funds necessary to cover the anticipated additional cost. The State shall send the Local Government a written notification stating the amount of additional funding needed and stating the reasons for the needed additional funds. The Local Government shall pay the funds to the State within 30 days of the written notification, unless otherwise agreed to by all parties to this agreement. If the Local Government cannot pay the additional funds, this contract shall be mutually terminated in accord with Article 11 - Termination. If this is a fixed price agreement as specified in Attachment A, Payment Provision and Work Responsibilities, this provision shall only apply in the event changed site conditions are discovered or as mutually agreed upon by the State and the Local Government.

If any existing or future local ordinances, commissioners court orders, rules, policies, or other directives, including but not limited to outdoor advertising billboards and storm water drainage facility requirements, are more restrictive than State or Federal Regulations, or if any other locally proposed changes, including but not limited to plats or replats, result in increased costs, then any increased costs associated with the ordinances or changes will be paid by the local government. The cost of providing right of way acquired by the State shall mean the total expenses in acquiring the property interests either through negotiations or eminent domain proceedings, including but not limited to expenses related to relocation, removal, and adjustment of eligible utilities.

#### **Article 10. Maintenance**

Upon completion of the Project, the State will assume responsibility for the maintenance of the completed Project unless otherwise specified in Attachment A to this agreement.

#### **Article 11. Termination**

This agreement may be terminated in the following manner:

- ♦ by mutual written agreement and consent of both parties;
- ♦ by either party upon the failure of the other party to fulfill the obligations set forth herein;
- ♦ by the State if it determines that the performance of the Project is not in the best interest of the State.

If the agreement is terminated in accordance with the above provisions, the Local Government will be responsible for the payment of Project costs incurred by the State on behalf of the Local Government up to the time of termination.

- ◆ Upon completion of the Project, the State will perform an audit of the Project costs. Any funds due to the Local Government, the State, or the Federal Government will be promptly paid by the owing party.

#### **Article 12. Notices**

All notices to either party by the other required under this agreement shall be delivered personally or sent by certified or U.S. mail, postage prepaid or sent by electronic mail, (electronic notice being permitted to the extent permitted by law but only after a separate written consent of the parties), addressed to such party at the following addresses:

<b>Local Government:</b>	<b>State:</b>
Hays County Judge 111 East San Antonio, #300 San Marcos, Texas 78666	Director of Contract Services Texas Department of Transportation 125 E. 11th Austin, Texas 78701

All notices shall be deemed given on the date so delivered or so deposited in the mail, unless otherwise provided herein. Either party may change the above address by sending written notice of the change to the other party. Either party may request in writing that such notices shall be delivered personally or by certified U.S. mail and such request shall be honored and carried out by the other party.

#### **Article 13. Sole Agreement**

In the event the terms of the agreement are in conflict with the provisions of any other existing agreements between the Local Government and the State, the latest agreement shall take precedence over the other agreements in matters related to the Project.

#### **Article 14. Successors and Assigns**

The State and the Local Government each binds itself, its successors, executors, assigns, and administrators to the other party to this agreement and to the successors, executors, assigns, and administrators of such other party in respect to all covenants of this agreement.

#### **Article 15. Amendments**

By mutual written consent of the parties, this contract may be amended prior to its expiration.

#### **Article 16. State Auditor**

The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the contract or indirectly through a subcontract under the contract. Acceptance of funds directly under the contract or indirectly through a subcontract under this contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

**Article 17. Insurance**

If this agreement authorizes the Local Government or its contractor to perform any work on State right of way, before beginning work the entity performing the work shall provide the State with a fully executed copy of the State's Form 1560 Certificate of Insurance verifying the existence of coverage in the amounts and types specified on the Certificate of Insurance for all persons and entities working on State right of way. This coverage shall be maintained until all work on the State right of way is complete. If coverage is not maintained, all work on State right of way shall cease immediately, and the State may recover damages and all costs of completing the work.

**Article 18. Signatory Warranty**

The signatories to this agreement warrant that each has the authority to enter into this agreement on behalf of the party they represent.

**IN WITNESS WHEREOF, THE STATE AND THE LOCAL GOVERNMENT** have executed duplicate counterparts to effectuate this agreement.

**THE STATE OF TEXAS**

Executed for the Executive Director and approved for the Texas Transportation Commission for the purpose and effect of activating and/or carrying out the orders, established policies or work programs heretofore approved and authorized by the Texas Transportation Commission.

By \_\_\_\_\_ Date \_\_\_\_\_  
Cathy T. Floyd, CPA  
Regional Service Center Director  
South Region

**THE LOCAL GOVERNMENT**

Name of the Local Government Hays County

By \_\_\_\_\_ Date \_\_\_\_\_

Typed or Printed Name and Title \_\_\_\_\_  
\_\_\_\_\_

## ATTACHMENT A

### Payment Provision and Work Responsibilities

The Local Government will pay for the cost of the construction of a continuous turn lane and improved shoulders on US 290 from RR 12 to McGregor, which is an on-system location. The Local Government's participation is 100% of the cost of construction bid items. The Local Government's estimated cost of this additional work is \$6,653,000. The State has estimated the project to be as follows:

Description	Total Estimated Cost	Federal Participation		State Participation		Local Participation	
		%	Cost	%	Cost	%	Cost
Construction (by State)	\$6,653,000	0%	\$0	0%	\$0	100%	\$6,653,000
Subtotal	\$6,653,000		\$0		\$0		\$6,653,000
Engineering Phase Direct State Costs (5%)	\$332,650	0%	\$0	100%	\$332,650	0%	\$0
Construction Phase Direct State Costs (11.5%)	\$765,095	0%	\$0	100%	\$765,095	0%	\$0
Indirect State Costs (6.2%)	\$412,486	0%	\$0	0%	\$412,486	0%	\$0
<b>TOTAL</b>	<b>\$8,163,231</b>	<b>0%</b>	<b>\$0</b>	<b>0%</b>	<b>\$1,510,231</b>	<b>0%</b>	<b>\$6,653,000</b>

**Local Government's Participation = \$6,653,000**

It is further understood that the State will include only those items for the improvements requested and required by the Local Government. This is an estimate only; final amounts will be based on actual charges to the project.



## **Work Responsibilities**

### **1. Environmental Requirements**

The State shall prepare the appropriate environmental documentation and secure environmental clearance for the Project.

To the extent required to complete the Project, the Local Government will be responsible for the mitigation and remediation of any environmental problems associated with the development of the Project. All costs associated with the remediation of the environmental problems will be the responsibility of the Local Government.

### **2. Engineering Services**

The State shall prepare or cause to be prepared the engineering plans, specifications, and estimates (PS&E) necessary for the development of the Project. The PS&E shall be prepared in accordance with all applicable laws, policies and regulations, deemed necessary by the State.

The design shall conform to the Texas Department of Transportation *Roadway Design Manual*, the Texas Accessibility Standards and any applicable State design criteria, and engineering plans shall be developed in accordance with the current edition of the *Standard Specifications for Construction and Maintenance of Highways, Streets, and Bridges* and the special specifications and special provisions related thereto.

## **Construction Responsibilities**

The State shall advertise for construction bids, issue bid proposals, receive and tabulate the bids and award and administer the contract for construction of the Project. Administration of the contract includes the responsibility for construction engineering and for issuance of any change orders, supplemental agreements, amendments, or additional work orders, which may become necessary subsequent to the award of the construction contract.

The State will use its approved contract letting and award procedures to let and award the construction contract. Prior to their execution, the Local Government will be given the opportunity to review and comment on contract change orders that will result in an increase cost of more than 10% to the Local Government over the Project Agreement (Low Bid) amount. Response to the change order by the Local Government will be within 5 business days of the notification by TxDOT.

The State shall provide a monthly status of construction costs to the Local Government.

The State will award the contract up to a cost equal to 20% over the Latest Engineers Estimate. The Local Government shall be responsible for 100% of the construction costs of any contract so awarded.

