

**Commissioners Court -May 8, 2012
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 **8th day of May, 2012**, in the Hays County Courthouse, Room 301, San Marcos, Texas. An Open Meeting will be held concerning the following subjects:

CALL TO ORDER

INVOCATION

PLEDGE OF ALLEGIANCE - Pledge of Allegiance to the American Flag & Pledge of Allegiance to the Texas Flag

ROLL CALL

PRESENTATIONS & PROCLAMATIONS

1	3-4	Adopt a Proclamation declaring May 6-12, 2012 as National Correctional Officers & Employees Week. COBB
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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	5	Approve payments of county invoices. HERZOG
3	6-12	Approve Commissioners Court Minutes of May 1, 2012. COBB/GONZALEZ
4	13-15	Approve Utility Permits. COBB
5	16-17	Approval to award IFB #2012-B02R Rebid of ROW Fencing for Mt. Gainor to Metalink Corporation. COBB/BORCHERDING/MAIORA
6	18-20	Accept a donation from the Historical Commission and amend the budget for use of those funds on operating expenses, as well as, changing the light fixtures in Suite 104 at the Courthouse. COBB/JOHNSON
7	21-38	Authorize the County Judge to submit a grant application to the U.S. Department of Justice, under the FY12 Edward Byrne Memorial Justice Assistance Grant (JAG) program for shared equipment for the Sheriff's Office, District Clerk's Office, County Clerk's Office, and Adult Probation in the amount of \$11,128.00. COBB/GONZALEZ/HAUFF
8	39-45	Accept the delivery of the Internal Examination Reports for the Hays County District Attorney's State Forfeiture Assets and the Hays County Sheriff's Federal and State Forfeiture Assets. COBB/HERZOG
9	46	Approve specifications and authorize Purchasing to advertise a Request for Proposals for lease and equipping of Hays County Government Center Fitness Room. COBB/KENNEDY

ACTION ITEMS

ROADS

10	47-64	Discussion and possible action to authorize the County Judge to execute Professional Services Agreements with HNTB Corporation and Klotz Associates for design services on Proposition 12 funded projects on IH 35 and FM 2439 respectively with TxDOT funding reimbursement in accordance with the Local Transportation Project Advance Funding Agreement approved by the Court on April 17, 2012. JONES/BORCHERDING
11	65-71	Discussion and possible action to authorize the County Judge to execute an Interlocal Agreement between Travis County and Hays County for the purpose of acquiring project Rights of Way (ROW) and associated easements located in Travis County to accomplish the FM 1626 Safety Expansion Project. JONES/BORCHERDING

SUBDIVISIONS

12	72-75	12-4-1 Belterra Sawyer Ranch Propane Site (2 lots). Discussion and possible action to approve final plat. WHISENANT/MCINNIS
13	76-81	11-4-46 Belterra Phase 2 Section 7 (57 lots). Discussion and possible action to approve final plat and accept fiscal surety in the amount of \$290,434.75. WHISENANT/MCINNIS

MISCELLANEOUS

14	82-83	Discussion and possible action to approve necessary additional construction phase services in accordance with Supplement No. 3 to Work Authorization No. 2 on the RM 1826 at Crystal Hill Road project in Precinct 4. WHISENANT
15	84-89	Discussion and possible action to authorize the County Judge to execute a Supplement Services Amendment with Broadus & Associates for services related to the Precinct 2 temporary and permanent facilities located at 5458 FM 2770 in Kyle, TX. JONES
16	90-93	Discussion and possible action to approve naming a private drive off Logans Run to Abner Ross Rd. CONLEY/GARZA
17	94	Discussion and possible action to authorize the County Purchasing Manager to review alternative cellular phone services for all County offices. COBB/HERZOG
18	95-118	Discussion and possible action to adopt policies and procedures for monitoring arbitrage requirements and the use of proceeds and property finance for purposes of maintaining tax-exempt status on bonds. COBB
19	119	Discussion and possible action to cancel court meeting dates of May 29, June 19, July 10, August 28, and October 2 of this year. COBB

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.

20	120	Executive Session pursuant to Sections 551.071 and 551.072 of the Texas Government Code: consultation with counsel, deliberation regarding Right of Way acquisition, and consideration of the use of eminent domain to condemn property along RM 150 in Precinct 2. Possible action may follow in open Court. JONES
21	121	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 the marketing and potential sale or lease of County owned properties. Possible action may follow in open court. COBB

STANDING AGENDA ITEMS

The Commissioners Court utilizes Standing Agenda Items to address issues that are frequently or periodically discussed in court. This section allows the Court to open the item when a need for discussion arises.

22	Discussion and possible action related to the burn ban and/or disaster declaration. COBB/CHAMBERS
23	Discussion of issues related to proposed capital construction projects in Hays County, including but not limited to the Government Center; the proposed Precinct 2 office; and the Law Enforcement Center Immediate Needs Project. Possible action may follow. INGALSBE
24	Discussion of issues related to the road bond projects, including updates from Mike Weaver, Prime Strategies and Jeff Curren, HDR. Possible action may follow. COBB
25	Discussion of material relating to the Hays County Water and Sewer Authority and/or the LCRA divestiture. WHISENANT

ADJOURNMENT

Posted by 5:00 o'clock P.M. on the 4th day of May, 2012
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.**

AGENDA ITEM: Adopt a Proclamation declaring May 6-12, 2012 as National Correctional Officers & Employees Week

CHECK ONE:	CONSENT	ACTION	EXECUTIVE SESSION
	WORKSHOP	X PROCLAMATION	PRESENTATION

PREFERRED MEETING DATE REQUESTED: May 8, 2012

AMOUNT REQUIRED:

LINE ITEM NUMBER OF FUNDS REQUIRED:

REQUESTED BY:

SPONSORED BY: COBB



**PROCLAMATION
NATIONAL CORRECTIONAL OFFICERS AND EMPLOYEES WEEK 2012
MAY 6 – 12, 2012**

WHEREAS, each first full week of May, we take time to celebrate and recognize National Correctional Officers and Employees Week, and we honor all of those public and private correctional service employees;

WHEREAS, the State of Texas has 25,813 corrections officers licensed through the Texas Commission on Law Enforcement Officer Standards and Education, and over 38,000 correctional officer and associated staff members working through the Texas Department of Criminal Justice;

WHEREAS, the Hays County Sheriff's Office and the County of Hays currently employees 126 correctional officers and support staff for the operation and security of the Hays County Law Enforcement Center;

WHEREAS, unlike other public safety entities, correctional employees receive little or no appreciation for doing their job, and correctional officers and others are perhaps the most scrutinized and criticized professionals in the entire criminal justice system;

WHEREAS, correctional officers ensure the care, custody, and control of prisoners and detainees, provide for their basic needs and safety twenty-four hours a day, three hundred sixty-five days a year, including transportation and court services, and civilian staff and volunteers provide medical services, counseling services, religious services, and educational services;

WHEREAS, the Hays County Sheriff's Office employees the most capable, committed, patient and persistent employees in the state and nation;

NOW THEREFORE WE, the Commissioners Court of Hays County, Texas, do hereby proclaim the week of May 6 through May 12, 2012 as "NATIONAL CORRECTIONAL OFFICERS AND EMPLOYEES WEEK 2012" in Hays County, Texas;

WE FURTHERMORE call upon officials of the local governments of Hays County and the citizens of the Hays County to observe this week with appropriate ceremonies and activities.

ADOPTED ON THIS 8TH DAY OF MAY, 2012

Bert Cobb, M.D.
Hays County Judge

Debbie Gonzales Ingalsbe
Commissioner, Pct. 1

Mark Jones
Commissioner, Pct. 2

Will Conley
Commissioner, Pct. 3

Ray Whisenant
Commissioner, Pct. 4

ATTEST:

Liz Q. Gonzalez
Hays 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

AGENDA ITEM: Approve payment of County invoices.

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

PREFERRED MEETING DATE REQUESTED: 5/8/12

AMOUNT REQUIRED:

LINE ITEM NUMBER OF FUNDS REQUIRED:

REQUESTED BY: Auditor's Office

SPONSORED BY: 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: APPROVE COMMISSIONER COURT MINUTES OF MAY 1, 2012.

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

PREFERRED MEETING DATE REQUESTED: MAY 8, 2012

AMOUNT REQUIRED:

LINE ITEM NUMBER OF FUNDS REQUIRED:

REQUESTED BY: GONZALEZ

SPONSORED BY: COBB

SUMMARY:



STATE OF TEXAS *
COUNTY OF HAYS *

ON THIS THE 1ST DAY OF MAY A.D., 2012, THE COMMISSIONERS' COURT OF HAYS COUNTY, TEXAS, MET IN REGULAR MEETING. THE FOLLOWING MEMBERS WERE PRESENT, TO-WIT:

ALBERT H. COBB JR	COUNTY JUDGE
DEBBIE GONZALES INGALSBE	COMMISSIONER, PCT. 1
MARK JONES	COMMISSIONER, PCT. 2
WILL CONLEY	COMMISSIONER, PCT. 3
RAY O. WHISENANT JR	COMMISSIONER, PCT. 4
LIZ G. GONZALEZ	COUNTY CLERK

AND THE FOLLOWING PROCEEDINGS WERE HAD, THAT IS:

Pastor John McComb of San Marcos Community Church gave the invocation and Judge Cobb led the court in the Pledge of Allegiance to the flags. Judge Cobb called the meeting to order.

PUBLIC COMMENTS

Gary Cutler Hays County Sheriff and staff presented David Peterson Constable Pct 1 with a Certificate of Appreciation.

28055 ADOPT A PROCLAMATION DECLARING THE MONTH OF MAY 2012 AS OLDER AMERICANS MONTH

A motion was made by Commissioner Ingalsbe, seconded by Commissioner Whisenant to adopt a Proclamation declaring the month of May 2012 as Older Americans Month. All voting "Aye". MOTION PASSED

28056 ADOPT A PROCLAMATION DECLARING MAY 6 - 12, 2012 AS "NATIONAL NURSES WEEK" WITH THE THEME OF "NURSES: CARING TODAY FOR A HEALTHIER TOMORROW"

A motion was made by Commissioner Ingalsbe, seconded by Commissioner Jones to adopt a Proclamation declaring May 6 - 12, 2012 as "NATIONAL NURSES WEEK" with the theme of "Nurses: Caring Today for a Healthier Tomorrow". All voting "Aye". MOTION PASSED

RECOGNIZE PERSONNEL INVOLVED IN CRIMINAL JUSTICE INFORMATION SYSTEM (CJIS) REPORTING COMPLIANCE

Liz Gonzalez County Clerk spoke. All County's around the State have been asked to come into compliance with the CJIS reporting by September 1, 2012. Hays County would like to recognize all the personnel involved in making this happen. The County Employees being recognized are Information Technology - Marva Pearce, County Jail - Julie Schneider, District Attorney Office - Emily Sierra, District Clerk Office's - Beverly Crumley, Erica Leonard, Tammy Crosby and Debbie Nash, County Clerk's Office - Linda Duran, Dee Dee Rogers, Karol Boggus and Roxanne Sanchez.

28057 APPROVE PAYMENTS OF COUNTY INVOICES

A motion was made by Commissioner Ingalsbe, seconded by Commissioner Whisenant to approve payments of county invoices in the amount of \$3,111,890.87 as submitted by the County Auditor. All voting "Aye". MOTION PASSED

28058 APPROVE COMMISSIONERS COURT MINUTES OF APRIL 24, 2012 AND THE MINUTES OF THE SPECIAL MEETING ON APRIL 19, 2012

A motion was made by Commissioner Ingalsbe, seconded by Commissioner Whisenant to approve Commissioners Court Minutes of April 24, 2012 and the minutes of the special meeting on April 19, 2012 as presented by the County Clerk. All voting "Aye". MOTION PASSED



MAY 1, 2012

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28059 ACCEPT THE DISTRICT CLERK FEE COLLECTION REPORT FOR JANUARY - MARCH 2012

Art. 103.005, Code of Criminal Procedure, Required Report of an office listed in Article 103.003 who collects money other than taxes for a county shall report to the Commissioners Court of the County for which the money was collected during each term of the court. **A motion was made by Commissioner Ingalsbe, seconded by Commissioner Whisenant to accept the District Clerk Fee Collection Report for January - March 2012. All voting "Aye". MOTION PASSED**

28060 AUTHORIZE THE SHERIFF'S OFFICE TO SUBMIT AN APPLICATION TO FALLEN OFFICERS REMEMBERED FOR A K-9 BULLETPROOF VEST

Fallen Officers Remembered, a non-profit 501 (C) (3) organization, offers a program for law enforcement agencies to apply for the grant of a bulletproof vest for K-9 units. The Sheriff's Office is requesting authorization to submit an application for consideration of award of a K-9 vest to Hays County. The vest is of the same material used in a human vest- Kevlar- and offers good protection from gunshot, stabbing and blunt force trauma. The K-9 One vest is valued at \$625.00 and has a five year manufacturer's warranty. Agreement terms, is a vest is received, included that the vest must be worn by the canine while on duty, and that it be returned to Fallen Officers Remembered if the K-9 can no longer serve. **A motion was made by Commissioner Ingalsbe, seconded by Commissioner Whisenant to authorize the Sheriff's Office to submit an application to Fallen Officers Remembered for a K-9 Bulletproof Vest. All voting "Aye". MOTION PASSED**

28061 APPROVE NEW AGREEMENT BETWEEN THE HAYS COUNTY PERSONAL HEALTH DEPARTMENT (PHD) AND SENDERO HEALTH PLAN (A MEDICAID PROGRAM)

This contract will allow the Personal Health Department to provide maternity, well child, and immunization services to Sendero Health Plan clients, and bill for those services. Due to new amendments and State requirements, this agreement is considered a new document and replaces the previous one which took effect on March 1, 2012. This new contract will be back-dated to take effect March 1, 2012. **A motion was made by Commissioner Ingalsbe, seconded by Commissioner Whisenant to approve new Agreement between the Hays County Personal Health Department (PHD) and Sendero Health Plan (a Medicaid program). All voting "Aye". MOTION PASSED**

28062 ACCEPT DONATIONS TO THE SHERIFF'S OFFICE COMMUNITY OUTREACH PROGRAM TOTALING IN THE AMOUNT OF \$704.10 AND AMEND THE BUDGET ACCORDINGLY

The Sheriff's Office received two donations totaling in the amount of \$704.10 from Seton and Central Texas Medical Center and request to deposit into line item 052-618-00.5222. **A motion was made by Commissioner Jones, seconded by Commissioner Whisenant to accept donations to the Sheriff's Office Community Outreach Program totaling in the amount of \$704.10 and amend the budget accordingly. All voting "Aye". MOTION PASSED**

28063 AUTHORIZE THE COUNTY AUDITOR TO PURCHASE SOFTWARE FOR INTERNAL AUDIT PAPERLESS PROCESSING AND AMEND THE BUDGET ACCORDINGLY

The County Auditor's Internal Audit Team would like to implement a paperless process for Internal Examination work papers. In order to begin this process, we will need to purchase two Adobe Professional software licenses. Savings in office supplies have been identified to cover these costs. Amount Required \$ 394.00 Decrease Auditor Office Supplies 001-606-00.5211 (\$394) Increase IT Software Maint/License 001-680-00.5429 \$394.00. **A motion was made by Commissioner Jones, seconded by Commissioner Whisenant to authorize the County Auditor to purchase software for internal audit paperless processing and amend the budget accordingly. All voting "Aye". MOTION PASSED**

28064 APPROVE AMENDING THE BUDGET OF JUSTICE OF PEACE PCT. 5 FOR CONTINUING EDUCATION FROM DUES AND BONDS

Judge Cary requires Continuing Ed., and can transfer from his Dues & Bonds line item. Amount Required \$405.00 to 001-629-00.5551 Continuing Ed. From 001-629-00.5302 Dues & Bonds. **A motion was made by Commissioner Jones, seconded by Commissioner Whisenant to approve amending the Budget of Justice of Peace Pct. 5 for Continuing Education from Dues and Bonds. All voting "Aye". MOTION PASSED**



28065 APPROVE AMENDING THE SHERIFF OFFICES, EMERGENCY SERVICES DISPATCH AND GOVERNMENT CENTER SECURITY DEPARTMENT SALARYFRINGE BUDGETS TO ALLOCATE TO APPROPRIATE GENERAL LEDGER ACCOUNTS

The County Auditor's Office needs to reallocate budget in the SO, ESD, GSC Department salary/fringe line items in order to appropriately expense positions due to movement between departments. Funds are already budgeted and will be moved within the departments above. No additional funds are required. **A motion was made by Commissioner Jones, seconded by Commissioner Whisenant to approve amending the Sheriff Offices, Emergency Services Dispatch and Government Center Security department salary/fringe budgets to allocate to appropriate general ledger accounts. All voting "Aye". MOTION PASSED**

28066 AUTHORIZE AN INSTITUTIONAL OSSF PERMIT AT 5750 DACY LANE, IN BUDA, TEXAS

Clint Garza Director of Development Services gave staff recommendation and there are no variances to applicable rules and regulations. Hays County CISD is proposing an OSSF to serve a Food Service Warehouse Facility at 5750 Dacy Lane in Precinct 2. This property is 51.158 acres. Water will be supplied by Public Water Supply. This OSSF is a non-standard treatment system in which the effluent will be pumped to a drip irrigation dispersal field. The system was designed by Joe Wells, P.E for a maximum of 219 gpd flow; equalized over a 7 day period. **A motion was made by Commissioner Jones, seconded by Commissioner Whisenant to authorize an institutional OSSF permit at 5750 Dacy Lane, in Buda, Texas. All voting "Aye". MOTION PASSED**

28067 ACTION CONSIDER THE SELECTION OF CONSULTING FIRM(S) FOR DESIGN SERVICES ON PROPOSITION 12 FUNDED PROJECTS ON IH 35 AND FM 2439 AND AUTHORIZE THE COUNTY JUDGE TO EXECUTE CONTRACTS WITH THE SELECTED FIRMS

Mike Aulick spoke. The Consultant Selection Team Commissioner Jones Precinct 2, Transportation Director Jerry Borcharding, Tim Vandevor from the Road Department , and Blake Dommert of TxDot have interviewed firms and recommend for Project 1 – HNTB, Project 2 – HNTB, and Project 3 - KLOTZ. **A motion was made by Commissioner Jones, seconded by Commissioner Conley to consider the selection of consulting firm(s) for design services on Proposition 12 funded projects on IH 35 and FM 2439 and authorize the County Judge to execute contracts with the selected firms. All voting "Aye". MOTION PASSED**

28068 EXTEND THE CURRENT CONSULTING CONTRACT WITH AULICK & ASSOCIATES AND AMEND THE BUDGET ACCORDINGLY

Jerry Borcharding Transportation Director gave staff recommendation. Michael Aulick with Aulick & Associates is currently being utilized for design procurement and implementation of the CAMPO and TxDOT funded projects, review and analysis of CAMPO issues, representing Hays County on the CAMPO Technical Advisory Committee and seeking additional funding for transportation projects. Amount Required \$ 15,000.00 – 020-710-00.5448_008 – Materials. **A motion was made by Commissioner Conley, seconded by Commissioner Whisenant to extend the current consulting contract with Aulick & Associates and amend the budget accordingly. All voting "Aye". MOTION PASSED**

28069 AUTHORIZE AN INSTITUTIONAL OSSF PERMIT AND GRANT A VARIANCE TO SECTION 10-M(B) OF THE HAYS COUNTY RULES FOR ON-SITE SEWAGE FACILITIES AT 141 S. CANYONWOOD, DRIPPING SPRINGS, TEXAS

Clint Garza Director of Development Services spoke. Steve Harper is proposing an OSSF to serve a towing business at 141 S. Canyonwood in Precinct 4. This property is 1.702 acres. Water will be supplied by Public Water Supply. This OSSF is a standard treatment system in which the effluent will be pumped to a low pressure dosed drainfield. The system is designed for a maximum of 602 gpd. The system designer, Derrick Lormand, R.S. is requesting a variance to Section 10-M (B) of the Hays County rules for on-site sewage facilities which requires flow equalization. His justification is that the system is designed to treat 60 gallons per day. This number is quite conservative given that this is an office with only two employees. Chapter 285 suggests only 4 gallons per day per occupant. Even with some wastewater flow added for the occasional visitor, the system is oversized by several hundred percent. In order to achieve a reasonable retention time of 24 hours, the septic tank volume is assumed at 3Q. Three times the flow rate in this system would be 180 gallons. The proposed septic tank volume included with our design is 1,000 gallons – again oversized by 500%. It is the opinion of staff that the oversized septic tank volume will act as a baffle and provide the necessary flow equalization required. Adding an equalization tank in front of this septic tank would actually cause more damage than leaving the system as designed. **A motion was made by Commissioner Whisenant, seconded by Commissioner Jones to authorize an Institutional OSSF Permit and grant a variance to Section 10-M(B) of the Hays County Rules for On-Site Sewage Facilities at 141 S. Canyonwood, Dripping Springs, Texas. All voting "Aye". MOTION PASSED**



MAY 1, 2012

VOLUME U PG 833

EXECUTIVE SESSION PURSUANT TO SECTIONS 551.071 AND 551.072 OF THE TEXAS GOVERNMENT CODE: CONSULTATION WITH COUNSEL, DELIBERATION REGARDING RIGHT OF WAY ACQUISITION, AND CONSIDERATION OF THE USE OF EMINENT DOMAIN TO CONDEMN PROPERTY ALONG FM 1626 IN PRECINCT 2

Court convened into Executive Session at 9:50 a.m. and reconvened into open court meeting at 10:00 a.m. In Executive Session were Commissioner Ingalsbe, Commissioner Jones, Commissioner Conley, Commissioner Whisenant, Judge Cobb, Special Counsel Mark Kennedy, Lon Shell and Elle Dietz. No Action Taken.

EXECUTIVE SESSION PURSUANT TO SECTIONS 551.071 AND 551.072 OF THE TEXAS GOVERNMENT CODE: CONSULTATION WITH COUNSEL, DELIBERATION REGARDING RIGHT OF WAY ACQUISITION, ALONG RANCH ROAD 12 IN PRECINCT 3

Court convened into Executive Session at 10:00 a.m. and reconvened into open court meeting at 10:15 a.m. In Executive Session were Commissioner Ingalsbe, Commissioner Jones, Commissioner Conley, Commissioner Whisenant, Judge Cobb, Special Counsel Mark Kennedy, Lon Shell and Elle Dietz. No Action Taken.

28070 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 THE MARKETING AND POTENTIAL SALE OR LEASE OF COUNTY OWNED PROPERTIES

Court convened into Executive Session at 11:04 a.m. and reconvened into open court meeting at 11:40 a.m. In Executive Session were Commissioner Ingalsbe, Commissioner Jones, Commissioner Conley, Commissioner Whisenant, Judge Cobb, Special Counsel Mark Kennedy, and Lon Shell. A motion was made by Commissioner Whisenant, seconded by Commissioner Ingalsbe to authorize Special Counsel Mark Kennedy to execute all documents necessary to perfect closing of sale on the following properties, for which the County Judge has been or may be authorized to sign Purchase and Sale Agreements: 102 N. LBJ Drive, San Marcos, Texas; 137 N. Guadalupe, San Marcos, Texas, 302 W. San Antonio St. San Marcos, Texas, and the approximately 1005 acres in Western Hays County commonly known as Nicholson Ranch. All voting "Aye". MOTION PASSED

A motion was made by Commissioner Whisenant, seconded by Commissioner Jones to authorize the County Judge to execute deeds related to the sale of those properties. All voting "Aye". MOTION PASSED

28071 EXECUTIVE SESSION PURSUANT TO SECTIONS 551.071 AND 551.072 OF THE TEXAS GOVERNMENT CODE: CONSULTATION WITH COUNSEL AND DELIBERATION REGARDING THE SALE OF THE HAYS COUNTY ANNEX BUILDING AT 102 N. LBJ DRIVE IN SAN MARCOS, TEXAS

Court convened into Executive Session at 11:41 a.m. and reconvened into open court meeting at 11:43 a.m. In Executive Session were Commissioner Ingalsbe, Commissioner Jones, Commissioner Conley, Commissioner Whisenant, Judge Cobb, Special Counsel Mark Kennedy, and Lon Shell. A motion was made by Commissioner Whisenant, seconded by Commissioner Ingalsbe to authorize the County Judge to execute a Purchase and Sale Agreement between Hays County and Albacin Investment, LLC related to the sale of 102 N. LBJ Drive, San Marcos, Texas as presented by counsel in Executive Session. All voting "Aye". MOTION PASSED

28072 EXECUTIVE SESSION PURSUANT TO SECTIONS 551.071 AND 551.072 OF THE TEXAS GOVERNMENT CODE: CONSULTATION WITH COUNSEL AND DELIBERATION REGARDING THE SALE OF THE HAYS COUNTY RECORDS BUILDING AT 137 N. GUADALUPE STREET IN SAN MARCOS, TEXAS

Court convened into Executive Session at 11:41 a.m. and reconvened into open court meeting at 11:43 a.m. In Executive Session were Commissioner Ingalsbe, Commissioner Jones, Commissioner Conley, Commissioner Whisenant, Judge Cobb, Special Counsel Mark Kennedy, and Lon Shell. A motion was made by Commissioner Conley, seconded by Commissioner Whisenant to authorize the County Judge to execute a Purchase and Sale Agreement between Hays County and Albacin Investments, LLC related to the Sale of 137 N. Guadalupe, San Marcos, Texas as presented by Counsel in Executive Session. All voting "Aye". MOTION PASSED



28073 EXECUTIVE SESSION PURSUANT TO SECTIONS 551.071 AND 551.072 OF THE TEXAS GOVERNMENT CODE: CONSULTATION WITH COUNSEL AND DELIBERATION REGARDING THE SALE OF THE MAX C. SMITH BUILDING AT 302 W. SAN ANTONIO STREET IN SAN MARCOS, TEXAS

Court convened into Executive Session at 11:41 a.m. and reconvened into open court meeting at 11:43 a.m. In Executive Session were Commissioner Ingalsbe, Commissioner Jones, Commissioner Conley, Commissioner Whisenant, Judge Cobb, Special Counsel Mark Kennedy, and Lon Shell. A motion was made by Commissioner Conley, seconded by Commissioner Whisenant to authorize the County Judge to execute a Purchase and Sale Agreement between Hays County and Albacin Investments, LLC related to the sale of 302 W. San Antonio St., San Marcos, Texas as presented by Counsel in Executive Session. All voting "Aye". MOTION PASSED

28074 EXECUTIVE SESSION PURSUANT TO SECTIONS 551.071 AND 551.072 OF THE TEXAS GOVERNMENT CODE: CONSULTATION WITH COUNSEL AND DELIBERATION REGARDING THE SALE OF THE HAYS COUNTY JUSTICE CENTER AT 110 W. MLK DRIVE IN SAN MARCOS, TEXAS

Court convened into Executive Session at 11:44 a.m. and reconvened into open court meeting at 12:02 p.m. In Executive Session were Commissioner Ingalsbe, Commissioner Jones, Commissioner Conley, Commissioner Whisenant, Judge Cobb, Special Counsel Mark Kennedy, and Lon Shell. A motion was made by Commissioner Conley, seconded by Commissioner Whisenant to authorize the County Judge to execute a Letter of Intent between Hays County and DCI Development LLC related to the purchase and sale of the Hays County Justice Center Building, located at 110 W. MLK Drive in San Marcos, as presented and discussed in Executive Session. All voting "Aye". MOTION PASSED

28075 EXECUTIVE SESSION PURSUANT TO SECTION 551.074 OF THE TEXAS GOVERNMENT CODE: DELIBERATION REGARDING THE EMPLOYMENT OF EACH INDIVIDUAL EMPLOYEE OF THE HAYS COUNTY BUILDING MAINTENANCE DEPARTMENT AND THE DIRECTOR OF DEVELOPMENT SERVICES

Court convened into Executive Session at 10:00 a.m. and reconvened into open court meeting at 10:55 a.m. In Executive Session were Commissioner Ingalsbe, Commissioner Jones, Commissioner Conley, Commissioner Whisenant, Judge Cobb, Special Counsel Mark Kennedy, Lon Shell, Dee Dee Baen Human Resources Director, Shari Miller and Clint Garza Development Services Director. A motion was made by Commissioner Ingalsbe, seconded by Commissioner Conley to approve the reorganization of Building Maintenance Department as a Division of the Development Services Department and to be directly supervised by the Development Services Director, effective immediately. Also, add a Systems Coordinator Position, grade 112 effective May 1, 2012, with authority to fill above the minimum, not to exceed the 50th percentile. Direct Clint Garza to access the organizational structure, duties and assignments of the Building Maintenance Department, with any changes to be proposed on an as needed basis. All voting "Aye". MOTION PASSED

ACTION RELATED TO THE BURN BAN AND/OR DISASTER DECLARATION

The Burn Ban will remain lifted. County Judge recommends if burning for the public to use extreme caution. There is a possibility that the Burn Ban be put in place in the near future; Court recommends that if the public needs to burn they should do it as soon as possible and please contact your local Fire Department to prevent unnecessary visits.

County Clerk's Note Agenda Item #26 Re: DISCUSSION OF ISSUES RELATED TO PROPOSED CAPITAL CONSTRUCTION PROJECTS IN HAYS COUNTY, INCLUDING BUT NOT LIMITED TO THE GOVERNMENT CENTER: THE PROPOSED PRECINCT 2 OFFICE; AND THE LAW ENFORCEMENT CENTER IMMEDIATE NEEDS PROJECT – was pulled

County Clerk's Note Agenda Item #27 Re: DISCUSSION OF ISSUES RELATED TO THE ROAD BOND PROJECTS, INCLUDING UPDATES FROM MIKE WEAVER, PRIME STRATEGIES AND JEFF CURREN, HDR – was pulled

DISCUSSION OF MATERIAL RELATING TO THE HAYS COUNTY WATER AND SEWER AUTHORITY AND/OR THE LCRA DIVESTITURE

Commissioner Whisenant spoke of a Joint Meeting with other Utility Districts to be held in June.

HAYS COUNTY COMMISSIONERS' COURT MINUTES



MAY 1, 2012

VOLUME U PG 835

A motion was made by Commissioner Jones, seconded by Commissioner Whisenant to adjourn court.

I, LIZ G. GONZALEZ, 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 May 1, 2012.



LIZ G GONZALEZ, COUNTY CLERK AND EXOFFICIO
CLERK OF THE COMMISSIONERS' COURT OF
HAYS COUNTY, TEXAS

A decorative flourish consisting of a series of loops and swirls, resembling a stylized signature or a decorative line.

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 Utility Permits.

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

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

PREFERRED MEETING DATE REQUESTED: 5/8/12

AMOUNT REQUIRED:

LINE ITEM NUMBER OF FUNDS REQUIRED:

SPONSORED BY: COBB

Permit	Road Name	Type of Utility
---------------	------------------	------------------------

852	Fitzhugh Rd and Crumley Ranch Rd	Gas Line
------------	---	-----------------

**HAYS COUNTY RESOURCE PROTECTION, TRANSPORTATION and
PLANNING DEPARTMENT**



UTILITY PERMIT APPROVAL

Approval of Utility Permit: 852

Application Date: 4/27/12

Commissioner Court Approval Date: 5/8/12

Company Name: Texas Gas Service

Company Address: 5613 Avenue F Austin, TX 78751

Company Phone: 512-407-2000

Company Contact: Karla Merino

Type of Utility: Gas Line

Road Name: Fitzhugh Road and Crumley Ranch Road

Subdivision: Pct #: 4

Specs: Gas line to be installed in Right-of-way of Fitzhugh Road and Crumley Ranch Road per engineered plans

County Provisions: Per approved engineered plans



Road and Bridge Department
2171 Yarrington Road
P O Box 906
San Marcos, TX 78667-0906
(512) 393-7385

Application for Installation

Utility Line on Hays County Right of Way

Date: 9 May 2012

Formal notice is hereby given that Texas Gas Service (TGS)
Company proposes to place a 10" Steel Gas Main
line within the right-of way of Fitzhugh Road and Crumley Ranch Road
as follows: (give location, length, general design, etc.)

Location: Tie into Kinder Morgan pipeline on the North side of Fitzhugh; travel East on the North side of Fitzhugh to Crumley Ranch Road; North on Crumley Ranch Road along the West side of Crumley RR to the Hays/Travis County border.

Design: 234 LF (Open Cut) and 5,990 LF (Directional Bore)

If the proposed Installation is a parallel installation, then the installation shall be located two feet within the edge of right-of-way unless otherwise approved by the County.

The line will be constructed and maintained on the road right-of-way as directed by the Hays County Road Department (HCRD), an agency of the Commissioners Court of Hays County, in accordance with governing laws, including but not limited to the "Federal Clean Water Act," the "Federal Endangered Species Act," and the "Federal Historic Preservation Act." Upon request by the HCRD, proof of compliance with all governing laws, rules, and regulations will be submitted to HCRD before commencement of construction.

Our firm will use Best Management Practices to minimize erosion and sedimentation resulting from the proposed installation, and we will revegetate the project area as indicated under "General Special Provisions."

Our firm will insure that traffic control measures complying with applicable portions of the *Texas Manual of Uniform Traffic Control Devices* will be installed and maintained during this installation.

The location and description of the proposed line and appurtenances is more fully shown by one complete sets of drawings attached to this notice. (electronically submitted)

It is expressly understood that Hays County does not purport, hereby, to grant any right, claim, title, or easement in or upon this road; and it is further understood that Hays County may require the owner to relocate this line, subject to provisions of governing laws, by giving thirty (30) days' written notice.

It is understood and agreed that any damages sustained to the appurtenances installed under this proposal as a result of road construction and/or maintenance, including but not limited to mowing, ditch cleaning, culvert repair or replacement, roadway excavation and base work shall be the sole burden and expense of the owner.

Applicant agrees to notify HCRD prior to commencement of any routine of periodic maintenance which requires pruning of trees within the road right-of-way, so that the County may provide specifications for the extent and methods to govern in trimming, topping, tree balance, type of cuts, painting cuts and clean up.

The installation shall not damage any part of the road and adequate provisions must be made to cause minimum inconveniences to traffic and adjacent property owners. In the event the Applicant fails to comply with any or all of the requirements as set forth herein, Hays County may take such action as it deems appropriate to compel compliance.

BLUE PRINTS

Construction of this line will begin on or after the 7th day of May, 2012.

ON FILE

General Special Provisions:

HCRD

By signing below, I certify that I am authorized to represent the Firm listed below, and that the Firm agrees to the conditions/provisions included in this permit.

Firm Texas Gas Service
By (Print) Karla Merino, E.I.T.
Signature Karla Merino

Title Project Engineer
Address 5613 Avenue F
Austin, TX 78751
Phone 512-407-2000

Approved by Hays County Road & Bridge Department
Signature [Signature] Title Inspector Date 5/1/12

June 26, 2004

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: Approval to award IFB #2012-B02R Rebid of ROW Fencing for Mt. Gainor to Metalink Corporation.

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

PREFERRED MEETING DATE REQUESTED: May 8, 2012

AMOUNT REQUIRED:

LINE ITEM NUMBER OF FUNDS REQUIRED:

REQUESTED BY: Borcherding/Maiorka

SPONSORED BY:

SUMMARY: Purchasing received 3 bids with Metalink having the lowest bid. (see attached tabulation)

2012-B02R
Mt Gainor Fencing Rebid

	Type C Wire Fence		Gate		Type D Wire Fence		Grand Total
Metalink Corporation 9201 Hwy 183 Austin Texas 78747	\$3.81	per linear foot	1 each	\$890.00	\$3.98	per linear ft	\$32,856.60
Bobo Construction 416 Broadway St San Marcos Texas 78666	\$5.75	per linear foot	1 each	\$250.00	\$5.75	per linear ft	\$38,617.00
BWH Homes Construction 3314 Morningquail New Braunfels Texas 78130	\$5.95	per linear foot	1 each	\$275.00	\$5.95	per linear ft	\$39,960.20
	Pricing based on estimated total of 6716 linear feet						

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 donation from the Historical Commission and amend the budget for use of those funds on operating expenses, as well as, changing the light fixtures in Suite 104 at the Courthouse.

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

PREFERRED MEETING DATE REQUESTED: May 8, 2012

AMOUNT REQUIRED: \$10,000.00 (funded through a donation)

LINE ITEM NUMBER OF FUNDS REQUIRED: see budget amendment below

REQUESTED BY: Kate Johnson

SPONSORED BY: Judge Bert Cobb, M.D.

SUMMARY:

The Historical Commission has received a donation for office and general supplies, contract services, and miscellaneous capital improvements. No matching county funds needed.

Budget Amendment:

Increase Revenue: 001-676-00.4610-contributions: (\$10,000.00)

Increase Expense: 001-676-00.5201-gen supplies: \$1,000.00

Increase Expense: 001-676-00.5211-office supplies: \$2,000.00

Increase Expense: 001-676-00.5448-contract services: \$4,656.00

Increase Expense: 001-676-00.5741 misc cap improvement: \$2,344.00

DESCRIPTION OF Item: Accept a donation from the Historical Commission and amend the budget for use of those funds on operating expenses, as well as, changing the light fixtures in Suite 104 at the Courthouse.

PREFERRED MEETING DATE REQUESTED: May 8, 2012

COUNTY AUDITOR

AMOUNT: \$10,000.00 (funded through a donation)

LINE ITEM NUMBER: see budget amendment

COUNTY PURCHASING GUIDELINES FOLLOWED: N/A

PAYMENT TERMS ACCEPTABLE: N/A

COMMENTS: See attached budget amendment.

Bill Herzog

SPECIAL COUNSEL

CONTRACT TERMS ACCEPTABLE: _____

COMMENTS:

COUNTY JUDGE

Signature Required if Approved

DATE CONTRACT SIGNED: _____

AMENDMENT
NO. FY2012-025 CC
FY2012 Budget
5/8/2012

FUND NO. 001
FUND TITLE: GENERAL FUND

<u>Line Item Expenditures</u>	<u>Appropriation before Amendment</u>	<u>Amendment</u>		<u>Appropriation as Amended</u>
		<u>Increases</u>	<u>Decreases</u>	
<u>Historical Commission (676):</u>				
001-676-00.5201 General Supplies	500	1,000		1,500
001-676-00.5211 Office Supplies	200	2,000		2,200
001-676-00.5448 Contract Svcs.	9,625	4,656		14,281
001-676-00.5741 Misc Capital Improvement	0	2,344		2,344
<u>Revenue</u>		<u>Decreases</u>	<u>Increases</u>	
001-676-00.4610 Contributions	0		10,000	10,000

Accept & budget donation

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 the County Judge to submit a grant application to the U.S. Department of Justice, under the FY12 Edward Byrne Memorial Justice Assistance Grant (JAG) program for shared equipment for the Sheriff's Office, District Clerk's Office, County Clerk's Office, and Adult Probation in the amount of \$11,128.00.

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

PREFERRED MEETING DATE REQUESTED: May 8, 2012

AMOUNT REQUIRED: N/A

LINE ITEM NUMBER OF FUNDS REQUIRED: N/A

REQUESTED BY: Gonzalez/ Hauff

SPONSORED BY: Cobb

SUMMARY: Grant funds, if awarded will be used to assist in purchasing a Touch Print Live Scan Appliance for digital collection and processing of fingerprint images. This equipment will be housed in the Government Center and utilized by all justice system offices. The equipment supports the "paperless" initiative recently implanted for our justice system records. The Sheriff's Office will be able to obtain fingerprints on individuals that have been arrested in another county and on individuals whose criminal history has not been submitted to DPS. Adult Probation, County Clerk's Office and District Clerk's Office will also benefit from this equipment for obtaining fingerprints on defendant's that are placed on probation and on individuals who are requesting a name change. We are able to use the Live Scan for collection of fingerprints for those positions that require investigation background checks on new hires. Additional County funds will be necessary to cover the full purchase price of the system, which is \$21,770.00. JAG funds are limited to \$11,128.00. Potential funding sources for the County portion include the Records Management and/or Technology Funds, or other County resources. The grant will be submitted electronically and is due by May 14, 2012.



BJA FY 12 Edward Byrne Memorial Justice Assistance Grant (JAG)
Program Local Solicitation 2012-H2316-TX-DJ

[Application](#)[Correspondence](#)[Switch to ...](#)**Application Handbook****Applicant Information**[Overview](#)

Verify that the following information filled is correct and fill out any missing information.
 To save changes, click on the "Save and Continue" button.

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Information](#)[Project Information](#)[Budget and
Program
Attachments](#)[Assurances and
Certifications](#)[Review SF 424](#)[Submit Application](#)[Help/Frequently
Asked Questions](#)[GMS Home](#)[Log Off](#)

*Is the applicant delinquent on any federal debt	<input type="radio"/> Yes <input checked="" type="radio"/> No
*Employer Identification Number (EIN)	74 - 6002241
*Type of Applicant	County
Type of Applicant (Other):	
*Organizational Unit	Government
*Legal Name (Legal Jurisdiction Name)	Hays County, Texas
*Vendor Address 1	111 E. San Antonio St.,
Vendor Address 2	
*Vendor City	San Marcos
Vendor County/Parish	Hays
*Vendor State	Texas
*Vendor ZIP	78666 - 5534 Zip+4 Lookup
Please provide Point of Contact Information for matters involving this application	
*Contact Prefix:	Mr.
Contact Prefix (Other):	
*Contact First Name:	Jeff
Contact Middle Initial:	
*Contact Last Name:	Hauff
Contact Suffix:	Select a Suffix
Contact Suffix (Other) :	
*Contact Title:	Grant Administrator
*Contact Address Line 1:	712 S. Stagecoach Trail, Ste. 120

Contact Address Line 2:	
*Contact City	San Marcos
Contact County:	Hays
*Contact State:	Texas
*Contact Zip Code:	78666 - 5534 Zip+4 Lookup
*Contact Phone Number:	512 393 2209 Ext:
Contact Fax Number:	512 393 2248
*Contact E-mail Address:	jeff.hauff@co.hays.tx.us Email Help

Save and Continue



**BJA FY 12 Edward Byrne Memorial Justice Assistance
Grant (JAG) Program Local Solicitation** 2012-H2316-TX-DJ


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*Descriptive Title of Applicant's Project Digital Fingerprint Project		
*Areas Affected by Project Hays County, Texas		
Proposed Project		
	*Start Date	September 01 2012
	*End Date	August 31 2013
*Congressional Districts of		
	Project	Congressional District 01, TX Congressional District 02, TX Congressional District 03, TX Congressional District 04, TX
*Estimated Funding		
Federal	\$ 11128	.00
Applicant	\$ 10642	.00
State	\$ 0	.00
Local	\$ 0	.00
Other	\$ 0	.00
Program Income	\$ 0	.00
TOTAL	\$ 21770	.00

APPLICATION FOR FEDERAL ASSISTANCE		2. DATE SUBMITTED	Applicant Identifier
1. TYPE OF SUBMISSION Application Non-Construction	3. DATE RECEIVED BY STATE		State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY		Federal Identifier
5. APPLICANT INFORMATION			
Legal Name Hays County, Texas		Organizational Unit Government	
Address 111 E. San Antonio St., Ste. 300 San Marcos, Texas 78666-5534		Name and telephone number of the person to be contacted on matters involving this application Hauff, Jeff (512) 393-2209	
6. EMPLOYER IDENTIFICATION NUMBER (EIN) 74-6002241		7. TYPE OF APPLICANT County	
8. TYPE OF APPLICATION New		9. NAME OF FEDERAL AGENCY Bureau of Justice Assistance	
10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 16.738 CFDA EDWARD BYRNE MEMORIAL JUSTICE TITLE: ASSISTANCE GRANT PROGRAM		11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT Digital Fingerprint Project	
12. AREAS AFFECTED BY PROJECT Hays County, Texas			
13. PROPOSED PROJECT Start Date: September 01, 2012 End Date: August 31, 2013		14. CONGRESSIONAL DISTRICTS OF a. Applicant b. Project TX25	
15. ESTIMATED FUNDING		16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?	
Federal	\$11,128	Program has not been selected by state for review	
Applicant	\$10,642		
State	\$0		
Local	\$0		

Other	\$0	17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT? N
Program Income	\$0	
TOTAL	\$21,770	
18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS REQUIRED.		

Close Window

Program Narrative

The Hays County Clerk's Office, District Clerk's Office, Adult Probation, Sheriff's Office, County Court-at-Law and District Court would like to have the ability to obtain accurate electronic fingerprint images for positive identification on individuals that have been arrested or accused of a crime. Fingerprints are a definite way of identifying an individual because no two persons will have the same fingerprints. The Touch Print Live Scan Appliance has been selected as the appropriate tool to collect fingerprint images and will be housed at the Hays County Government Center to be utilized by all the above offices. The Hays County justice system is moving towards paperless system improvements that will provide electronic criminal records that can be entered, stored and shared by all justice system. With the forensic technology equipment "live scan" system we can capture the fingerprint digitally and forward to the Texas Department of Public Safety (TDPS) electronically. Before submitting any information to TDPS, an Incident Tracking Number (TRN) must be assigned by TDPS to the offense in order for the court clerks, prosecuting agencies, and arresting agencies to submit further case disposition information to TDPS. With the live scan we can obtain results from fingerprints taken within one hour, whereas the ink prints a technician would have to manually evaluate the fingerprints, and the results take much longer to process. As we move forward with this new technology we can transform how we communicate and obtain vital information in case prosecution. Furthermore, this equipment is cost effective, obtains accurate fingerprints, and results in a quicker turn-around of fingerprint information.

Budget and Budget Narrative

			Computation	Cost
A. Personnel	Name/position			
	n/a			
B. Fringe Benefits				
	n/a			
			Sub-Total	0
C. Travel	Location	Item	Computation	Cost
D. Equipment	Touch Print, Live Scan appliance (digital imaging technology)		Computation 1 @ \$20,150.00	Cost \$20,150.00
E. Supplies			Computation	Cost
	n/a			0
F. Construction			Computation	Cost
	n/a			0
G. Consultants/Contracts			Computation	Cost
	n/a			0
H. Other Costs			Computation	Cost
	Installation & Training		1 @ \$1,620.00	\$ 1,620.00
I. Indirect Costs			Computation	Cost
	n/a			0

Budget Summary

Budget Category	Amount
A. Personnel	0
B. Fringe Benefits	0
C. Travel	
D. Equipment	\$20,150.00
E. Supplies	0
F. Construction	0

G. Consultants/Contracts	0
H. Other	\$ 1,620.00
Total Direct Costs	\$21,770.00
Indirect Costs	0
TOTAL PROJECT COSTS	\$21,770.00
Federal Request	\$11,128.00
	\$ 0
Non-Federal Amount	\$10,642.00

The purpose of the grant request is to purchase a Touch Print Live Scan Appliance for digital processing of fingerprint images. The equipment will be housed in the Government Center and utilized by the all the judicial system offices. The Hays County justice system is moving towards paperless system improvements that will provide electronic criminal records that can be entered, stored, and shared by all judicial offices. The Live Scan will provide clear, precise fingerprints and will allow our arresting agency, prosecuting department and court clerks to submit dispositions, prosecutions and arrest information to the Department of Public Safety (DPS) electronically. This method of submitting fingerprints to DPS is preferred due that it does not require a technician to manually evaluate the set of fingerprints. The Sheriff's Office will be able to obtain fingerprints on individuals that have been arrested in another county and on individuals whose criminal history has not been submitted to DPS.

Hays County will provide the additional funds needed to purchase the Live Scan Appliance and will be responsible for any upgrades and maintenance contracts for the life of the equipment. The total initial cost for this project is \$21,770.00 which includes \$10,642.00 of Hays County funds.

Review Narrative

The FY12 Edward Byrne Memorial Justice Assistance Grant (JAG) program application was posted on Commissioners' Court Agenda and was made public on May 8, 2012. The application is available for public review at the Hays County Government Center, Grants Office, suite number 1204 and the County Clerk's Office, suite number 2008.

The Commissioners' Court approved submission of the application to the U.S. Department of Justice, Office of Justice Programs under Edward Byrne Memorial Justice Assistance Grant (JAG) program for equipment for the Adult Probation, District Clerk's Office, County Clerk's Office, County and District Courts in the amount of \$11,128.00, with additional County funds necessary to purchase the system.

Abstract

Applicant: Hays County, Texas

Title of Project: Digital Fingerprint Project

The goal of the Hays County Clerk's Office, District Clerk's Office, Sheriff's Office, Adult Probation, County Court-at-Law and District Court is to have the ability to obtain and share electronic fingerprint images for positive identification on individuals that have been arrested or accused of a crime. Fingerprints are a definite way of identifying an individual because no two persons will have the same fingerprints. The purpose of this grant application is for funding to acquire an electronic fingerprinting device for accurate and efficient collection of biometric data. The Hays County justice system is moving towards paperless system improvements that will provide electronic criminal records that can be entered, stored and shared by all offices, as well as with external law enforcement agencies. With the forensic technology equipment, or "live scan" system, we can capture the fingerprint digitally and forward to the Texas Department of Public Safety (DPS) for case reporting and processing as required by Chapter 60 of the Texas Code of Criminal Procedure. Before submitting any information to DPS, an Incident Tracking Number (TRN) must be assigned by DPS to the offense in order for the court clerk's, prosecuting agencies and arresting agencies to submit further case disposition information to DPS. When a person is booked for an offense, their personal information and arresting information is entered and a TRN number is assigned. The individual's fingerprints must be taken and submitted along with other pertinent information to form a complete record that can be tracked and updated as the individual is processed through the justice system. The live scan fingerprinting device may also be used for collection of data for background checks for prospective law enforcement personnel and those persons requiring security clearances.

Project Identifiers:

1. Criminal Records
2. System Improvements
3. Prosecution
4. Equipment-Forensic



BJA FY 12 Edward Byrne Memorial Justice Assistance Grant (JAG) Program Local Solicitation 2012-H2316-TX-DJ


[Application](#)
[Correspondence](#)
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Application Handbook

Assurances and Certifications

[Overview](#)

To the best of my knowledge and belief, all data in this application/preapplication is true and correct, the document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is awarded.

[Applicant Information](#)
[Project Information](#)

Your typed name, in lieu of your signature represents your legal binding acceptance of the terms of this application and your statement of the veracity of the representations made in this application. The document has been duly authorized by the governing body of the applicant and the applicant will comply with the following:

[Budget and Program Attachments](#)
[Assurances and Certifications](#)

1. [Assurances](#)
2. [Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace requirements.](#)

[Review SF 424](#)
[Submit Application](#)

If you are an applicant for any Violence Against Women grants, this includes the Certification of Compliance with the Statutory Eligibility Requirements of the Violence Against Women Act.

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*Prefix:	Dr.
Prefix (Other):	
*First Name:	Bert
Middle Initial:	
*Last Name:	Cobb
Suffix	Suffix:
Suffix (Other):	
*Title:	Judge
*Address Line 1:	111 E. San Antonio St. ,Ste. 300
Address Line 2:	
*City:	San Marcos
County:	Hays
*State:	Texas
*Zip Code:	78666 - 5534 Zip+4 Lookup

*Phone:	512 - 393 - 2205 Ext :
Fax:	512 - 393 - 2248
*E-mail:	bert.cobb@co.hays.tx.u Email Help
<p><input checked="" type="checkbox"/> I have examined the information provided here regarding the signing authority and certify it is accurate. I am the signing authority, or have been delegated or designated formally as the signing authority by the appropriate authority of official, to provide the information requested throughout this application system on behalf of this jurisdiction. Information regarding the signing authority, or the delegation of such authority, has been placed in a file and is available on-site for immediate review.</p>	

Save and Continue

NOTE: You must click on the "Accept" button at the bottom of the page before closing this window



OMB APPROVAL
NUMBER 1121-0140

EXPIRES 12/31/2012

STANDARD ASSURANCES

The Applicant hereby assures and certifies compliance with all applicable Federal statutes, regulations, policies, guidelines, and requirements, including OMB Circulars A-21, A-87, A-102, A-110, A-122, A-133; Ex. Order 12372 (intergovernmental review of federal programs); and 28 C.F.R. pts. 66 or 70 (administrative requirements for grants and cooperative agreements). The applicant also specifically assures and certifies that:

1. It has the legal authority to apply for federal assistance and the institutional, managerial, and financial capability (including funds sufficient to pay any required non-federal share of project cost) to ensure proper planning, management, and completion of the project described in this application.
2. It will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
3. It will give the awarding agency or the General Accounting Office, through any authorized representative, access to and the right to examine all paper or electronic records related to the financial assistance.
4. It will comply with all lawful requirements imposed by the awarding agency, specifically including any applicable regulations, such as 28 C.F.R. pts. 18, 22, 23, 30, 35, 38, 42, 61, and 63, and the award term in 2 C.F.R. § 175.15(b).
5. It will assist the awarding agency (if necessary) in assuring compliance with section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. § 470), Ex. Order 11593 (identification and protection of historic properties), the Archeological and Historical Preservation Act of 1974 (16 U.S.C. § 469 a-1 et seq.), and the National Environmental Policy Act of 1969 (42 U.S.C. § 4321).
6. It will comply (and will require any subgrantees or contractors to comply) with any applicable statutorily-imposed nondiscrimination requirements, which may include the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. § 3789d); the Victims of Crime Act (42 U.S.C. § 10604(e)); The Juvenile Justice and Delinquency Prevention Act of 2002 (42 U.S.C. § 5672(b)); the Civil Rights Act of 1964 (42 U.S.C. § 2000d); the Rehabilitation Act of 1973 (29 U.S.C. § 794); the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131-34); the Education Amendments of 1972 (20 U.S.C. §§1681, 1683, 1685-86); and the Age Discrimination Act of 1975 (42 U.S.C. §§ 6101-07); see Ex. Order 13279 (equal protection of the laws for faith-based and community organizations).
7. If a governmental entity:
 - a. it will comply with the requirements of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. § 4601 et seq.), which govern the treatment of persons displaced as a result of federal and federally-assisted programs; and
 - b. it will comply with requirements of 5 U.S.C. §§ 1501-08 and §§ 7324-28, which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by federal assistance.

Accept

NOTE: You must click on the "Accept" button at the bottom of the page before closing this window

h1>U.S. DEPARTMENT OF JUSTICE
OFFICE OF JUSTICE PROGRAMS
OFFICE OF THE CHIEF FINANCIAL OFFICER

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Acceptance of this form provides for compliance with certification requirements under 28 CFR Part 69, "New Restrictions on Lobbying," 2 CFR Part 2867, "DOJ Implementation of OMB Guidance of Nonprocurement Debarment and Suspension," and 28 CFR Part 83, "Government-wide Debarment and Suspension," and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Justice determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING As required by Section 1352, Title 31 of the U.S. Code, and implemented at 28 CFR Part 69, for persons entering into a grant or cooperative agreement over \$100,000, as defined at 28 CFR Part 69, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure of Lobbying Activities," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all sub-recipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS (DIRECT RECIPIENT)

As required by Executive Order 12549, Debarment and Suspension, and implemented at 2 CFR Part 2867, for prospective participants in primary covered transactions, as defined at 2 CFR Section 2867.20(a):

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of Federal benefits by a State or Federal court, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default.

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 28 CFR Part 83, Subpart F, for grantees, as defined at 28 CFR Sections 83.620 and 83.650:

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Department of Justice, Office of Justice Programs, ATTN: Control Desk, 810 7th Street, N.W., Washington, D.C. 20531. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

Accept

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 the delivery of the Internal Examination Reports for the Hays County District Attorney's State Forfeiture Assets and the Hays County Sheriff's Federal and State Forfeiture Assets.

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

PREFERRED MEETING DATE REQUESTED: 5/8/12

AMOUNT REQUIRED: N/A

LINE ITEM NUMBER OF FUNDS REQUIRED: N/A

REQUESTED BY: Bill Herzog

SPONSORED BY:

SUMMARY: See attached reports.



OFFICE OF THE COUNTY AUDITOR

111 E. San Antonio Street, Suite 100
San Marcos, Texas 78666

Bill Herzog, CPA
County Auditor
bherzog@co.hays.tx.us

512-393-2283
Fax: 512-393-2248
www.co.hays.tx.us

Marisol Villarreal-Alonzo, CPA
Assistant County Auditor
marisol.alonzo@co.hays.tx.us

October 6, 2011

The Honorable Sherri Tibbe
Criminal District Attorney
Hays County Justice Center
111 E. MLK
San Marcos, Texas 78666

Dear Ms. Tibbe:

In accordance with subsection 115.0035 of the Texas Local Government Code and Article 59.06 of the Texas Code of Criminal Procedure, the Auditor's office performed an internal examination on the records of the District Attorney's Forfeiture Fund and the attached FY2011 Chapter 59 Asset Forfeiture Report for the period of September 1, 2010 to August 31, 2011. The internal examination consisted of reviewing deposits, disbursements, and other supporting documentation.

Based on the internal examination, except for the following finding and recommendation, deposits and disbursements appear to be adequately accounted for and the overall condition of financial records and supporting documentation appear to be accurately maintained in accordance with statutory requirements under subsection 115.0035 of the Texas Local Government Code and Article 59.06 of the Texas Code of Criminal Procedure.

Untimely Forfeited Fund Distributions

Forfeited funds from twelve (12) cases totaling \$21,084.02 were not disbursed in a timely manner.

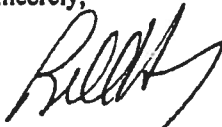
We noted during our review, that forfeited funds for twelve cases had not been distributed to the agencies covered under the local agreement or the respondents during the reporting period. Two of these case judgments dated back to September 13, 2010 and December 20, 2010. The other ten case judgments occurred in May 2011 and June 2011.

Recommendation

We recommend that forfeited funds be distributed to local agencies and respondents on a monthly basis. Monthly distributions will help ensure that local agencies receive their funds in a timely manner. In addition, when forfeited funds are distributed on a monthly basis, monthly distributions and fund balances are reviewed and accounted for regularly. Monthly accountability will improve the management of the seized funds and will take into account the interest of the agencies covered under the local agreement. We noted that the District Attorney's office has taken corrective action and has made all disbursements for all twelve cases as of September 19, 2011.

We appreciate the cooperation and assistance provided to my office during the internal examination. Please provide a management response with corrective actions for the above finding within thirty (30) days of the date of this letter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Bill Herzog', written over a horizontal line.

Bill Herzog, CPA
Hays County Auditor



SHERRI TIBBE
Criminal District Attorney
Hays County Government Center
712 S. Stagecoach, Suite 2057
San Marcos, Texas 78666
(512)393-7600 FAX (512)393-2246

April 27, 2012

Mr. Bill Herzog
Hays County Auditor

RE: Chapter 59 Drug Forfeiture Internal Examination Report 2011

Dear Mr. Herzog,

Thank you for your office's thorough review of our Drug Forfeiture funds and the resulting Chapter 59 Drug Forfeiture Internal Examination Report.

In response to your Internal Examination Report, the District Attorney's office has implemented a policy which requires quarterly disbursements of the drug forfeiture funds. Disbursements were delayed last year due to the resignation of the former forfeitures prosecutor. The new forfeitures prosecutor and staff understand that these disbursements are mandatory and can only be delayed with permission from the Civil Division Chief or myself.

Sincerely,

Sherri Tibbe
Hays County Criminal District Attorney
Phone (512) 393-7600
Fax (512) 393-7619
sherri.tibbe@co.hays.tx.us



OFFICE OF THE COUNTY AUDITOR

111 E. San Antonio Street, Suite 100

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Marisol Villarreal-Alonzo, CPA

Assistant County Auditor

marisol.alonzo@co.hays.tx.us

November 18, 2011

Honorable Gary Cutler
Hays County Sheriff
1307 Old Umland Road
San Marcos, TX 78666

Dear Sheriff Cutler:

In accordance with subsection 115.0035 of the Texas Local Government Code and Article 59.06 of the Texas Code of Criminal Procedure, the Auditor's office performed an internal examination on the records of the Sheriff's Drug Forfeiture Fund and the attached FY2011 Chapter 59 Asset Forfeiture Report for the period of October 1, 2010 to September 30, 2011. The internal examination consisted of reviewing deposits, disbursements, and other supporting documentation.

Based on the internal examination, deposits and disbursements appear to be adequately accounted for and the overall condition of financial records and supporting documentation appear to be accurately maintained in accordance with statutory requirements under subsection 115.0035 of the Texas Local Government Code and Article 59.06 of the Texas Code of Criminal Procedure.

We appreciate the cooperation and assistance provided to the Auditor's office during the examination.

Sincerely,

Bill Herzog, CPA
Hays County Auditor
bh/ca



OFFICE OF THE COUNTY AUDITOR

111 E. San Antonio Street, Suite 100
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Marisol Villarreal-Alonzo, CPA
Assistant County Auditor
marisol.alonzo@co.hays.tx.us

November 18, 2011

Honorable Gary Cutler
Hays County Sheriff
1307 Old Uhland Road
San Marcos, TX 78666

Dear Sheriff Cutler:

In accordance with subsection 115.002 of the Texas Local Government Code, the Auditor's Office performed an internal examination of the Hays County Sheriff's Office Federal Discretionary Account for the period of October 1, 2010 to September 30, 2011. The internal examination consisted of reviewing disbursements, receipts, deposits, fixed assets, and other supporting documentation.

Based on the internal examination, except for the following finding and recommendation, cash receipts and disbursements appear to be adequately accounted for and related records appear to be accurately maintained in accordance with statutory requirements under subsection 112.001 of the Texas Local Government Code.

Inadequate Segregation of Duties.

During our review of the Federal Discretionary Account, we noted that the Sheriff's Office does not maintain sufficient segregation of duties for this account. The same individual receives all funds, prepares deposits, prepares monthly reports and makes all disbursements for this account.

Recommendation

We recommend that the Sheriff's Office perform an examination of existing roles and responsibilities in order to identify incompatible duties and ensure there is an adequate segregation of duties for this account. The duties performed by the individual should be separated as practical as possible to minimize errors and irregularities. Supervisory review should be increased to ensure the proper collection, reporting, and safeguarding of funds.

We appreciate the cooperation and assistance provided to the Auditor's Office during the examination. Please provide a management response with corrective actions for the above findings within (30) days of the date of this letter.

Sincerely,

Bill Herzog, CPA
Hays County Auditor
bh/ca



GARY CUTLER
HAYS COUNTY SHERIFF

1307 Uhland Road
San Marcos, Texas 78666
512-393-7800

www.sheriff.co.hays.tx.us

JAMIE R. PAGE
Chief Deputy

MIKE DAVENPORT
Captain – Law Enforcement

BRAD ROBINSON
Captain – Corrections

MARK CUMBERLAND
Captain – Support Services

Memorandum

To: Bill Herzog, Hays County Auditor

From: Gary Cutler, Hays County Sheriff *G. C.*

Date: November 29, 2011

RE: Internal Examination

We have reviewed the report provided by the Auditor's Office in reference to the internal examination of the Hays County Sheriff's Office Federal Discretionary Account/Equitable Sharing and Agreement Report and Sheriff's Drug Forfeiture Fund/Chapter 59 Asset Forfeiture Report for the period of October 1, 2010 to September 30th, 2011. I am happy to learn that all records are accounted for.

Mentioned in the report is inadequate segregation of duties for the accounts mentioned above and would like to inform you that we have resolved this issue by cross training and supervisory review with all transactions made within the accounts.

I appreciate the time and cooperation with the Auditor's Office to work with my staff regarding the reports and internal exam. Please contact my office if you should have any questions.

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: Approve specifications and authorize Purchasing to advertise a Request for Proposals for lease and equipping of Hays County Government Center Fitness Room.

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

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

PREFERRED MEETING DATE REQUESTED: May 8, 2012

AMOUNT REQUIRED: TBD

LINE ITEM NUMBER OF FUNDS REQUIRED: TBD

REQUESTED BY: KENNEDY

SPONSORED BY: COBB

SUMMARY: RFP to be provided 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 Professional Services Agreements with HNTB Corporation and Klotz Associates for design services on Proposition 12 funded projects on IH 35 and FM 2439 respectively with TxDOT funding reimbursement in accordance with the Local Transportation Project Advance Funding Agreement approved by the Court on April 17.

CHECK ONE: **CONSENT** **x ACTION** **EXECUTIVE SESSION**
 WORKSHOP **PROCLAMATION** **PRESENTATION**

PREFERRED MEETING DATE REQUESTED: 5/8/12

AMOUNT REQUIRED:

LINE ITEM NUMBER OF FUNDS REQUIRED:

REQUESTED BY:

SPONSORED BY: JONES

On May 1 the Court selected HNTB Corporation and Klotz Associates to design the IH 35 and FM 2439 projects respectively with reimbursable funding by TxDOT in the maximum obligated amounts as follows: IH 35 project # 1 (HNTB) - \$750,000, IH 35 Project # 2 (HNTB) - \$463,435, and FM 2439 (Klotz) - \$450,000.

May 1, 2012

APPROVED FIRMS FOR PROPOSITION 12 PROJECTS

Project # 1 (CSJ 0016-02-133)

The **IH 35 project** at Robert S. Light Blvd (AKA Cement Plant Road), FM 1626 and FM 150 shall consist of the widening of the existing bridge at Robert S. Light Blvd. to add two (2) lanes; and turnaround structures (2) at the location. New turnaround structures shall also be added at FM 150 (2) and FM 1626 (1). Total approved funding - **\$9,493,298.**

APPROVED FIRM - **HNTB CORPORATION**, TXDOT DESIGN BUDGET - **\$750,000**

Project # 2 (CSJ 0016-02-134)

The **IH 35 project** from FM 2001 to Kyle Crossing shall consist of the addition and reconfiguration of entrance and exit ramps to IH 35 and a new northbound to southbound turnaround structure at FM 2001. Total approved funding - **\$5,699,167.**

APPROVED FIRM - **HNTB CORPORATION**, TXDOT DESIGN BUDGET - **\$463,435**

Project # 3 (CSJ 2293-01-023)

The **FM 2439 (Hunter Road) project** from Posey Road to Centerpoint shall consist of the addition of a center turn lane and shoulders. Total approved funding - **\$3,028,250.**

APPROVED FIRM - **KLOTZ ASSOCIATES**, TXDOT DESIGN BUDGET - **\$450,000**

CSJ #s 0016-02-133, 0016-02-134 &
2293-01-023
District # 14 – Austin
Code Chart 64 # 50106
Project: Preliminary Design for
Proposition 12 Projects
Federal Highway Administration
CFDA # 20.205
Not Research and Development

STATE OF TEXAS §
COUNTY OF TRAVIS §

**LOCAL TRANSPORTATION PROJECT
ADVANCE FUNDING AGREEMENT
For AN
URBAN AREA (NON-TMA) CORRIDOR PROJECT
(ON-SYSTEM)**

THIS Local Project Advance Funding Agreement (LPAFA) is made by and between the State of Texas, acting by and through the Texas Department of Transportation, called the "State", and Hays County, acting by and through its duly authorized officials, called the "Local Government."

WITNESSETH

WHEREAS, a Master Agreement between the Local Government and the State has been adopted and states the general terms and conditions for transportation projects developed through this LPAFA; and,

WHEREAS, the Texas Transportation Commission passed Minute Order Number 112824 that provides for the development of, and funding for, the Project described herein; and,

WHEREAS, the Governing Body of the Local Government has approved entering into this LPAFA by resolution or ordinance dated April 17, 2012, which is attached to and made a part of this agreement as Attachment A for the development of the Project. A map showing the Project location appears in Attachment B, which is attached to and made a part of this agreement.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements of the parties, to be by them respectively kept and performed as hereinafter set forth, it is agreed as follows:

AGREEMENT

1. Period of the Agreement

The period of this LPAFA is as stated in the Master Agreement, without exception.

2. Termination of this LPAFA

Termination of this LPAFA shall be under the conditions as stated in the Master Agreement. This LPAFA may be terminated by the State if the Project is inactive for thirty-six (36) months or longer and no expenditures have been charged against state funds.

3. Amendments

Amendments to this LPAFA shall be made as described in the Master Agreement, without exception.

CSJ #s 0016-02-133, 0016-02-134 &
2293-01-023
District # 14 – Austin
Code Chart 64 # 50106
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4. Scope of Work

The scope of work for this LPAFA is described as:

Project IH 35 (0016-02-133) – At Cement Plant Road, FM 1626 and FM 150:

Prepare the engineering plans, specifications and estimates (PS&E), and provide design and construction survey and construction phase design services to:

Widen the existing bridge at Cement Plant Road to provide two additional lanes and add turnaround structures in both directions at this location.

Add new turnaround structures at FM 150 in both directions.

Add new northbound to southbound turnaround structure at FM 1626.

Project IH 35 (0016-02-134) – From FM 2001 to Kyle Crossing:

Prepare the engineering plans, specifications and estimates (PS&E), and provide design and construction survey and construction phase design services to add and reconfigure entrance and exit ramps to IH 35 and a new northbound to southbound turnaround structure at FM 2001.

Project FM 2439 (2293-01-023) – From Posey Road to Centerpoint Road:

Prepare the engineering plans, specifications and estimates (PS&E), and provide design and construction survey and construction phase design services to add a center turn lane and shoulders.

5. Right of Way and Real Property

- A.** Right of way and real property acquisition shall be the responsibility of the Local Government. Title to right of way and other related real property must be acceptable to TxDOT before funds may be expended for the improvement of the right of way or real property.
- B.** If the Local Government is the owner of any part of the Project site under this agreement, the Local Government shall permit TxDOT or its authorized representative access to occupy the site to perform all activities required to execute the work.
- C.** All parties to this agreement will comply with and assume the costs for compliance with all the requirements of Title II and Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Title 42 U.S.C.A. Section 4601 et seq., including those provisions relating to incidental expenses incurred by the property owners in conveying the real property to the Local Government, and benefits applicable to the relocation of any displaced person as defined in 49 CFR Section 24.2(g). Documentation to support such compliance must be maintained and made available to TxDOT and its representatives for review and inspection.
- D.** The Local Government shall assume all costs and perform necessary requirements to provide any necessary evidence of title or right of use in the name of the Local Government to the real property required for development of the Project. The evidence of title or rights shall be

acceptable to TxDOT, and be free and clear of all encroachments. The Local Government shall secure and provide easements and any needed rights of entry over any other land needed to develop the Project according to the approved Project plans. The Local Government shall be responsible for securing any additional real property required for completion of the Project.

- E. In the event real property is donated to the Local Government after the date of TxDOT's authorization, the Local Government will provide all documentation to TxDOT regarding fair market value of the acquired property. TxDOT will review the Local Government's appraisal, determine the fair market value and credit that amount towards the Local Government's financial share. If donated property is to be used as a funding match, it may not be provided by the Local Government. TxDOT will not reimburse the Local Government for any real property acquired before execution of this agreement and environmental clearance has been obtained.
- F. The Local Government shall prepare real property maps, property descriptions, and other data as needed to properly describe the real property and submit them to TxDOT for approval prior to the Local Government acquiring the real property. Tracings of the maps shall be retained by the Local Government for a permanent record.
- G. The Local Government agrees to make a determination of property values for each real property parcel by methods acceptable to TxDOT and to submit to TxDOT a tabulation of the values so determined, signed by the appropriate Local Government representative. The tabulations shall list the parcel numbers, ownership, acreage and recommended compensation. Compensation shall be shown in the component parts of land acquired, itemization of improvements acquired, damages (if any) and the amounts by which the total compensation will be reduced if the owner retains improvements. This tabulation shall be accompanied by an explanation to support the determined values, together with a copy of information or reports used in calculating all determined values. Expenses incurred by the Local Government in performing this work may be eligible for reimbursement after the Local Government has received written authorization by TxDOT to proceed with determination of real property values. TxDOT will review the data submitted and may base its reimbursement for parcel acquisitions on these values.
- H. For the FM 2439 project, reimbursement for real property costs will be made to the Local Government for real property purchased in an amount not to exceed ninety percent (90%) of the cost of the real property purchased in accordance with the terms and provisions of this agreement. Reimbursement will be in an amount not to exceed ninety percent (90%) of TxDOT's predetermined value of each parcel, or the net cost of the parcel, whichever is less.
- I. For the IH 35 project, reimbursement for real property costs will be made to the Local Government for real property purchased in an amount not to exceed one hundred percent (100%) of the cost of the real property purchased in accordance with the terms and provisions of this agreement. Reimbursement will be in an amount not to exceed one hundred percent (100%) of TxDOT's predetermined value of each parcel, or the net cost of the parcel, whichever is less.

CSJ #s 0016-02-133, 0016-02-134 &
2293-01-023
District # 14 – Austin
Code Chart 64 # 50106
Project: Preliminary Design for
Proposition 12 Projects
Federal Highway Administration
CFDA # 20.205
Not Research and Development

In addition, reimbursement will be made to the Local Government for necessary payments to appraisers, expenses incurred in order to assure good title, and costs associated with the relocation of displaced persons and personal property as well as incidental expenses.

- J. If the Project requires the use of real property to which the Local Government will not hold title, a separate agreement between the owners of the real property and the Local Government must be executed prior to execution of this agreement. The separate agreement must establish that the Project will be dedicated for public use for a period of not less than 10 (ten) years after completion. The separate agreement must define the responsibilities of the parties as to the use of the real property and operation and maintenance of the Project after completion. The separate agreement must be approved by TxDOT prior to its execution. A copy of the executed agreement shall be provided to TxDOT.

6. Utilities

For applicable utilities along IH 35 utilities will be reimbursed by the State in accordance with Transportation Code Section 203.092. For applicable utilities along FM 2439, adjustment of utilities will be provided by Local Government.

7. Environmental Assessment and Mitigation

Environmental assessment and mitigation will be carried out as stated in the Master Agreement. Additionally, before the advertisement for bids, the Local Government shall provide to the State written documentation from the appropriate regulatory agency or agencies that all environmental clearances have been obtained.

8. Compliance with Texas Accessibility Standards and ADA

Compliance with Texas Accessibility Standards and the Americans with Disabilities Act (ADA) will be as stated in the Master Agreement, without exception.

9. Architectural and Engineering Services

Architectural and engineering services will be provided by the Local Government. The Local Government is responsible for performance of any required architectural or preliminary engineering work. For projects on the state highway system, the design shall, at a minimum conform to applicable State manuals. For projects not on the state highway system, the design shall, at a minimum, conform to applicable *American Association of State Highway and Transportation Officials* design standards. The State will review and approve work. In procuring professional services, the parties to this agreement must comply with federal requirements cited in 23 CFR Part 172 if the project is federally funded and with Texas Government Code 2254, Subchapter A, in all cases.

10. Construction Responsibilities

Construction responsibilities will be carried out by the State as stated in the Master Agreement.

11. Project Maintenance

Project maintenance will be undertaken as provided for in the Master Agreement, without exception.

CSJ #s 0016-02-133, 0016-02-134 &
2293-01-023
District # 14 – Austin
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Not Research and Development

12. Local Project Sources and Uses of Funds

- A.** A Project Budget Estimate is provided in Attachment C. The State will not reimburse the Local Government for any work performed before the Advance Funding Agreement is fully executed by the State.
- B.** A Source of Funds estimate based on the Transportation Improvement Program (TIP) is also provided in Attachment C. Attachment C shows the percentage and estimated dollar amount to be contributed to the project by state and local sources. The parties agree that the LPAFA may be amended from time to time as required to meet the funding commitments based on revisions to the TIP or State Letter of Authority.
- C.** The Local Government is responsible for all non-federal and non-state funding, including any project cost overruns, unless otherwise provided for in this agreement or through amendment of this agreement.
- D.** Prior to the performance of any engineering review work by the State, the Local Government will pay to the State the amount specified in Attachment C. At a minimum, this amount shall equal the Local Government's funding share for the estimated cost of preliminary engineering for the project. At least sixty (60) days prior to the date set for receipt of the construction bids, the Local Government shall remit its remaining financial share for the State's estimated construction oversight and construction costs.
- E.** 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.
- F.** 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 may be applied by the State to the Local Government's contractual obligations to the State under another advance funding agreement with approval by appropriate personnel of the Local Government.
- G.** 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.
- H.** The state auditor may conduct an audit or investigation of any entity receiving funds from the State directly under this contract or indirectly through a subcontract under this contract.
Acceptance of funds directly under this 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. Any 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.

- I. Payment under this contract beyond the end of the current fiscal biennium is subject to availability of appropriated funds. If funds are not appropriated, this contract shall be terminated immediately with no liability to either party.
- J. The Local Government is authorized to submit requests for reimbursement by submitting the original of an itemized invoice in a form and containing all items required by the State no more frequently than monthly and no later than ninety (90) days after costs are incurred. If the Local Government submits invoices more than ninety (90) days after the costs are incurred, and if federal funding is reduced as a result, the State shall have no responsibility to reimburse the Local Government for those costs.

13. 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.

14. Incorporation of Master Agreement Provisions

This LPAFA incorporates all of the governing provisions of the Master Agreement in effect on the date of final execution of this LPAFA, unless such Master Agreement provision is specifically excepted in this agreement.

15. 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.

16. Debarment Certification

The parties are prohibited from making any award at any tier to any party that is debarred or suspended or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549, "Debarment and Suspension." By executing this Agreement, the Local Government certifies that it is not currently debarred, suspended, or

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otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549 and further certifies that it will not do business with any party that is currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549. The parties to this contract shall require any party to a subcontract or purchase order awarded under this contract to certify its eligibility to receive federal funds and, when requested by the State, to furnish a copy of the certification.

17. Cost Principles and Office of Management and Budget (OMB) Audit Requirements

In order to be reimbursed with federal funds, the parties shall comply with the Cost Principles established in OMB Circular A-87 that specify that all reimbursed costs are allowable, reasonable, and allocable to the Project.

18. Notices

All notices to either party by the other under this agreement shall be delivered personally or sent by certified or U.S. mail, postage prepaid, addressed to such party at the following addresses:

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

All notices shall be deemed given on the date delivered or deposited in the mail. 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 notices shall be delivered personally or by certified U.S. mail, and the request shall be carried out by the other party.

19. Civil Rights Compliance

The Local Government shall comply with the regulations of the U.S. Department of Transportation as they relate to non-discrimination (49 CFR Part 21 and 23 CFR Part 200), and Executive Order 11246 titled "Equal Employment Opportunity," as amended by Executive Order 11375 and supplemented in the Department of Labor Regulations (41 CFR Part 60).

20. Disadvantaged Business Enterprise (DBE) Program Requirements Not Applicable

- A. The parties shall comply with the Disadvantaged Business Enterprise Program requirements established in 49 CFR Part 26.
- B. The Local Government shall adopt, in its totality, the State's federally approved DBE program.
- C. The Local Government shall set an appropriate DBE goal consistent with the State's DBE guidelines and in consideration of the local market, project size, and nature of the goods or

services to be acquired. The Local Government shall have final decision-making authority regarding the DBE goal and shall be responsible for documenting its actions.

- D. The Local Government shall follow all other parts of the State's DBE program referenced in TxDOT Form 2395, Memorandum of Understanding Regarding the Adoption of the Texas Department of Transportation's Federally-Approved Disadvantaged Business Enterprise by Entity, and attachments found at web address http://txdot.gov/business/business_outreach/mou.htm.
- E. The Local Government shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any U.S. Department of Transportation (DOT)-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Local Government shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non-discrimination in award and administration of DOT-assisted contracts. The State's DBE program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Local Government of its failure to carry out its approved program, the State may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).
- F. Each contract the Local Government signs with a contractor (and each subcontract the prime contractor signs with a sub-contractor) must include the following assurance: *The contractor, sub-recipient, or sub-contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this agreement, which may result in the termination of this agreement or such other remedy as the recipient deems appropriate.*

21. Federal Funding Accountability and Transparency Act Requirements Not Applicable

- A. Any recipient or sub-recipient of funds under this Agreement agrees to comply with the Federal Funding Accountability and Transparency Act (FFATA) and implementing regulations at 2 CFR Part 170, including Appendix A. This Agreement is subject to the following award terms: <http://edocket.access.gpo.gov/2010/pdf/2010-22705.pdf> and <http://edocket.access.gpo.gov/2010/pdf/2010-22706.pdf>.
- B. For sub-awards greater than \$25,000, the Local Government, as a recipient of federal funding, agrees that it shall:
 - 1. Obtain and provide to the State and the Federal government, a Central Contracting Registry (CCR) number with the Federal government (Federal Acquisition Regulation, Part 4, Sub-part 4.1100). The CCR number may be obtained by visiting the CCR website whose address is: <https://www.bpn.gov/ccr/default.aspx>;
 - 2. Obtain and provide to the State and the Federal government, a Data Universal Numbering System (DUNS) number, a unique nine-character number that allows the Federal government to track the distribution of federal money. The DUNS number may be

requested free of charge for all businesses and entities required to do so by visiting the Dun & Bradstreet (D&B) on-line registration website <http://fedgov.dnb.com/webform>; and

3. Report the total compensation and names of its top executives to the State and Federal government if:
 - i. More than 80% of annual gross revenues are from the Federal government, and those revenues are greater than \$25,000,000 annually; and
 - ii. Compensation information is not already available through reporting to the U.S. Securities and Exchange Commission (SEC).

22. Single Audit Report

- A. The parties shall comply with the requirements of the Single Audit Act of 1984, P.L. 98-502, ensuring that the single audit report includes the coverage stipulated in OMB Circular A-133.
- B. If threshold expenditures of \$500,000 or more are met during the Local Government's fiscal year, the Local Government must submit a Single Audit Report and Management Letter (if applicable) to TxDOT's Audit Office, 125 E. 11th Street, Austin, TX 78701 or contact TxDOT's Audit Office at http://www.txdot.gov/contact_us/audit.htm.
- C. If expenditures are less than \$500,000 during the Local Government's fiscal year, the Local Government must submit a statement to TxDOT's Audit Office as follows: "We did not meet the \$500,000 expenditure threshold and therefore, are not required to have a single audit performed for FY _____."
- D. For each year the project remains open for federal funding expenditures, the Local Government will be responsible for filing a report or statement as described above. The required annual filing shall extend throughout the life of the agreement, unless otherwise amended or the project has been formally closed out and no charges have been incurred within the current fiscal year.

23. Signatory Warranty

Each signatory warrants that the signatory has necessary authority to execute this agreement on behalf of the entity represented.

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Federal Highway Administration
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Not Research and Development

THIS AGREEMENT IS EXECUTED by the State and the Local Government in duplicate.

THE LOCAL GOVERNMENT



Signature

ROBERT COBB, M.D.

Typed or Printed Name

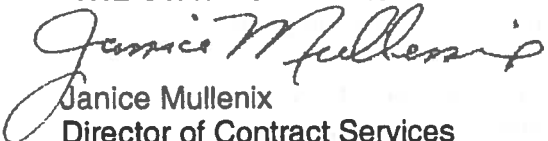
HAYS COUNTY JUDGE

Title

4-17-2012

Date

THE STATE OF TEXAS



Janice Mullenix

Director of Contract Services

Texas Department of Transportation

May 1, 2012

Date

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**ATTACHMENT A
RESOLUTION OR ORDINANCE**

RESOLUTION

STATE OF TEXAS §
COUNTY OF HAYS §

WHEREAS, the Texas Transportation Commission on September 29, 2011 approved Proposition 12 funding for major improvement projects on IH 35 and FM 2439 (Hunter Road) in Hays County; and

WHEREAS, the TxDOT Austin District has requested that Hays County provide all preliminary design services for the two approved projects; and

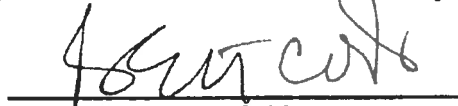
WHEREAS, the TxDOT Austin District has proposed a Local Project Advance Funding Agreement (LPAFA) between Hays County and TxDOT specifying the scope of services for Hays County to undertake with compensation payment by TxDOT for those services; and

WHEREAS, Hays County intends to procure consultant services to carry out the scope of services outlined in the Local Project Advance Funding Agreement in accordance with established Hays County procurement practices; and

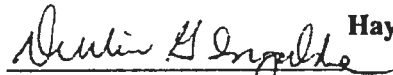
NOW, THEREFORE, BE IT RESOLVED that the Hays County Commissioners Court authorizes Hays County Judge Bert Cobb to negotiate and sign a Local Project Advance Funding Agreement with TxDOT for the proposed design services for IH 35 and FM 2439; and;

BE IT FURTHER RESOLVED that the Hays County Commissioners Court directs Hays County staff to continue with procurement of professional consultant services initiated on April 4 as described in the Local Project Advance Funding Agreement in accordance with established Hays County procurement practices and TxDOT requirements.

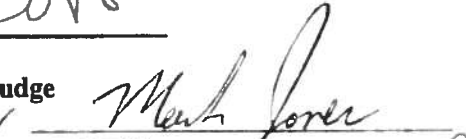
RESOLVED, ORDERED, AND DECLARED this the 17th day of April 2012.

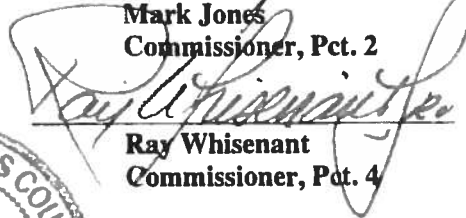


Bert Cobb
Hays County Judge


Debbie Gonzales Ingalsbe
Commissioner, Pct. 1


Will Conley
Commissioner, Pct. 3


Mark Jones
Commissioner, Pct. 2


Ray Whisenant
Commissioner, Pct. 4

ATTEST:

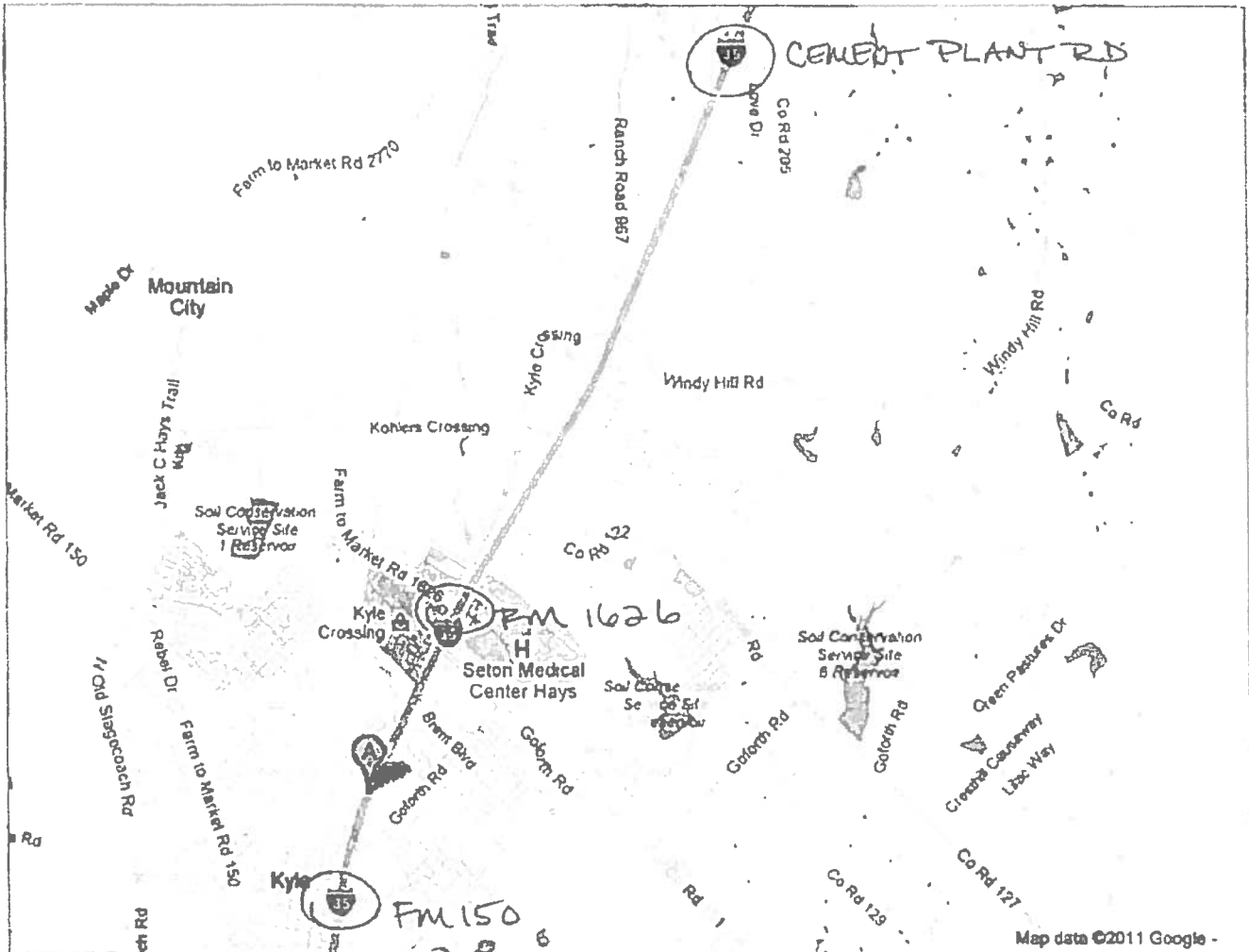

Liz Q. Gonzalez
Hays County Clerk



Not Research and Development

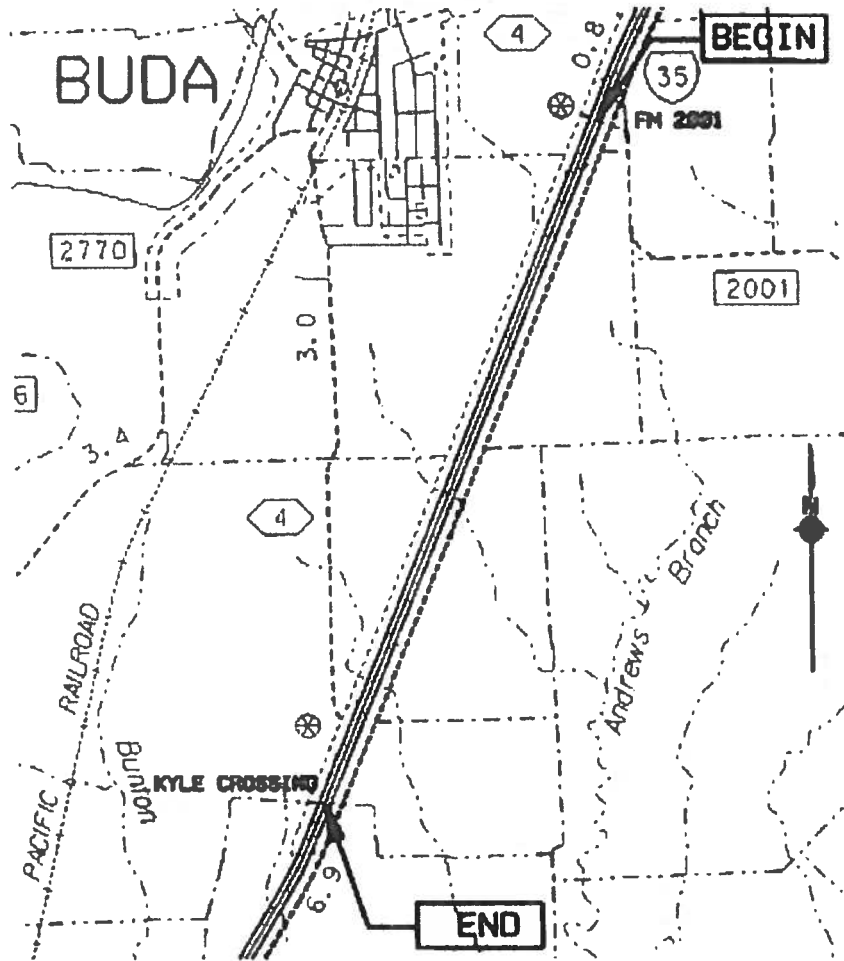
ATTACHMENT B

PROJECT LOCATION MAP



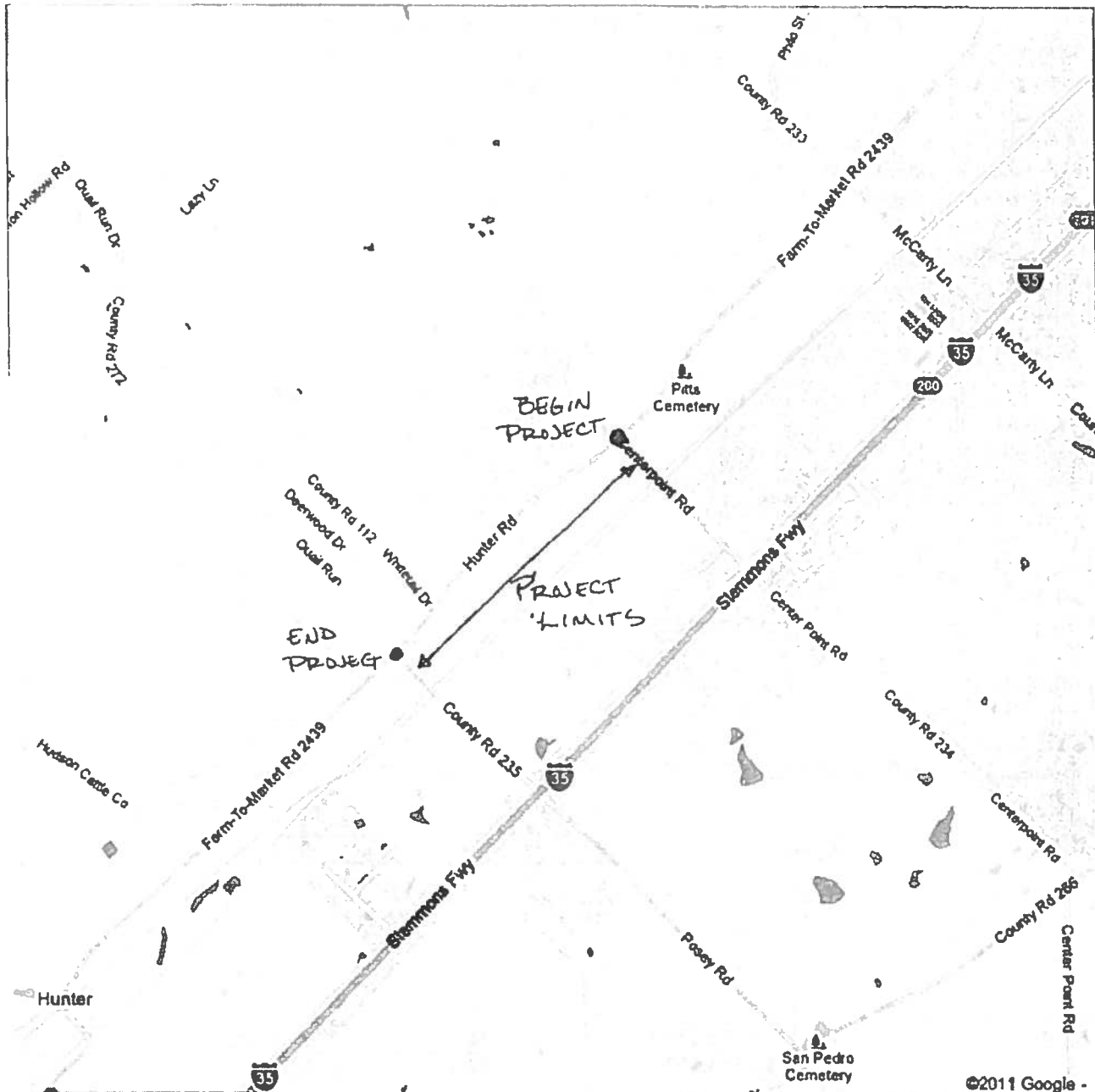
I-35 @ Cement Plant Road, FM 150 and FM 1626

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I-35 – FM 2001 to Kyle Crossing

CSJ #s 0016-02-133, 0016-02-134 &
 2293-01-023
 District # 14 – Austin
 Code Chart 64 # 50106
 Project: Preliminary Design for
 Proposition 12 Projects
 Federal Highway Administration
 CFDA # 20.205
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FM 2439 – Centerpoint Rd to Posey Rd

CSJ #s 0016-02-133, 0016-02-134 &
2293-01-023
District # 14 – Austin
Code Chart 64 # 50106
Project: Preliminary Design for
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Federal Highway Administration
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ATTACHMENT C PROJECT BUDGET ESTIMATE AND SOURCE OF FUNDS

The Local Government shall submit 60% PS&E to the Austin District Design Office for review by October 1, 2012, to meet the Prop 12 obligation deadline. Failure to meet the milestone date could result in the State removing funding from the Project. A project development schedule of design activities shall be supplied to the TxDOT South Travis Area Engineer office upon initiation of the Project. The Local Government shall submit a copy of the redlined plans provided by the State with all applicable plan submittals to indicate that QC/QA was undertaken. The Local Government shall submit the completed PS&E to the State for review and approval a minimum of 5 months prior to the date of receipt of bids. Costs shown below are the maximum obligated amounts for each project respectively. Funds are not transferrable between projects. The Local Government will then be responsible for **100%** of all costs above these amounts.

CSJ: 0016-02-133								
Description		Total Estimated Cost	Federal Participation		State Participation		Local Participation	
			%	Cost	%	Cost	%	Cost
Environmental (By LG)		\$20,000	0%	\$0	100%	\$20,000	0%	\$0
Preliminary Engineering (By LG)		\$730,000	0%	\$0	100%	\$730,000	0%	\$0
Subtotal		\$750,000		\$0		\$750,000		\$0
CSJ: 0016-02-134								
Environmental (By LG)		\$20,000	0%	\$0	100%	\$20,000	0%	\$0
Preliminary Engineering (By LG)		\$443,435	0%	\$0	100%	\$443,435	0%	\$0
Subtotal		\$463,435		\$0		\$463,435		\$0
CSJ: 2293-01-023								
Environmental (By LG)		\$20,000	0%	\$0	100%	\$20,000	0%	\$0
Preliminary Engineering (By LG)		\$430,000	0%	\$0	100%	\$430,000	0%	\$0
Subtotal		\$450,000		\$0		\$450,000		\$0
State Costs for Review, Inspection and Oversight of Work Performed								
Direct State Costs .5% Overall (\$71,752)	Environmental (20%)	\$14,350	0%	\$0	100%	\$14,350	0%	\$0
	Right of Way (20%)	\$14,350	0%	\$0	100%	\$14,350	0%	\$0
	Preliminary Engineering (40%)	\$28,702	0%	\$0	100%	\$28,702	0%	\$0
	Utility (20%)	\$14,350	0%	\$0	100%	\$14,350	0%	\$0
Construction Phase								
Direct State Costs (.4%)		\$49,688	0%	\$0	100%	\$49,688	0%	\$0
Indirect State Costs (7.27%)		\$120,932	0%	\$0	100%	\$120,932	0%	\$0
Subtotal		\$242,372		\$0		\$242,372		\$0
Total		\$1,905,807		\$0		\$1,905,807		\$0

Initial payment by the Local Government to the State: **\$0.00**

Payment by the Local Government to the State before construction: **\$0.00**

Estimated total payment by the Local Government to the State **\$0.00**

This is an estimate. The final amount of Local Government participation will be based on actual costs.

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 an Interlocal Agreement between Travis County and Hays County for the purpose of acquiring project Rights of Way (ROW) and associated easements located in Travis County to accomplish the FM 1626 Safety Expansion Project.

TYPE OF ITEM: MISCELLANEOUS

PREFERRED MEETING DATE REQUESTED: May 8, 2012

AMOUNT REQUIRED: N/A

LINE ITEM NUMBER OF FUNDS REQUIRED: N/A

REQUESTED BY: Jones, Borcheding

SPONSORED BY: Jones

SUMMARY: This agreement will allow Hays County to acquire the rights of way and associated easements in Travis County necessary for the expeditious completion of the FM 1626 Safety Expansion Project.

FM 1626 SAFETY EXPANSION PROJECT
INTERLOCAL COOPERATION AGREEMENT
HAYS COUNTY AND TRAVIS COUNTY

This Agreement is made and entered into by and between Hays County, Texas, ("Hays"), and Travis County, Texas, ("Travis"), hereinafter collectively referred to as the "Parties", upon the premises and for the consideration stated herein.

RECITALS

WHEREAS, Hays County has entered into a Pass-Through Financing Agreement with the Texas Department of Transportation ("TXDOT") to improve FM 1626 North Between FM 967 and Brodie Lane known as the FM 1626 Safety Expansion Project (the "Project") located within both Hays County and Travis County; and

WHEREAS, because expeditious completion of the Project will benefit the citizens of Hays County, Hays County is currently assisting TXDOT by acquiring the Project right-of-way and associated easements located in Travis County;

WHEREAS, Hays County can further expedite completion of the Project, and thus further benefit its citizens, by assisting with the acquisition of Project right-of-way and associated easements in Travis County;

WHEREAS, the Parties desire to cooperate in and establish their respective responsibilities for acquisition of the Project right-of-way and associated easements in Travis County; and

WHEREAS, the Parties intend to conform this Agreement in all respects with the Interlocal Cooperation Act, Texas Government Code Section 791.001, et seq.;

PROJECT DESCRIPTION

The "FM1626 Safety Expansion Project" consists of widening FM 1626 to a four lane section with twelve (12) foot lanes and a fourteen (14) foot left turn lane, improved shoulders and a new bridge structure at Little Bear Creek. The total project cost is estimated to be \$36,400,000.00.

AGREEMENTS

Now, therefore, the Parties agree as follows:

A. MANAGEMENT AND COORDINATION

1. Hays designates Jerry Borcharding, P.E. (or successor), Director Executive Manager of the Hays County Transportation and Natural Resources Department ("DirectorExecutive Manager"), to act on behalf of Hays with respect to the services to be performed under this Agreement. The Executive Manager Director will have complete authority to interpret and define Hays' policies and decisions with respect to the services. The Director Executive Manager may designate other representatives to transmit instructions and receive information.
2. The Travis County Judge shall designate a person to act on behalf of Travis ("Travis Designee") with respect to the services to be performed under this Agreement. The Travis Designee will have complete authority to interpret and define Hays' policies and decisions with respect to the services. The Travis Designee may designate other representatives to transmit instructions and receive information. The Travis Designee shall be responsible for determining whether any approval or action by Travis under this Agreement can be made or

taken by the Travis Designee or requires presentation to and/or a vote of the full Travis County Commissioners Court, and Hays may rely and act on those determinations. Travis is not obligated to purchase any parcel until funds are provided in its Fiscal Year 2012 budget approved by the Travis County Commissioners Court.

3. The Executive ManagerDirector or his designee will regularly report on the status of the services to Hays.

B. SERVICES

1. Hays will assist Travis by managing the process for acquisition of Project right-of-way and associated easements in Travis County. Travis agrees to provide assistance in negotiations with landowners in Travis County only in coordination with Hays' right-of-way negotiators.

2. The Parties agree to comply with applicable federal and state laws, regulations, and procedures in the acquisition of the necessary right-of way and associated easements for the Project, including all applicable TXDOT policies and procedures.

3. Hays will provide the following services to Travis with regard to the acquisition of Project right-of-way and associated easements in Travis County.

- ☐ a. In coordination with Travis, Hays will attempt to obtain donations of as many parcels as reasonably possible.

- ☐

- ☐ b. For all parcels, Hays will obtain any necessary title commitments, appraisals, land plans, appraisal reviews, and other professional services pursuant to its standard contracts for professional services with title companies, appraisers, land planners, and other professionals.

- ☐

- ☐ c. Hays will obtain the approval of Travis for the appraised value of any parcel to be purchased. Upon approval of a parcel's appraised value by Travis, Hays will transmit to the owner an offer of the approved appraised value.

- ☐

- ☐ d. Hays will transmit all counter-offers to Travis Hays for its approval and make any counter-offers approved by TravisHays, including any final offers to any owners who appear unwilling to agree to sell a parcel.

- ☐

- ☐ e. Hays will prepare all necessary contracts and documents, including any closing documents not provided by the landowner or the title company, and coordinate the closing of all conveyances for all parcels.

- ☐

- ☐ f. Hays will manage relocation of utilities to provide clear right-of-way for construction of the Project on a timely basis. Travis will coordinate with and act on behalf of TXDOT with respect to relocation of improvements or assets.

- ☐

- ☐ g. If condemnation of a parcel is necessary, Hays will provide a full copy of its file to the Travis County Attorney and will, to the extent reasonable and necessary for briefing and testimony, make available the Hays County right-of-way negotiator who negotiated with the condemnee on that parcel.

- ☐

4. To expedite approval of acquisitions of parcels and payment for services under this agreement, Hays' Right of Way Manager shall regularly report to Travis and the Executive ManagerDirector on the status of negotiations and payments coming due under this agreement.

5. If Travis finds Hays deficient in providing any services, Travis shall immediately report the deficiencies either in person or by telephone conversation to the Executive

Manager~~Director~~ and the Right-of-Way Manager, with an additional written notice to be deposited in the U.S. Mail within 24 hours. The Executive Manager~~Director~~ shall direct any appropriate remedial action.

C. FINANCIAL OBLIGATIONS

1. In consideration of the benefits to Hays County's citizens of expeditious completion of the Project, Hays shall bear the costs of the services its employees provide to Travis related to acquisition of right-of-way and associated easements in Travis County.
2. Travis shall bear the following costs related to acquisition of Project right-of-way and associated easements in Travis County:
 - 2 a. Costs of professional services, including title commitments and services, appraisals and appraisal reviews, land plans and land planning services, expert witnesses, etc., at the rates provided by Hays' professional services contracts or other agreements for such services.
 - 2 b. Actual acquisition costs, including purchase price for Project right-of-way and associated easements, title insurance, closing costs, damages and/or costs to cure, damages to or relocation or replacement costs for fences, improvements, utilities, etc.
3. Hays shall either pay directly for professional services or actual acquisition costs covered by this agreement or, upon the request of the Executive Manager~~Director~~, Travis shall pay such costs to a parcel owner, title company, utility company, or other entity that is entitled to receive payment for such costs. For costs Hays has paid or intends to pay directly, Travis shall pay to Hays the amount necessary to pay those costs within thirty (30) calendar days of receiving from Hays notice of that amount, which may be an estimate if it is an amount Hays has not yet paid.
4. The Hays County Treasurer shall act as Escrow Agent for the management of Travis' funds and shall deposit the funds in an interest bearing account. Hays shall invest the funds in accordance with the Public Funds Investment Act, Tex. Rev. Civ. Stat. Ann. Art. 842-A, and other applicable laws, or bond covenants. The interest, which accrues on the escrowed funds, shall be credited to Travis' account and may be used to pay any of the obligations of Hays under this agreement. Any funds remaining in Travis' account upon the completion of the services shall be returned to Travis. Hays shall provide Travis, at least quarterly, with an accounting of the deposits to and disbursements from Travis' escrow account. Hays will make its records available, at reasonable request, to Travis auditors, or its independent financial advisors or other professionals who provide arbitrage rebate calculations to Travis.
5. In the event that additional funding is required for the acquisition of the right-of-way for the Project, the Parties may amend this Agreement or enter into a separate agreement to provide such additional funding.
6. As required by law, the party or parties paying for the performance of governmental functions or services shall make payments therefore from current revenues available to the paying party.
7. Travis and Hays will be responsible for their respective shares of any costs associated with the development of the Project that are not covered by this agreement

D. PARCELS PARTLY IN BOTH HAYS AND TRAVIS COUNTIES

1. If condemnation of a parcel located in both Travis and Hays is necessary, both Travis and Hays shall approve the institution of condemnation proceedings on a timely basis. Hays will prosecute condemnation actions for such parcels. If it is necessary to condemn a parcel located wholly within Travis County, Travis will condemn that parcel at its expense and on a timely

basis.

2. Both professional services and actual acquisition costs related to any parcel located partly in both Travis and Hays counties shall be pro-rated according to the relative amount of acreage in the respective counties, including the pro-rata amount of the purchase price in a purchase contract, the award of the Special Commissioners, and the amount of any judgments in condemnation actions, including the costs of court and expert witnesses.

E. LIABILITY

The Parties agree that, to the extent allowed by Texas law, they are respectively responsible for their own proportionate share of any liability arising out of or in connection with the activities to be undertaken pursuant to this Agreement. If Travis fails to timely fund a purchase contract for a parcel as provided in Section C, Travis will be responsible, to the exclusion of any and all responsibility of Hays, for any and all costs associated with the failure to timely fund such a contract, including any damages, increased purchase cost, cost of condemnation, attorney's fees and any other costs whatsoever resulting from such failure to timely provide the necessary funds.

F. ACCESS TO PROJECT PROPERTY

The Parties acknowledge that it may be necessary for Travis and Hays, and their respective employees and professional consultants to enter onto real property in the Parties' respective jurisdictions to perform surveying and other professional services for the development of the Project. Therefore, the Parties agree to provide any necessary assistance, including the initiation and prosecution of legal proceedings, to secure the right of the Parties and their respective employees and consultants to enter onto such real property as is necessary in the development of the Project.

G. FORCE MAJEURE

In the event that the performance by any of the Parties of any of their obligations or undertakings hereunder shall be interrupted or delayed by any occurrence not occasioned by its own conduct, whether such occurrence be an act of God, or the common enemy, or the result of war, riot, civil commotion, sovereign conduct, or the act of conduct of any person or persons not a party or privy hereto, then the respective party shall be excused from such performance for such period of time as is reasonably necessary after such occurrence to remedy the effects thereto.

H. NOTICE

Any notice given hereunder by either party to the other shall be in writing and may be effected by personal delivery in writing or by registered or certified mail, return receipt requested when mailed to the proper party, at the following addresses: Austin, Texas 78767

HAYS: To be designated by Hays County Judge under A.2 above.

COPY TO:

Mark Kennedy (or successor), Hays County Criminal District Attorney, 712
South Stagecoach Trail, Suite 2057, San Marcos, Texas 78666

TRAVIS: To be designated by Travis County Judge under A.2 above.

COPY TO: David Escamilla (or successor) Travis County Attorney P.O. Box 1748, Austin,
Texas 78767

I. MISCELLANEOUS

1. As used in this Agreement, whenever the context so indicates, the masculine, Feminine, or neuter gender and the singular of plural number shall each be deemed to include the others.
2. This Agreement contains the complete and entire Agreement between the Parties respecting the matters addressed herein and supersedes all prior negotiations, agreements, representations and understandings, if any, between the Parties respecting the Project. This Agreement may not be modified, discharged, or changed in any respect whatsoever except by a further agreement in writing duly executed by the Parties hereto. However, any consent, waiver, approval or authorization shall be effective, if signed by the party granting or making such consent, waiver, approval, or authorization. No official, representative, agent, or employee of either county has any authority to modify this Agreement, except pursuant to such express authority as may be granted by the county's commissioners court.
3. This Agreement takes effect upon the complete execution of the Agreement by the Parties and shall have an initial term of one year. Pursuant to section 791.011(f) of the Texas Government Code, this Agreement shall automatically renew on the 1st day of October of each calendar year unless otherwise validly terminated by the parties under section 4.
4. This Agreement may be terminated by the mutual agreement of the Parties.
5. The Parties hereto covenant and agree that they will execute other and further instruments and documents as are or may become necessary or convenient to effectuate and carry out the purposes of this Agreement.
6. Any clause, sentence, provision, paragraph, or article of this Agreement held by a court of competent jurisdiction to be invalid, illegal, or ineffective shall not impair, invalidate, or nullify the remainder of this Agreement, but the effect thereof shall be confined to the clause, sentence, provision, paragraph, or article so held to be invalid, illegal, or ineffective.
7. This Agreement shall be construed under the laws of the State of Texas and all obligations of the parties hereunder are performable in Travis County, Texas. Any suits pursued relating to this Agreement will be filed in a district court of Travis County, Texas.
8. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective legal representatives, successors, and assigns. No party may assign any rights under this Agreement without the written consent of the other parties. Except as otherwise expressly provided herein, nothing in this Agreement, express or implied, is intended to confer upon any person, other than the Parties hereto, any benefits, rights, or remedies under or by reason of this Agreement.
9. This Agreement may be executed simultaneously in one or several counterparts, each of which shall be deemed an original and all of which together constitute one and the same instrument. The terms of this Agreement shall become binding upon each party from and after the time that it executes a copy hereof. In like manner, from and after the time it executes a consent or other document authorized or required by the terms of the Agreement, such consent or other document shall be binding upon such party.
10. Hays and Travis Counties as units of local government, are authorized by §791.011 of the Texas Government Code to contract with each other to perform certain governmental

functions and services. As defined in §791.003 of the Texas Government Code, such governmental functions and services include purchase of right of ways .

11. Pursuant to §791.011(d)(1) of the Texas Government Code, this Agreement has been duly authorized by the governing body of both Hays and Travis Counties .

12. Pursuant to §791.011(d)(3) of the Texas Government Code, the Parties agree that the funds being committed by the County and the City under this Agreement shall be paid from current revenues available to Hays and Travis Counties, respectively.

Effective as of the later date set forth below:

HAYS COUNTY, TEXAS

By: _____
Bert Cobb M.D., County Judge

Date: _____

TRAVIS COUNTY, TEXAS

By: _____
Samuel T. Briscoe, County Judge

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:

12-4-1 Belterra Sawyer Ranch Propane Site (2 lots). Discussion and possible action to approve final plat.

TYPE OF ITEM: ACTION

PREFERRED MEETING DATE REQUESTED: May 8, 2012

AMOUNT REQUIRED: N/A

LINE ITEM NUMBER OF FUNDS REQUIRED: N/A

REQUESTED BY: Roxie McInnis

SPONSORED BY: Precinct 4 Commissioner Ray Whisenant

SUMMARY:

The Belterra Sawyer Ranch Propane Site is a proposed division of 22.506 acres of land located at the intersection of Belterra Drive and Sawyer Ranch Road in Precinct 4. The division will result in two lots, Lot 1 being 3.173 acres and Lot 2 being 19.333 acres.

Both lots will be served by surface water and public sewer by Hays County WCID #2.

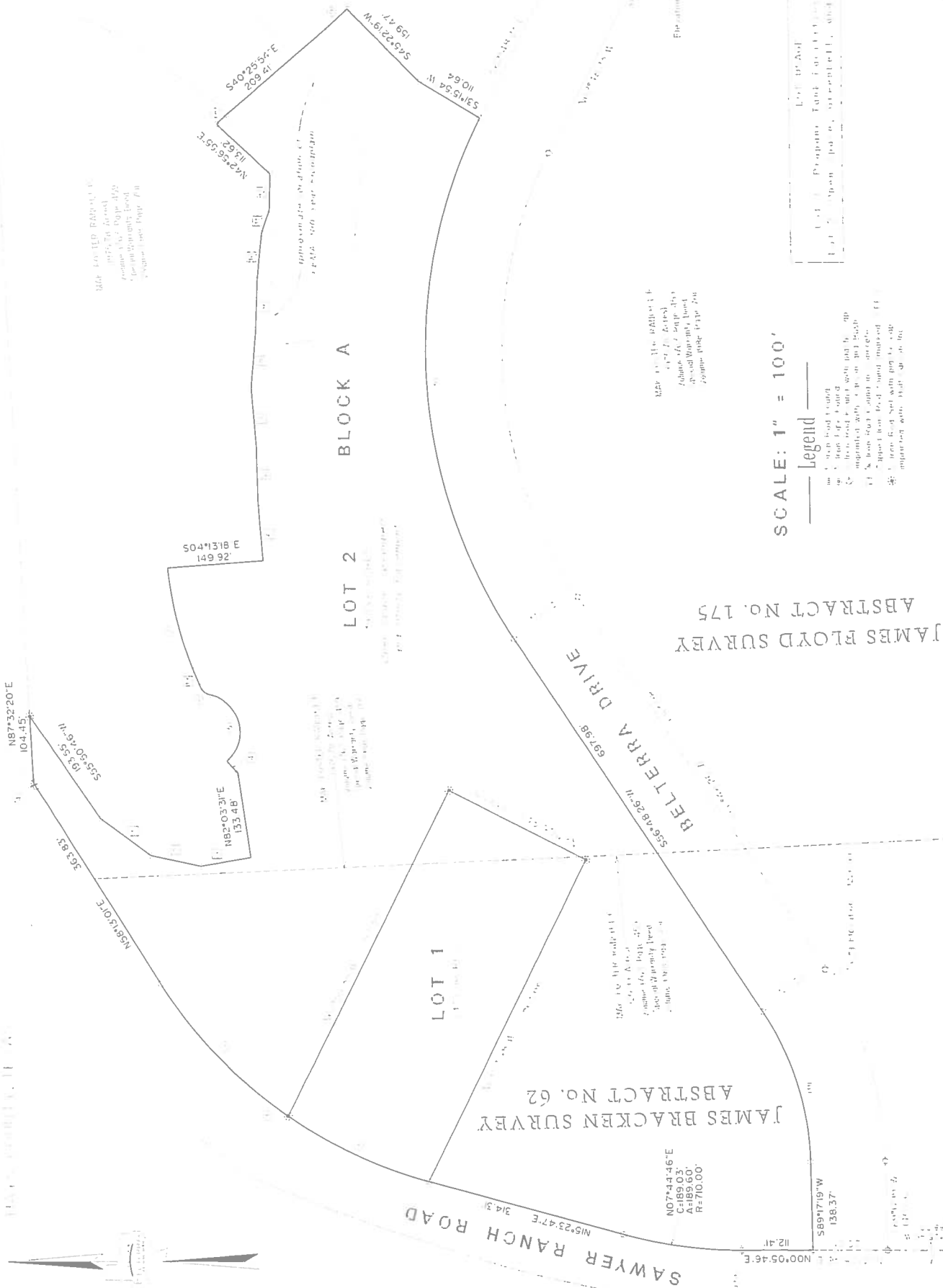
This property is located within the City of Dripping Springs' extra-territorial jurisdiction. The project was approved by the city on November 8, 2011.

PAGE 1 of 3

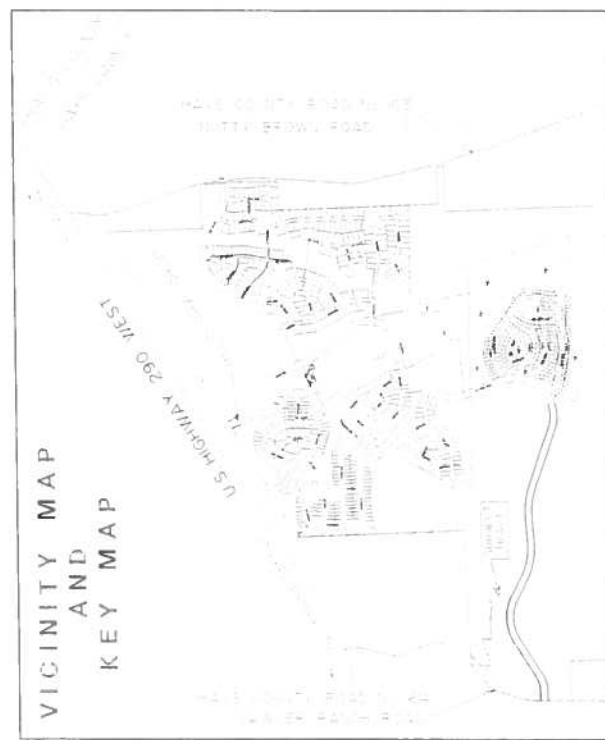
BELTERRA SAWYER RANCH PROPANE SITE

E.B. HARGRAVES SURVEY
ABSTRACT No. 240

Harold Lewis and wife,
Peggy Lewis
(45.00 Acres)
Volume 1241, Page 759
Warranty Deed



BELTERRA
SAWYER RANCH
PROPANE SITE



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:

11-4-46 Belterra Phase 2 Section 7 (57 lots). Discussion and possible action to approve final plat and accept fiscal surety in the amount of \$290,434.75.

TYPE OF ITEM: ACTION

PREFERRED MEETING DATE REQUESTED: May 8, 2012

AMOUNT REQUIRED: N/A

LINE ITEM NUMBER OF FUNDS REQUIRED: N/A

REQUESTED BY: Roxie McInnis

SPONSORED BY: Precinct 4 Commissioner Ray Whisenant

SUMMARY:

The preliminary plan for Belterra Phase 2 was originally approved in November 2002 as a 589 lot phase covering 812.83 acres. Since that time, nine sections have been platted with a total of 520 lots. Section 7 covers 22.038 acres and will result in 57 (49 residential, 8 open space/greenbelt) lots. Water and wastewater services will be provided to all lots by Hays County Water Control and Improvement District No. 1.



May 3, 2012

Hays County Judge
111 E. San Antonio Street
Suite 300
San Marcos, TX 78666

Attn: Hays County Judge
Phone: 512-393-2205

Re: Letter of Credit Num. LC 1240 issued in favor of Hays County Judge at the request of and for the account of IRC DevLand Austin, Ltd.; \$290,434.75

Dear Sir or Madam:

Enclosed we forward to you the original of the above-mentioned Letter of Credit LC 1240. We have also provided an advance scan copy of this today.

Should you require any additional information, please do not hesitate to call to the attention of the undersigned.

Very truly yours,

A handwritten signature in black ink that reads "Cathy Beynon". The signature is fluid and cursive, with the first name "Cathy" and last name "Beynon" clearly distinguishable.

Cathy Beynon
Vice President
Texas Capital Bank N.A.
Letter of Credit Unit
2000 McKinney Ave., Suite 700
Dallas, Texas 75201
Phone: 214/932-6831
Fax: 214/932-6750
e-mail: cathy.beynon@texascapitalbank.com

cc: IRC DevLand Austin, Ltd./Stephen A. Raub, Project Manager
Texas Capital Bank, N.A./Celli Lyon, Relationship Manager

Encl.



DATE: May 3, 2012

LETTER OF CREDIT NO. LC 1240

BENEFICIARY: Hays County Judge
111 E. San Antonio Street, Suite 300
San Marcos, TX 78666

APPLICANT: IRC DevLand Austin, Ltd.
16350 Blanco Rd., Suite 114
San Antonio, TX 78232

AMOUNT: US\$290,434.75
(TWO HUNDRED NINETY THOUSAND FOUR
HUNDRED THIRTY FOUR AND 75/100THS U.S.
DOLLARS)

EXPIRY DATE: May 8, 2013

PLACE OF EXPIRY: Texas Capital Bank, N.A.
Letter of Credit Unit
2000 McKinney Avenue, Suite 700
Dallas, Texas 75201
Phone: 214/932-6831/214/932-6762

Gentlemen:

Re: Belterra Phase 2, Section 7

We hereby establish our Irrevocable Letter of Credit No. LC 1240 in favor of Hays County Judge for account of IRC DevLand Austin, Ltd. This letter of credit is effective up to the aggregate amount of \$290,434.75 (Two Hundred Ninety Thousand Four Hundred Thirty Four and 75/100ths U.S. Dollars) and will remain in effect until May 8, 2013 or when the original letter of credit and all amendments(s), if any and a letter from Beneficiary authorizing its cancellation, are returned to the issuing bank. This Letter of Credit is given as assurance that all streets and drainage construction in Belterra Phase 2, Section 7 will be completed to County of Hays specifications. This letter of credit is available by payment(s) against presentation of Beneficiary's Sight draft(s) for up to the amount of this letter of credit and the following:

- (1) The original of this letter of credit and all amendment(s), if any.
- (2) Sight Draft(s) drawn under this Letter of Credit must be marked "Drawn under Texas Capital Bank, N.A., Dallas, Texas, Letter of Credit No. LC 1240 dated May 3, 2012".

Letter of Credit No. LC 1240;

Page 1 of 2

May 3, 2012
www.texascapitalbank.com

2000 McKinney Ave., Suite 700 Dallas, TX 75201
P 214.932.6600 F 214.932.6604




(3) A signed statement from Hays County Judge stating that: "The streets and drainage in Belterra Phase 2, Section 7 were not completed as defined in the plans and specifications approved by Hays County Commissioners' Court."

We hereby agree with you that all draft(s) drawn under and in compliance with the terms of the Credit will be honored upon presentation on or before the date of expiration hereof.

This Letter of Credit is subject to the Uniform Customs and Practice for Documentary Credits (2007 Revision), International Chamber of Commerce Publication No. 600.

Texas Capital Bank, N.A.



Authorized Signature
Title: VP

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 necessary additional construction phase services in accordance with Supplement No. 3 to Work Authorization No. 2 on the RM 1826 at Crystal Hill Road project in Precinct 4.

TYPE OF ITEM: Discussion / Approval

PREFERRED MEETING DATE REQUESTED: May 8, 2012

AMOUNT REQUIRED: \$7,694.00

LINE ITEM NUMBER OF FUNDS REQUIRED: 2008 Road Bond Program

REQUESTED BY: Pct. 4 Commissioner Ray Whisenant

SPONSORED BY: Pct 4 Commissioner Ray Whisenant

SUMMARY:

As construction staking began, concerns were raised by residents concerning the proposed construction over a portion of the roots of several large oaks for temporary pavement required to improve safety by maintaining two-way access into the various subdivisions during all phases of construction. The temporary pavement was placed as close to the existing ROW line as possible to maximize the distance to the trees in an attempt to limit damage. However, it still lied within the drip line and over tree roots.

Residents and home owner associations requested that the County investigate the possibility of obtaining a temporary construction easement from an adjacent property owner such that the detour pavement could be shifted away from the tree roots and limbs.

A meeting was held with the adjacent property owner and he agreed to allow the temporary detour pavement to be constructed on his property.

This change will require services not included in the initial CH2M Hill Construction Phase Services supplement as listed below:

- 1) Develop Meets & Bounds for temporary construction easement,
- 2) Revise detour alignment & profile, and
- 3) Revise construction phasing plans

In addition, Supplement No. 2 reserved funds for the potential redesign of bridge footing should the contractor request an alternate system which substantially reduced construction cost. The contractor did not make this request. The GEC recommends releasing these funds and applying to the work listed above.

Supplement No. 3 to Work Authorization No. 2 is attached for the Court's approval.

Requested funds are under the Professional Services Agreement compensation cap.

Funds are available within the project's bond program budget.

DESCRIPTION OF Item: Discussion and possible action to approve necessary additional construction phase services in accordance with Supplement No. 3 to Work Authorization No. 2 on the RM 1826 at Crystal Hill Road project in Precinct 4.

PREFERRED MEETING DATE REQUESTED: May 8, 2012

COUNTY AUDITOR

AMOUNT: \$7,694.00

LINE ITEM NUMBER: 2008 Road Bond Program

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: _____

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 a Supplement Services Amendment with Broaddus & Associates for services related to the Precinct 2 temporary and permanent facilities located at 5458 FM 2770 in Kyle, TX.

TYPE OF ITEM: ACTION

PREFERRED MEETING DATE REQUESTED: May 8, 2012

AMOUNT REQUIRED: not to exceed \$140,000

LINE ITEM NUMBER OF FUNDS REQUIRED: TBD

REQUESTED BY: Terry Whitman of Broaddus & Associates and Commissioner Precinct 2 Mark Jones

SPONSORED BY: Commissioner Precinct 2 Mark Jones

SUMMARY: Broaddus & Associates is the project manager for the Precinct 2 building project. The project manager agrees to perform professional services to provide strategic planning, procurement, and project management for the project.

See attachment.



May 1, 2012

County Judge Bert Cobb, MD
111 E. San Antonio Street, Suite 300
San Marcos, Texas 78666

Reference: Project Management Services for Hays County Precinct #2 Temporary and Permanent Facilities at 5458 FM 2770, Kyle TX

To: The Honorable Judge Bert Cobb, MD

We are pleased to submit this amendment for additional services for the Precinct #2 project for your execution.

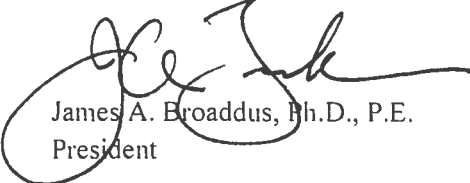
Several considerations of this price include:

- Our services are billed at the hourly rate shown in the Fee Schedule in the contract. You pay for only those services that you receive on a monthly basis.
- B&A's overhead and profit burden is nominal and compares favorably to the rest of our Industry.
- In a 2006 survey of full Project Management services, B&A was the most economical of the six private firms surveyed and to those in-house services offered by the University of Texas.
- B&A staff has an average of 25 years experience and include registered architects, professional engineers, project managers, schedulers, inspectors and staff proficient in every phase of design and construction.
- The services we provide to our client produce both tangible and intangible values that exceed our fees.

Finally, I am personally committed to exceeding the expectations of the Hays County Court, its employees and its residents. Experience and qualifications are nothing without commitment from the top of the company. My clients are my first priority and the record reflects that I am personally available to them whenever they need me. We appreciate this opportunity to continue working with your team.

Sincerely,

BROADDUS & ASSOCIATES, INC.



James A. Broaddus, Ph.D., P.E.
President



May 1, 2012

To: Hays County Judge Bert Cobb, MD

From: Brenda Jenkins, Broaddus & Associates

Subject: Amendment to the Agreement between Hays County and Broaddus & Associates, Inc. for Project Management Services, dated April 14, 2009

OVERVIEW OF SCOPE OF SERVICES:

Hays County has requested the performance of professional services to provide strategic planning, procurement and project management services of its Temporary and Permanent Precinct #2 Facilities. The expected duration of these services is from January 1, 2012 to March, 1 2013.

The professional services will conducted for the following project:

1. Hays County Precinct #2 Temporary and Permanent Facilities at 5458 FM 2770, Kyle TX

The project will be tracked and billed separately by project name and described in sufficient detail for accounting purposes.

SUMMARY OF FEES:

1. The total compensation for the Additional Services shall be at an hourly rate (Attachment 1), with a not-to-exceed fee of \$140,000.00, for professional services to provide strategic planning, procurement and project management services.

Owner will pay the Consultant the fee earned as billed on a monthly basis.

2. Owner shall pay Consultant for Reimbursable Expenses at actual cost thereof. Reimbursable Expenses shall include but not be limited to authorized third party consultants, permits and fees paid on behalf of Hays County, mileage, long distance telephone, and courier and overnight delivery charges.
3. Project Manager agrees to perform the Additional Services described above subject to and in accordance with the terms and provisions of the current agreement for professional services executed by the Parties on or about the 14th day of April, 2009.



4. Project Manager shall perform the services within the timeframe set by the Owner for each specific project.

This space is intentionally left blank.

**BROADDUS
& ASSOCIATES**
Executive Project Management & Cost Planning

IN WITNESS WHEREOF, the parties hereto have executed this Supplement Services Amendment One to the PROJECT MANAGEMENT SERVICES AGREEMENT between HAYS COUNTY and BROADDUS & ASSOCIATES, INC. made as of April 14, 2009, the Effective Date of which is indicated on page 1. All terms and conditions referenced in PROJECT MANAGEMENT SERVICES AGREEMENT shall apply unless otherwise noted herein.

OWNER:

By: Judge Bert Cobb, MD

Title: Hays County Judge

Address for giving notices:

Hays County Courthouse

111 E. San Antonio Street, Suite 300

San Marcos, Texas 78666

CONSULTANT:

By: James A. Broaddus, PhD., P.E.

Title: President & CEO

Address for giving notices:

1301 S. Capital of Texas Highway

Suite A-302

Austin, Texas 78746

Designated Representative:

Mark Jones

Title: County Commissioner Precinct #2

Phone Number: 512.262.2091

Mobile Number: 512.517.2925

E-mail Address:

mark.jones@co.hays.tx.us

Designated Representative:

Brenda Jenkins

Title: Area Manager

Phone Number: 512-329-8822

Facsimile Number: 512-329-8242

E-mail Address:

bjenkins@BroaddusAssociates.com

BROADDUS & ASSOCIATES

INNOVATIVE PROJECT MANAGEMENT AND PLANNING

Labor Category	2012 Rate
Area Manager	\$ 227
Senior Project Manager	\$ 191
Project Manager	\$ 157
Assistant Project Manager	\$ 139
Senior Construction Representative	\$ 122
Planning Director/Master Planner	\$ 196
Senior Planner/Programmer	\$ 174
Project Planner	\$ 115
Cost Estimator / Scheduler	\$ 127
CAD/Graphics	\$ 76
Administrative	\$ 64

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.

AGENDA ITEM:

Discussion and possible action to approve naming a private drive off Logans Run to Abner Ross Rd.

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

PREFERRED MEETING DATE REQUESTED: May 8, 2012

AMOUNT REQUIRED:

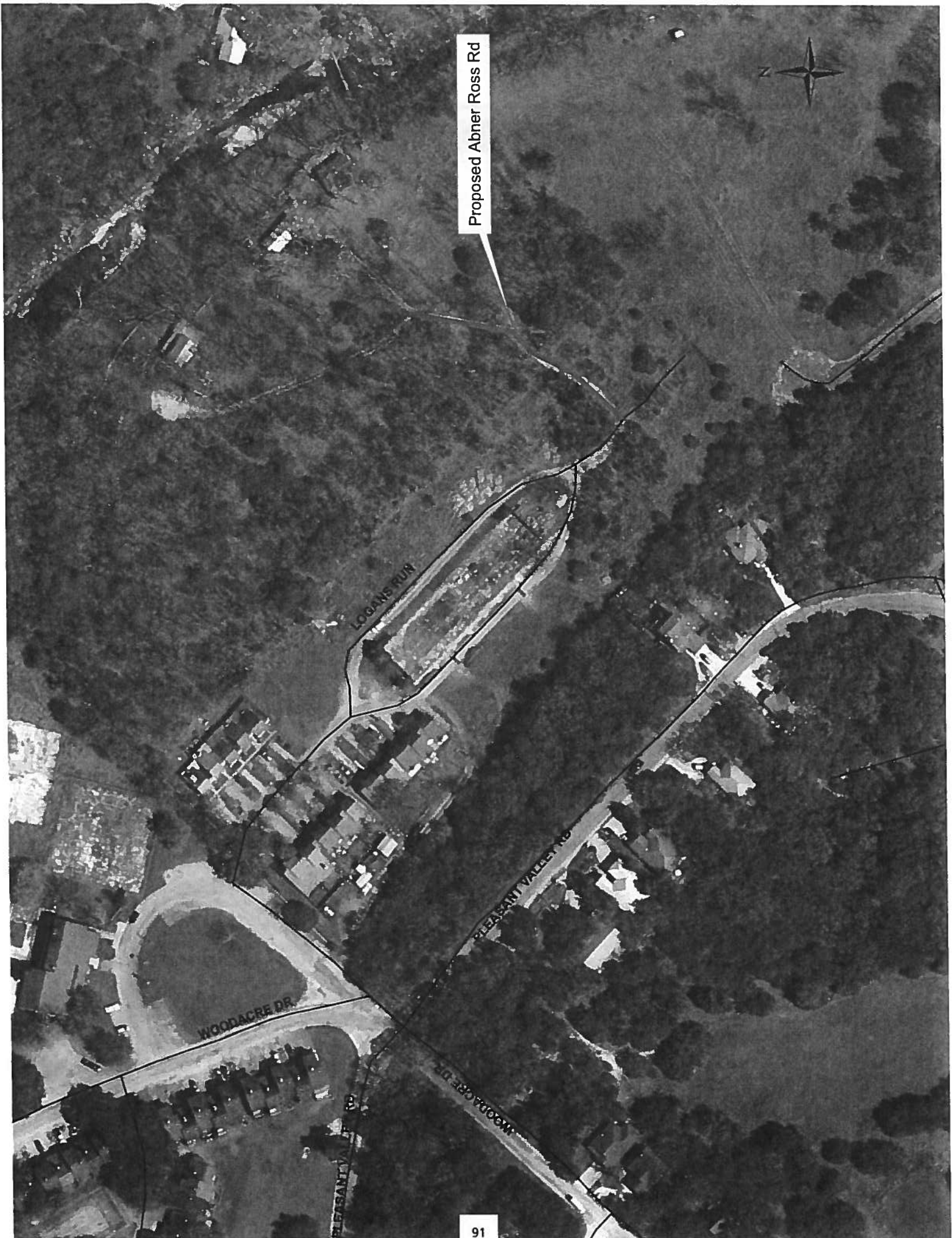
LINE ITEM NUMBER OF FUNDS REQUIRED:

REQUESTED BY: Clint Garza

SPONSORED BY: Commissioner Will Conley

SUMMARY:

This action would officially name a private drive that intersects Logans Run. There are currently 4 properties that access Logans Run via the shared access driveway. All owners of the aforementioned properties have requested in the attached email the name designation of Abner Ross Rd.



Proposed Abner Ross Rd

Kathrine Weiss

From: Ross Hinton <[REDACTED]>
Sent: Wednesday, April 25, 2012 2:32 PM
To: Will Conley
Cc: Kathrine Weiss
Subject: Abner Ross Road

Dear Mr. Conley,

Four families own lots, three with weekend cabins on them, next to Woodcreek North and downstream of Jacob's Well that have never been assigned an address until a temporary one was recently given upon my inquiry. That temporary address was given as "Logans Run", a Woodcreek street that dead ends into our original entrance road. We would now like to have a permanent name of our choice for the road leading to our property. We would like the name "Abner Ross Road" in honor of my grandfather who gathered the four families to buy the land from the original owner in 1938. We have been in discussions with Katherine Weiss about this issue. She has advised us that there are rules that say that private roads should end in "path", but we would like to request that the criteria be checked to see if we can fit into another group since there are three separate cabins down a road that was there long before Woodcreek. If there is no other way, we will be okay with "Abner Ross Path" assuming there is no possible exception due to the age of our road, the number and types of lots it serves, etc.

I have created an email chain in order to provide the written approval of all four of the families that are requesting this name. Please let me know if you have any questions.

I give approval for the new road name "Abner Ross Road" on behalf of the Hinton family.

Thank you very much,

Ross Hinton,
[REDACTED]

----- Original Message -----

From: Rusty Turley
To: Ross Hinton
Sent: Tuesday, April 17, 2012 11:53 AM
Subject: Fw: Abner Ross Road

Ross,

I approve the naming the road fo our property along Cypress Creek to Abner Ross Road per the emails shown below.

Regards,

Hans E. (Rusty) Turley Jr.

----- Original Message -----

From: Field,Douglas B
To: undisclosed.for.privacy@edwardjones.com
Sent: Tuesday, April 17, 2012 11:02 AM
Subject: FW: Abner Ross Road

Rusty & Ross,

I hereby approve the request to rename the road for our cabin address to Abner Ross Road as indicated below.

Thank you,

Douglas B Field

Douglas Field
Financial Advisor
Edward Jones
219 South Commerce St
Lockhart, TX 78644
[REDACTED]
www.edwardjones.com

If you are not the intended recipient of this message (including attachments), or if you have received this message in error, immediately notify us and delete it and any attachments. If you no longer wish to receive e-mail from Edward Jones, please send this request to messages@edwardjones.com. You must include the e-mail address that you wish not to receive e-mail communications. For important additional information related to this e-mail, visit www.edwardjones.com/US_email_disclosure

Subject: FW: Abner Ross Road

Here it is. Ross asked me to forward this to Rusty & then have Rusty forward it back to him with our acceptance

Subject: Abner Ross Road

To whom it may concern, please be advised that you have my permission, as an authorized representative of the Ross family, to name the road leading to our family cabin near Jacob's Well "Abner Ross Road". Doug, I am sending you this email per Ross Hinton's request. Thank you.

A.A. Jack Ross, IV

Ross Molina Oliveras, PC

Attorney

Work:

Mobile

9X

RMO PC

8200 IH10 West, Suite 320

San Antonio, Texas 78230

www.rmolaawfirm.com

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Pursuant to Department of Treasury Circular 230, this email and any attachment hereto, is not intended or written or to be used, and may not be used by the recipient, for the purposes of avoiding any federal tax penalty which may be asserted.

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 authorize the County Purchasing Manager to review alternative cellular phone services for all County offices.

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

PREFERRED MEETING DATE REQUESTED: May 8, 2012

AMOUNT REQUIRED: N/A

LINE ITEM NUMBER OF FUNDS REQUIRED: N/A

REQUESTED BY: Bill Herzog

SPONSORED BY:

SUMMARY: A significant portion of the County Government Center does not have access to an AT&T signal. This prevents employees from receiving or placing cellular calls. This makes the cellular phones ineffective. Some employees are required to leave the building to place or receive phone calls.

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

AGENDA ITEM: Discussion and possible action to adopt policies and procedures for monitoring arbitrage requirements and the use of proceeds and property finance for purposes of maintaining tax-exempt status on bonds.

CHECK ONE: **CONSENT** **x ACTION** **EXECUTIVE SESSION**
 WORKSHOP **PROCLAMATION** **PRESENTATION**

PREFERRED MEETING DATE REQUESTED: 5/8/12

AMOUNT REQUIRED:

LINE ITEM NUMBER OF FUNDS REQUIRED:

REQUESTED BY:

SPONSORED BY: COBB

The updated IRS Form 8038-G, which will be filed in connection with, and after closing on, the County's Limited Tax Refunding Bonds, Series 2012, now inquires as to whether an Issuer "has established written procedures to ensure that all nonqualified bonds of [an] issue are remediated according to the requirements under the [Internal Revenue Code]." Approval and passage of the attached Federal Tax Compliance Policies is designed to satisfy this requirement.

FEDERAL TAX COMPLIANCE POLICIES FOR TAX-EXEMPT GOVERNMENTAL BONDS

Purpose

Hays County, Texas (the “Issuer”), as an issuer of tax-exempt “governmental bonds” (which include bonds, certificates of obligation, notes, or other evidences of indebtedness, collectively referred to herein as “bonds”), must comply with applicable federal tax rules pertaining to expenditure of proceeds for qualified costs, rate of expenditure, use of bond-financed property, investment of proceeds in compliance with arbitrage rules, and retention of records. In connection with the issuance of tax-exempt bonds, the Issuer has or will execute a tax compliance document that contains covenants and representations with which the Issuer must comply. Attached as Exhibit A is a copy of IRS Form 14002 “Governmental Bond Financing Compliance Check Questionnaire” promulgated by the Internal Revenue Service (the “IRS”) which further explains the degree of detail required. The following policies are intended to further compliance by the Issuer with these rules.

1. Expenditure of Proceeds for Qualified Costs.

- 1.1 Bond proceeds will be disbursed pursuant to an approved form of requisition stating the date, amount, and purpose of the disbursement.
- 1.2 Requisitions must identify the financed property in conformity with the tax compliance document executed by the Issuer at closing, including any certifications as to the character and average economic life of the bond-financed property.
- 1.3 Requisitions for costs that were paid prior to the issuance of the bonds are, in general, limited to costs paid subsequent to, or not more than 60 days prior to, the date a “declaration of intent” to reimburse the costs was adopted by the Issuer. The complete requirements for any reimbursement will be contained in the tax compliance document. If proceeds are used for reimbursement, a copy of the declaration will be obtained and included in the records for the issue if not already part of the transcript.
- 1.4 Requisitions will be summarized in a “final allocation” of proceeds to uses not later than 18 months after the in-service date of the financed property (and in any event not later than 5 years and 60 days after the issuance of the bonds).
- 1.5 The following records will be maintained:
 - 1.5.1 Documentation of the allocation of bond proceeds to expenditures (e.g., allocation of bond proceeds to expenditures for the construction, renovation, or purchase of facilities owned and used in the performance of the Issuer’s public purpose).
 - 1.5.2 Allocation of bond proceeds to bond issuance costs.
 - 1.5.3 Requisitions, draw schedules, draw requests, invoices, bills, and cancelled checks related to bond proceeds spent during the construction period.

- 1.5.4 All contracts entered into for the construction, renovation, or purchase of bond-financed facilities.
- 1.5.5 Expenditure reimbursements incurred prior to issuing bonds for facilities financed with bond proceeds.
- 1.5.6 An asset list or schedule of all bond-financed facilities or equipment.
- 1.5.7 Depreciation schedules for bond-financed depreciable property prepared by the County Auditor.
- 1.5.8 Records that track purchases and sales of bond-financed assets.

2. **Rate of Expenditures.**

- 2.1 Expenditure of bond proceeds will be monitored against the tax compliance document expectation to spend or commit 5% of bond proceeds within 6 months, to spend 85% of bond proceeds within three years, and to proceed with due diligence to complete the project and fully spend the bond proceeds. Reasons for failure to meet the expected schedule will be documented and retained in the records for each issue.
- 2.2 If the Issuer intends to meet an exception from rebate provided for under U.S. Treasury Regulations ("Treas. Reg."), the Issuer will monitor its expenditures to assure compliance.
- 2.3 Reserve funds cannot exceed the least of 10% of bond proceeds, maximum annual debt service, or 125% of average annual debt service. Lower limits may be set forth in the tax compliance document. The initial funding of any reserve fund will be measured against this limit. Reserve funds are generally not permitted for general obligation bonds.

3. **Use of Bond-Financed Property.**

- 3.1 Average nonexempt use of bond-financed property over the life of the issue cannot exceed 5% of the bond proceeds or in certain circumstances 10%. Nonexempt use is generally any use other than use solely by the Issuer or another state or local governmental entity.
- 3.2 Agreements with users other than state or local governmental entities, including leases, management agreements, and research agreements, will be reviewed prior to execution for compliance with the 10% or 5% limit, as set forth in the tax compliance document for each issue.
- 3.3 No item of bond-financed property will be sold or transferred without consulting with bond counsel or other legal counsel and advisors to ensure that the 10% or 5% limit is met.
- 3.4 Any of the following types of agreements with respect to the bond-financed property shall be maintained as described below under "Records":
 - 3.4.1 Records of trade or business activities by or with non-governmental entities or persons.

- 3.4.2 Management and other service agreements.
- 3.4.3 Research contracts.
- 3.4.4 Naming rights contracts.
- 3.4.5 Ownership documentation (e.g., deeds, mortgages).
- 3.4.6 Leases.
- 3.4.7 Subleases.
- 3.4.8 Leasehold improvement contracts.
- 3.4.9 Joint venture arrangements.
- 3.4.10 Limited liability corporation arrangements.
- 3.4.11 Partnership arrangements.

4. **Investments.**

- 4.1 Guaranteed investment contracts (“GIC”) will be purchased only using the three-bid “safe harbor” of the applicable Treas. Reg., in compliance with fee limitations on GIC brokers in the regulations.
- 4.2 Other investments will be purchased only in market transactions.
- 4.3 Calculations of rebate liability will be performed annually or prior to (a) each fifth anniversary of the date of issuance and (b) the final retirement of the issue (each a “Rebate Calculation Date”) by outside consultants.
- 4.4 Rebate payments will be made with IRS Form 8038-T no later than 60 days after each Rebate Calculation Date. Compliance with rebate requirements will be reported to the bond trustee, if any, and the Issuer.
- 4.5 The Issuer will identify the first Rebate Calculation Date and the first rebate payment date at time of each bond issuance and enter in records for each issue.

5. **Filings with Internal Revenue Service.** IRS Form 8038-G must be filed not later than the 15th day of the 2nd calendar month following the quarter in which the bonds were issued.

6. **Records.** In addition to the other records that must be maintained by the Issuer as described herein, the Issuer must maintain records that establish its compliance with all federal income tax requirements. These records include, but are not limited to, those set forth below:

- 6.1 Records will be retained for the life of the bonds plus any refunding bonds plus at least three years. Records may be in the form of documents or electronic copies of documents, appropriately indexed to specific bond issues and compliance functions. Electronic records may be kept only in compliance with certain IRS requirements.

- 6.2 Records pertaining to bond issuance include transcript of documents executed in connection with the issuance of the bonds (including the bond authorization document, official statement, and any amendments, copies of all applicable IRS Forms including copies of rebate calculations and records of payments, including IRS Form 8038-T).
- 6.3 Records pertaining to expenditures of bond proceeds including requisitions, trustee statements, and final allocation of proceeds.
- 6.4 Records pertaining to use of property include all agreements reviewed for nonexempt use and any reviewed documents relating to unrelated business activity.
- 6.5 Records pertaining to investments include GIC documents under the Treas. Regs., records of purchase and sale of other investments, and records of investment activity sufficient to permit calculation of arbitrage rebate or demonstration that no rebate is due.
- 6.6 To expand on the above records description, the Issuer will maintain copies of the following:
 - 6.6.1 Federal tax or information returns (e.g., IRS Form 8038 series returns).
 - 6.6.2 Audited financial statements.
 - 6.6.3 Bond transcripts, official statements, and other offering documents of bond financings.
 - 6.6.4 Minutes, orders, and resolutions authorizing the issuance of bond financings.
 - 6.6.5 Certifications of the issue price of bond financings.
 - 6.6.6 Formal elections for bond financings (e.g., election to employ an accounting methodology other than specific tracing).
 - 6.6.7 Appraisals, demand surveys, or feasibility studies for bond-financed property.
 - 6.6.8 Documents related to government grants associated with construction, renovation, or purchase of bond-financed facilities.
 - 6.6.9 Publications, brochures, and newspaper articles for bond financings.
 - 6.6.10 Trustee statements for bond financings.
 - 6.6.11 Correspondence (letters, e-mails, faxes, etc.) for bond financings.
 - 6.6.12 Reports of any IRS examinations of the Issuer or bond financings.
 - 6.6.13 Records documenting the allocations and earnings and investments related to bond financing.
 - 6.6.14 Investment contracts (e.g., GICs).
 - 6.6.15 Credit enhancement transactions (e.g., bond insurance contracts).

- 6.6.16 Financial derivatives (swaps, caps, etc.).
- 6.6.17 Bidding of financial products.
- 6.6.18 Computations of bond yield.
- 6.6.19 Computation of rebate and yield reduction payments.
- 6.6.20 IRS Form 8038-T, *Arbitrage Rebate, Yield Reduction and Penalty in Lieu of Arbitrage Rebate*.
- 6.6.21 IRS Form 8038-R, *Request for Recovery of Overpayments Under Arbitrage Rebate Provisions*.
- 6.6.22 Written procedures for monitoring instances that will comply with the applicable yield restriction requirements when a subsequent reinvestment of bond proceeds results in a lower investment yield including procedures and how to implement them, including dates of revisions if any.
- 6.6.23 Written procedures that monitor bond financings expected to comply with the arbitrage rules as a result of the application of a temporary period exception (section 148(c) of the Internal Revenue Code, as amended, and section 1.148-2(e) of the Treas. Regs.) or a spending exception (section 148(f)(4) and section 1.148-7(c), (d), and (e) of the Treas. Regs.) including procedures and how to implement them including dates of revisions, if any.

7. **Reissuance.**

- 7.1 Changes in the terms of the bonds or debt instrument may result in the issuance of “new” bonds or “reissuance” of bonds for federal income tax purposes. For example:
 - 7.1.1 Changes that affect yield or timing of debt service payments.
 - 7.1.2 Changes in the security or obligor.
 - 7.1.3 Changes in the nature of the debt instrument (e.g., from recourse to nonrecourse).
- 7.2 Practical implications of reissuance include:
 - 7.2.1 Change in law risk.
 - 7.2.2 Retesting compliance with tax-exempt requirements.
 - 7.2.3 Recalculation of yields.
 - 7.2.4 A new IRS Form 8038-G must be filed.
 - 7.2.5 Rebate obligations on the “old” bonds must be paid.
- 7.3 The Issuer must consult with bond counsel prior to making any changes to the bond or debt instrument or its underlying security.

8. **Refunding.** The Issuer may issue, from time to time, bonds refunding the interest on which will be excludible from gross income for federal income tax purposes. These policies are intended to prepare the Issuer for the issuance of and in the event the IRS inquires about a refunding issue. Attached as Exhibit B is IRS Form 14246, *Advance Refunding Bonds Compliance Check Questionnaire*, which would be used in that event.

A refunding bond issue is a bond issue the proceeds of which are used to pay principal, interest, and or redemption price on a prior issue of bonds also referred to as the “refunded bonds.” “Advance refunding bonds” are refunding bonds issued more than 90 days before the final scheduled payment of principal and interest on or call or redemption date, if any, on the refunded bonds. “Current refunding bonds” are refunding bonds issued in less than or equal to the aforementioned 90 days. Refunding bonds derive their tax-exempt status from the tax-exempt status of the refunded bonds. A refunding bond issue will generally not be tax-exempt if the refunded bond issue was not in full compliance with all applicable federal tax law requirements.

8.1 Debt Management Policies and Procedures.

8.1.1 The Issuer will identify and select bonds to be refunded as follows:

8.1.1.1 Governing body sets internal policy that requires certain savings.

8.1.1.2 Seek bond counsel advice on state laws that guide refunding process and require certain savings.

8.1.1.3 Seek advice of internal financial personnel.

8.1.1.4 Seek advice of outside financial advisors.

8.1.2 Once prior bond issues to be refunded are identified, the refunding transaction requires:

8.1.2.1 Approval by the governing body which may set parameters.

8.1.2.2 Approval of person(s) named by governing body.

8.1.2.3 Approval by Attorney General of the State of Texas.

8.1.3 Capital appreciation bonds or zero coupon bonds will be used in structuring an advance refunding bond issue if the annual debt service on all similarly secured bond issues will be materially less than available revenues or taxes to pay those bonds, and the freed-up taxes and revenues can be used for operations or capital improvements or to pay costs of issuance in par-to-par refundings.

8.2 Procedures to Assure Compliance with Federal Tax Requirements Related to Refundings. The Issuer must review the structure of any refunding bonds prior to issuance to make sure that the proposed refunding is permitted pursuant to applicable federal tax requirements, and if there have been prior refundings of the original bond issue complies with applicable federal tax requirements which might impose restrictions on the redemption date of the refunded bonds; complies with applicable federal tax requirements which allow for the proceeds and replacement proceeds of an issue to be invested temporarily in higher yielding investments without causing refunding bonds to be

arbitrage bonds; and will not enable the Issuer to exploit the difference between tax-exempt and taxable interest rates to obtain a financial advantage nor will it overburden the tax-exempt bond market in a way that it might be considered an abusive transaction for federal tax purposes. This review will be done by the County Auditor, bond counsel, and the financial advisor.

8.3 Current Arbitrage Yield Restriction and Rebate Procedures.

- 8.3.1 The Issuer will collect and review data related to arbitrage yield restrictions and rebate requirements for all refunded bonds.
- 8.3.2 For advance refunding bonds the Issuer will purchase SLGS (*State and Local Government Securities*) to be acquired post-closing for the refunding escrow unless the financial advisor gives guidance that it is more appropriate to purchase yield-restricted investments other than SLGS to ensure compliance with the arbitrage yield restrictions and rebate requirements.
- 8.3.3 A bidding agent or broker may be selected to acquire GICs for any reserve fund investments which may be needed in connection with an advance refunding bond transaction either by a request for proposal process or recommendation of the financial advisor.
- 8.3.4 Notices of redemption will be sent out by the escrow agent or trustee, if any, and the County Auditor will verify that the notices were sent.

8.4 Procedures Related to Determining Issue Price.

- 8.4.1 The Issuer will rely on an issue price certificate provided by underwriter at closing.
- 8.4.2 The Issuer will review with the underwriter its data identifying buyers and the prices for various bond maturities.

8.5 Record Retention Procedures. Section 6 of these policies is applicable to refunding bonds.

- 8.5.1 The Issuer will maintain records necessary to support the tax-exempt status of the refunded bonds and the refunding bonds for three years following final maturity of the refunding bonds.
- 8.5.2 The Issuer will not destroy records related to refunded bonds before destroying the records of refunding bonds.
- 8.5.3 Records documenting investments, earnings, and relevant allocations of proceeds related to the refunding bonds will be maintained.

8.6 Post-Issuance Compliance Procedures and Educational Resources.

- 8.6.1 The Issuer will prepare written procedures to ensure timely identification of violations of federal tax law related to refunding bonds and the timely correction of any violations.
- 8.6.2 The Issuer will maintain procedures to ensure timely identification and correction of violations of federal tax requirement related to refunded bonds which might also impact the refunding bonds.
- 8.6.3 The Issuer will provide training or educational resources to personnel who are responsible for monitoring post-issuance compliance matters related to refunding bonds.

- 9. **Remedial Actions.** If it is discovered that the Issuer has failed to comply with the post-issuance requirements herein, remedial action shall be immediately commenced as described in Treas. Reg. § 1.141.2 or a closing agreement will be pursued under the Tax-Exempt Bonds Voluntary Closing Agreement Program described in IRS Notice 2008-31.
- 10. **Overall Responsibility.** Overall administration and coordination of this policy including any written procedures referred to herein shall be the responsibility of the Issuer's County Auditor. All inquiries, notices, and correspondence from the IRS will be forwarded to the County Auditor, and will be responded to in a timely manner. The County Auditor may assign responsibilities with respect to records maintenance but only pursuant to written procedures, and the County Auditor must provide training and educational resources to personnel responsible for ensuring private use limitations.
- 11. **Changes to Policies.** The Issuer reserves the right to change these policies and procedures from time to time.

APPROVED and PASSED this _____ day of _____, 2012.

HAYS COUNTY, TEXAS

By: _____
Name: _____
Title: _____

ATTEST:

By: _____
Name: _____
Title: _____

Exhibit A

IRS Form 14002

Governmental Bond Financings Compliance Check Questionnaire

This questionnaire asks for information regarding your post-issuance bond compliance and record retention practices. Please complete the questionnaire and follow the instructions in the accompanying letter for returning it to us.

Name of Governmental Entity: _____

Employer Identification Number: _____

PART I - POST-ISSUANCE COMPLIANCE - GENERAL

1. Do you have written procedures to ensure that governmental bond financings remain in compliance with the following federal tax requirements after the bonds are issued:

- | | | |
|--|------------------------------|-----------------------------|
| a. Proper use of bond proceeds? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| If Yes, date they were implemented? _____ (dd/mm/yyyy) | | |
| b. Timely expenditure of bond proceeds? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| If Yes, date they were implemented? _____ (dd/mm/yyyy) | | |
| c. Proper use bond-financed property? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| If Yes, date they were implemented? _____ (dd/mm/yyyy) | | |
| d. Arbitrage yield restriction and rebate? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| If Yes, date they were implemented? _____ (dd/mm/yyyy) | | |
| e. Timely return filings and other general requirements? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| If Yes, date they were implemented? _____ (dd/mm/yyyy) | | |
| f. Documenting compliance with other general requirements? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| If Yes, date they were implemented? _____ (dd/mm/yyyy) | | |

Describe in detail your procedures for each of the above items (a-f) and how you implement them, including dates of revisions, if any. In lieu of the above descriptions, you may attach a copy of your written procedures. If you have no written procedures, explain what guidelines you have in place and from what source these guidelines are derived that ensure bond financings are in compliance with federal tax requirements. *(Attach sheet with description)*

2. Who is primarily responsible for monitoring post-issuance compliance of bond financings?

- | | |
|---|-----------------------------------|
| <input type="checkbox"/> Elected or appointed officials | What is the person's title? _____ |
| <input type="checkbox"/> Non-elected or non-appointed officials | What is the person's title? _____ |
| <input type="checkbox"/> Staff Person | What is the person's title? _____ |
| <input type="checkbox"/> Other Person | What is the person's title? _____ |
| <input type="checkbox"/> None | |

3. If more than one individual is responsible for maintaining the records related to bond financings, do you have written procedures for assigning responsibilities that would ensure compliance with these financings? ☐ Yes ☐ No ☐ N/A

If Yes, date they were implemented? _____ (dd/mm/yyyy)

Describe in detail your procedures for assigning responsibility to each party involved and how you implement them, including dates of revisions, if any. In lieu of the above description, you may attach a copy of the written procedures used to assign responsibility to those individuals handling the bond financings. If you have no written procedures, explain what guidelines you have in place and from what source these guidelines are derived that ensure bond financings are in compliance with federal tax requirements. *(Attach sheet with description)*

4. Do you provide training or educational resources to personnel that are responsible for ensuring compliance with the post-issuance private use limitations for bond-financed property? ☐ Yes ☐ No
5. Are you aware of the following options available for voluntarily correcting failures to comply with post-issuance compliance activities?
- a. Taking remedial actions described under section 1.141-12 of the Income Tax Regulations? ☐ Yes ☐ No
- b. Entering into a closing agreement under the Tax-Exempt Bonds Voluntary Closing Agreement Program described in Notice 2008-31? ☐ Yes ☐ No

PART II - GENERAL RECORDKEEPING

6. Do you maintain records necessary to support the tax-exempt status of the bond financing? ☐ Yes ☐ No
- If yes, for how long?
- ☐ Less than life of bonds
- ☐ Life of bonds
- ☐ Life of bonds plus 3 years
7. How do you maintain your bond records?
- ☐ On Paper ☐ Electronic media (e.g., CD, disks, tapes) ☐ Combination of paper and electronic
8. Do you maintain copies of the following records:
- a. Your Federal tax or information returns (e.g., Form 8038 series returns)? ☐ Yes ☐ No
- b. Your audited financial statements? ☐ Yes ☐ No
- c. Bond transcripts, official statements and other offering documents of your bond financings? ☐ Yes ☐ No
- d. Minutes and resolutions authorizing the issuance of your bond financings? ☐ Yes ☐ No
- e. Certifications of the issue price of your bond financings? ☐ Yes ☐ No
- f. Formal elections for bond financings (e.g., election to employ an accounting methodology other than specific tracing)? ☐ Yes ☐ No
☐ N/A
- g. Appraisals, demand surveys, or feasibility studies for bond-financed property? ☐ Yes ☐ No
☐ N/A
- h. Documents related to government grants associated with construction, renovation or purchase of bond-financed facilities? ☐ Yes ☐ No
☐ N/A
- i. Publications, brochures, and newspaper articles for your bond financings? ☐ Yes ☐ No
☐ N/A
- j. Trustee statements for your bond financings? ☐ Yes ☐ No
☐ N/A
- k. Correspondence (letters, e-mails, faxes, etc.) for your bond financings? ☐ Yes ☐ No
- l. Reports of any prior IRS examinations of your entity or bond financings? ☐ Yes ☐ No
☐ N/A

PART III - INVESTMENTS AND ARBITRAGE COMPLIANCE

9. Do you maintain records documenting the allocations and earnings and investments related to your bond financings? ☐ Yes ☐ No
10. Do you maintain records for investments of your bond financing proceeds related to:
- a. Investment contracts (e.g., guaranteed investment contracts)? ☐ Yes ☐ No
☐ N/A
 - b. Credit enhancement transactions (e.g., bond insurance contracts)? ☐ Yes ☐ No
☐ N/A
 - c. Financial derivatives (swaps, caps, etc.)? ☐ Yes ☐ No
☐ N/A
 - d. Bidding of financial products? ☐ Yes ☐ No
☐ N/A
11. Do you maintain records of the following arbitrage documents related to your bond financings:
- a. Computations of bond yield? ☐ Yes ☐ No
 - b. Computation of rebate and yield reduction payments? ☐ Yes ☐ No
 - c. Form 8038-T, *Arbitrage Rebate, Yield Reduction and Penalty in Lieu of Arbitrage Rebate*? ☐ Yes ☐ No
☐ N/A
 - d. Form 8038-R, *Request for Recovery of Overpayments Under Arbitrage Rebate Provisions*? ☐ Yes ☐ No
☐ N/A
12. Do you have written procedures for monitoring instances that will comply with the applicable yield restriction requirements when a subsequent reinvestment of bond proceeds results in a lower investment yield. ☐ Yes ☐ No
☐ N/A

If Yes, date they were implemented? _____ (dd/mm/yyyy)

Describe in detail your procedures and how you implement them, including dates of revisions, if any. In lieu of the above description, you may attach a copy of the written procedures. If you have no written procedures, explain what guidelines you have in place and from what source these guidelines are derived that ensure bond financings are in compliance with federal tax requirements. (Attach sheet with description)

13. Do you have specific written procedures that monitor bond financings you expect will comply with the arbitrage rules as a result of the application of a temporary period exception (section 148(c) and section 1.148-2(e) of the Income Tax Regulations) or a spending exception (Regulations section 148(f)(4) and section 1.148-7(c), (d), and (e))? ☐ Yes ☐ No
☐ N/A

If Yes, date they were implemented? _____ (dd/mm/yyyy)

Describe in detail your procedures and how you implement them, including dates of revisions, if any. In lieu of the above description, you may attach a copy of the written procedures. If you have no written procedures, explain what guidelines you have in place and from what source these guidelines are derived that ensure bond financings are in compliance with federal tax requirements. (Attach sheet with description)

PART IV - EXPENDITURES AND ASSETS

- | | | |
|--|------------------------------|-----------------------------|
| 14. Do you maintain records documenting the allocation of bond-financing proceeds to expenditures (e.g., allocation of bond proceeds to expenditures for the construction, renovation, or purchase of facilities you own and use in the performance of your public purpose)? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 15. Do you maintain records documenting the allocations of bond-financing proceeds to bond issuance costs? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 16. Do you maintain copies of requisitions, draw schedules, draw requests, invoices, bills and cancelled checks related to bond proceeds spent during the construction period? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 17. Do you maintain copies of all contracts entered into for the construction, renovation or purchase of bond-financed facilities? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 18. Do you maintain records of expenditure reimbursements incurred prior to issuing bonds for facilities financed with bond proceeds? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 19. Do you maintain an asset list or schedule of all bond-financed facilities or equipment? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 20. Do you maintain depreciation schedules for bond-financed depreciable property? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 21. Do you maintain records that track your purchases and sales of bond-financed assets? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

PART V - PRIVATE BUSINESS USE

- | | | |
|--|------------------------------|-----------------------------|
| 22. Do you maintain records of trade or business activities by or with non-governmental entities or persons with respect to your bond-financed facilities? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| | <input type="checkbox"/> N/A | |
| 23. Do you maintain copies of the following agreements when entered into with respect to your bond-financed property: | | |
| a. Management and other service agreements? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| | <input type="checkbox"/> N/A | |
| b. Research contracts? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| | <input type="checkbox"/> N/A | |
| c. Naming rights contracts? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| | <input type="checkbox"/> N/A | |
| d. Ownership documentation (e.g., deeds, mortgages)? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| | <input type="checkbox"/> N/A | |
| e. Leases? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| | <input type="checkbox"/> N/A | |
| f. Subleases? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| | <input type="checkbox"/> N/A | |
| g. Leasehold improvement contracts? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| | <input type="checkbox"/> N/A | |
| h. Joint venture arrangements? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| | <input type="checkbox"/> N/A | |
| i. Limited liability corporation arrangements? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| | <input type="checkbox"/> N/A | |
| j. Partnership arrangements? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| | <input type="checkbox"/> N/A | |

24. Do you have any additional comments on how you ensure your governmental bonds remain tax exempt after they are issued? *(Attach additional sheets, if necessary)*

Privacy Act and Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. We need it to ensure that you are complying with these laws.

The IRS may not conduct or sponsor, and an organization is not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103 and 6104.

Exhibit B

IRS Form 14246

Advance Refunding Bonds Compliance Check Questionnaire

We are asking for information regarding your current, post-issuance compliance and record retention procedures for Advance Refunding Bonds. The questions in Part VII of the questionnaire (*on awareness of voluntary compliance options*) apply to all kinds of tax-exempt bonds. Please complete the questionnaire and follow the instructions in the accompanying letter for returning it to us. For all accompanying documentation, please clearly label the question to which it relates.

Name of Entity: _____

Employer Identification Number: _____

PART I Current Debt Management Policies and Procedures

1a. How do you identify and select bonds to be advance refunded? (*check all that apply*)

- ☐ i. State laws that guide refunding process and require certain savings
- ☐ ii. Written internal policy that requires certain savings
If written internal policy, are savings parameters subject to change, review, etc? (*attach written internal policy or sheet with description*)
- ☐ iii. Advice of internal financial personnel
- ☐ iv. Advice of outside financial advisors
- ☐ v. Other (*attach sheet with description*)

1b. Once prior bond issues to be advance refunded are identified, does the advance refunding transaction require: (*check all that apply*)

- ☐ Approval by Attorney General, other State official, or State board (*other than your governing Board or Committee*)
- ☐ Internal approvals such as vote of your governing Board or Committee
- ☐ Financing at discretion of financial/executive personnel and no approval (*as referred to above*) is necessary

1c. Do you have procedures in place to use capital appreciation bonds or zero coupon bonds in structuring your advance refunding bond issues?

☐ Yes ☐ No

If **Yes**, do the procedures permit annual debt service on all your similarly secured bond issues to be materially less than available revenues or taxes to pay those bonds? (*attach sheet with description*)

If **Yes**, what do the procedures permit the freed-up taxes and revenues, if any, to be used for?
(*attach sheet with description*)

If **No**, is your answer because:

- ☐ You have procedures in place but do not use capital appreciation bonds or zero coupon bonds in structuring your advance refunding bond issues?
- ☐ You do not have procedures in place and you do not use capital appreciation bonds or zero coupon bonds in structuring your advance refunding bond issues?

PART II Current Procedures to Assure Compliance with Federal Tax Requirements Related To Advance Refundings

2a. Do you have procedures in place to review your bond transactions to identify any possible federal tax compliance issues prior to structuring any advance refunding of those transactions? ☐ Yes ☐ No

2b. Do you have procedures in place to review the structure of your Advance Refunding Bonds prior to issuance to make sure that the proposed refunding:

i. Is permitted pursuant to applicable federal tax requirements, if there have been prior refundings of the original bond issue? ☐ Yes ☐ No

If **Yes**, the review is done by: *(check all that apply)*

- ☐ Employees
- ☐ Bond Counsel
- ☐ Financial Advisor
- ☐ Underwriter or Placement Agent
- ☐ Other *(attach sheet with description)*

ii. Complies with applicable federal tax requirements which might impose restrictions on the redemption date of the refunded bonds? ☐ Yes ☐ No

If **Yes**, the review is done by: *(check all that apply)*

- ☐ Employees
- ☐ Bond Counsel
- ☐ Financial Advisor
- ☐ Underwriter or Placement Agent
- ☐ Other *(attach sheet with description)*

iii. Complies with applicable federal tax requirements which allow for the proceeds and replacement proceeds of an issue to be invested temporarily in higher yielding investments without causing Advance Refunding Bonds to be arbitrage bonds? ☐ Yes ☐ No

If **Yes**, the review is done by: *(check all that apply)*

- ☐ Employees
- ☐ Bond Counsel
- ☐ Financial Advisor
- ☐ Underwriter or Placement Agent
- ☐ Other *(attach sheet with description)*

PART II Current Procedures to Assure Compliance with Federal Tax Requirements Related To Advance Refundings (Continued)

- iv. Will not enable the issuer to exploit the difference between tax-exempt and taxable interest rates to obtain a financial advantage nor will it overburden the tax-exempt bond market in a way that it might be considered an abusive transaction for federal tax purposes? ☐ Yes ☐ No

If **Yes**, the review is done by: (check all that apply)

- ☐ Employees
- ☐ Bond Counsel
- ☐ Financial Advisor
- ☐ Underwriter or Placement Agent
- ☐ Other (attach sheet with description)

PART III Current Arbitrage Yield Restriction and Rebate Procedures

- 3a. Do you have procedures in place to collect and review data related to arbitrage yield restriction and rebate requirements for your Advance Refunding Bonds? ☐ Yes ☐ No

If **Yes**, describe your procedures and how you implement them. In lieu of the description, you may attach a copy of your written procedures. If you have no written procedures, explain what guidelines you have in place that ensure bond financings are in compliance with federal tax requirements and the source of these guidelines. (attach sheet with description)

- 3b. Do you have procedures in place relating to the purchase of SLGS (State and Local Government Series) securities bearing zero interest to be acquired post-closing for the refunding escrow? ☐ Yes ☐ No

If **Yes**, explain the procedure and identify the parties involved in the process (attach sheet with description)

- 3c. Do you have procedures in place to use a bidding agent or broker to acquire guaranteed investment contracts for any reserve fund investments you may need in connection with an Advance Refunding Bond transaction? ☐ Yes ☐ No

If **Yes**, how is one selected under the procedures:

- ☐ RFP process
- ☐ Recommendation
- ☐ Internal Guidelines
- ☐ Other (If Other, e.g., use regular financial advisor, explain (attach sheet with description))

PART III Current Arbitrage Yield Restriction and Rebate Procedures (Continued)

- 3d. Do you have a procedure in place to determine whether or not you use SLGS in connection with an Advance Refunding Bond transaction? ☐ Yes ☐ No

If **Yes**, explain (*attach sheet with description*)

If **Yes**, explain how your procedures provide guidance on when it is more appropriate to purchase yield restricted investments other than SLGS to ensure compliance with the arbitrage yield restriction and rebate requirements? (*attach sheet with description*)

If your procedures permit the use of a bidding agent or broker to purchase yield restricted escrow investments (other than SLGS) you may need in connection with an Advance Refunding Bond transaction, how is one selected under the procedures

- ☐ RFP process
- ☐ Recommendation
- ☐ Internal Guidelines
- ☐ Other (*If Other, e.g., use regular financial advisor, explain (attach sheet with description)*)

In the event three qualified bids are not received for your yield restricted escrows with open market securities, explain your procedures to determine the fair market value of the investments for federal tax purposes related to arbitrage. (*attach sheet with description*)

- 3e. Which of the following procedures are used in connection with your Advance Refunding Bond transaction to send out notices of redemption (call notices)? (*check all that apply*)

- ☐ Employee sends out call notices
- ☐ Escrow agent or trustee sends out call notices
- ☐ Escrow agent or trustee sends out call notices and employee verifies that the notices were sent
- ☐ Other (*attach sheet with description*)

PART IV Current Procedures Related to Determining Issue Price

4a. What procedures do you use in determining the issue price for your Advance Refunding Bonds so that the determination of issue price conforms to federal tax requirements? *(check all that apply)*

- ☐ Rely on issue price certificate provided by underwriter at closing
- ☐ Review with the underwriter its data identifying buyers and the prices for various bond maturities
- ☐ Review any source of information other than that provided by the underwriter ("Outside Source") to get information on purchasers and pricing
- ☐ Other *(attach sheet with description)*

4b. In the event your procedures provide for use of an Outside Source to assist in your review, please identify the source of information and explain how you use it as part of your review. *(attach sheet with description)*

PART V Current Record Retention Procedures

5a. Do you have procedures to maintain records necessary to support the tax-exempt status of your refunded bonds? ☐ Yes ☐ No

If **Yes**, how long do you keep these records? _____

If **Yes**, how do you maintain these records?

- ☐ Paper Files ☐ Electronic Media ☐ Combination of paper and electronic

5b. Do you have procedures to maintain records necessary to support the tax-exempt status of your Advance Refunding Bonds? ☐ Yes ☐ No

If **Yes**, how long do you keep these records? _____

If **Yes**, how do you maintain these records?

- ☐ Paper Files ☐ Electronic Media ☐ Combination of paper and electronic

5c. Do you destroy the records of your refunded bonds before you destroy the records of your Advance Refunding Bonds? ☐ Yes ☐ No

If **Yes**, explain the reasoning behind your document destruction process *(attach sheet with description)*

PART V Current Record Retention Procedures (Continued)

- 5d. Do you have procedures in place to maintain records documenting investments, earnings, and relevant allocations of proceeds related to your Advance Refunding Bonds? ☐ Yes ☐ No
- 5e. Do you have procedures in place to maintain records for your Advance Refunding Bond proceeds related to:
- i. Investment contracts (e.g., guaranteed investment contracts)? ☐ Yes ☐ No ☐ N/A
 - ii. Credit enhancement transactions (e.g., bond insurance contracts)? ☐ Yes ☐ No ☐ N/A
 - iii. Financial derivatives (swaps, caps, etc.)? ☐ Yes ☐ No ☐ N/A
 - iv. Bidding of financial products for investment securities? ☐ Yes ☐ No ☐ N/A
- 5f. Do you have procedures to maintain copies of the following records for your Advance Refunding Bonds?
- i. Federal tax or information returns (e.g., Form 8038 series returns)? ☐ Yes ☐ No
 - ii. Your audited financial statements? ☐ Yes ☐ No
 - iii. Bond transcripts including, but not limited to, official statements, offering documents, or private placement documents of your bond financings? ☐ Yes ☐ No
 - iv. Minutes and resolutions, orders, or ordinances (or other similar action) authorizing the issuance of your bond financings? ☐ Yes ☐ No
 - v. Certifications of the issue price of your bond financings? ☐ Yes ☐ No
 - vi. Formal elections for bond financings (e.g., election to waive a temporary period)? ☐ Yes ☐ No ☐ N/A
 - vii. Trustee statements for your bond financings? ☐ Yes ☐ No ☐ N/A
 - viii. Records of your refunded bonds to the extent necessary to support compliance with federal tax requirements? ☐ Yes ☐ No
 - ix. Correspondence (*letters, e-mails, faxes, etc.*) for your bond financings?
 - Letters ☐ Yes ☐ No
 - E-mails ☐ Yes ☐ No
 - Faxes ☐ Yes ☐ No
 - Other ☐ Yes ☐ No (*attach sheet with description*)
 - x. Reports of any prior IRS examinations of your entity or bond financings? ☐ Yes ☐ No ☐ N/A
 - xi. Other (*attach sheet with description*)

PART VI Post-Issuance Compliance Procedures and Educational Resources

- 6a. Do you have written procedures to ensure timely identification of violations of federal tax requirements after your Advance Refunding Bonds are issued and the timely correction of any violations? ☐ Yes ☐ No

If **Yes**, date such written procedures were implemented? _____ (mm/dd/yyyy)

If **Yes**, do your written procedures specifically identify responsible individuals by job title? ☐ Yes ☐ No

If **Yes**, describe in detail your written procedures and how they are implemented to ensure the timely identification and correction of any violations of federal tax requirements. In lieu of this description you may attach a copy of your written procedures. (attach sheet with description)

- 6b. Do you have written procedures to ensure timely identification and correction of violations of federal tax requirements related to your refunded bonds which might also impact your Advance Refunding Bonds? ☐ Yes ☐ No

If **Yes**, date such written procedures were implemented? _____ (mm/dd/yyyy)

If **Yes**, do your written procedures specifically identify responsible individuals by job title? ☐ Yes ☐ No

If **Yes**, describe in detail your written procedures and how they are implemented to ensure the timely identification and correction of any violations of federal tax requirements. In lieu of this description you may attach a copy of your written procedures. (attach sheet with description)

- 6c. Do you provide training or educational resources to personnel in your entity who are responsible for monitoring post-issuance compliance matters related to your Advance Refunding Bonds? ☐ Yes ☐ No

If **Yes**, describe such training and educational resources provided (attach sheet with description)

PART VII Current Awareness of Voluntary Compliance Options

7a. Are you aware of the following options available to voluntarily correct failures to comply with post-issuance federal tax compliance requirements?

- i. Taking remedial actions to redeem or defease nonqualified bonds pursuant to the Income Tax Regulations?

☐ Yes ☐ No

If **Yes**, how did you become aware of this option?

- ☐ This Questionnaire
☐ Internal Revenue Service website
☐ Bond Counsel
☐ Conference (*GFOA, NABL etc.*)
☐ Internal Revenue Service publication
☐ Other

- ii. Entering into a closing agreement under the Tax Exempt Bonds Voluntary Closing Agreement Program described on the Internal Revenue Service /Tax Exempt Bonds website: www.irs.gov/taxexemptbond, see VCAP under the heading Tax Exempt Bond Community Topics

☐ Yes ☐ No

If **Yes**, how did you become aware of this option?

- ☐ This Questionnaire
☐ Internal Revenue Service website
☐ Bond Counsel
☐ Conference (*GFOA, NABL etc.*)
☐ Internal Revenue Service publication
☐ Other

Under penalties of perjury, I declare that I have examined this completed questionnaire, including accompanying documents and statements, and to the best of my knowledge and belief, the completed questionnaire contains all the relevant facts relating to the answers to the questionnaire, and such facts are true, correct, and complete.

Signature: _____

Date: _____

Printed Name: _____

Title: _____

Privacy Act and Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. We need it to ensure that you are complying with these laws.

The IRS may not conduct or sponsor, and an organization is not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103 and 6104.

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 cancel court meeting dates of May 29, June 19, July 10, August 28, and October 2 of this year.

CHECK ONE: **CONSENT** **x ACTION** **EXECUTIVE SESSION**
 WORKSHOP **PROCLAMATION** **PRESENTATION**

PREFERRED MEETING DATE REQUESTED: 5/8/12

AMOUNT REQUIRED:

LINE ITEM NUMBER OF FUNDS REQUIRED:

REQUESTED BY:

SPONSORED BY: COBB

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: Executive Session pursuant to Sections 551.071 and 551.072 of the Texas Government Code: consultation with counsel, deliberation regarding Right of Way acquisition, and consideration of the use of eminent domain to condemn property along RM 150 in Precinct 2. Possible action may follow in open Court.

TYPE OF ITEM: Executive

PREFERRED MEETING DATE REQUESTED: May 8, 2012

AMOUNT REQUIRED: TBD

LINE ITEM NUMBER OF FUNDS REQUIRED: TBD

REQUESTED BY: JONES

SPONSORED BY: JONES

SUMMARY: Summary to be provided in Executive Session.

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: 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 the marketing and potential sale or lease of County owned properties. Possible action may follow in open court.

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

PREFERRED MEETING DATE REQUESTED: 5/8/12

AMOUNT REQUIRED:

LINE ITEM NUMBER OF FUNDS REQUIRED:

REQUESTED BY:

SPONSORED BY: Cobb

