

19

AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Discussion and possible action to authorize County Judge to execute an Interlocal Funding Agreement between Hays County and City of Dripping Springs related to improvements to be made to Dripping Springs Ranch Park and amend the budget accordingly.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
ACTION-MISCELLANEOUS	April 30, 2013	1,800,000.00

LINE ITEM NUMBER

AUDITOR USE ONLY

AUDITOR COMMENTS:

Budget amendment will be presented in court. This budget amendment will satisfy the initial payment needed as prescribed by the proposed contract. We need to identify funding needed for future payments.

PURCHASING GUIDELINES FOLLOWED: N/A

AUDITOR REVIEW: BILL HERZOG

REQUESTED BY	SPONSOR	CO-SPONSOR
Whisenant	WHISENANT	N/A

SUMMARY

Summary and backup to be provided in Open Court.

FILED: **04 30 13**
HAYS COUNTY COMMISSIONERS' COURT
Resolution # 28991 VOL v PG 150

ORDER AMENDING THE COUNTY OF HAYS BUDGET
FOR FY ENDING SEPTEMBER 30, 2013

THE STATE OF TEXAS
COUNTY OF HAYS

WHEREAS, on the 30th day of April, A.D., 2013, the Commissioners' Court of Hays County, Texas has determined that a need exists for the reallocation of certain appropriations included in the FY 2013 Budget in accordance with the attached list which is hereby made a part hereof. It was also determined and agreed that the need was of such a nature as to justify and require amendment of the Budget, as provided in Section 111.010(D), Local Government Code.

NOW, THEREFORE, the COMMISSIONERS' COURT OF HAYS COUNTY, TEXAS, pursuant to the authority granted to it under Section 111.010(D), Local Government Code, ORDERS that the pertinent parts of the County of Hays Budget for the Fiscal Year ending September 30, 2013 be and they are hereby amended as indicated on the attached list.

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

Passed by the COMMISSIONERS' COURT OF HAYS COUNTY, TEXAS, this 30th day of April, 2013.

FOR *Bert Cobb*
AGAINST BERT COBB, M.D.
ABSTAIN COUNTY JUDGE, HAYS COUNTY, TEXAS

FOR *Debbie Gonzales*
AGAINST DEBBIE GONZALES, INGALSBEE
ABSTAIN COMMISSIONER, PRECINCT 1

FOR *Mark Jones*
AGAINST MARK JONES
ABSTAIN COMMISSIONER, PRECINCT 2

FOR *Will Conley*
AGAINST WILL CONLEY
ABSTAIN COMMISSIONER, PRECINCT 3

FOR *Ray Whisenant*
AGAINST RAY WHISENANT, JR.
ABSTAIN COMMISSIONER, PRECINCT 4

ATTEST: *Liz Q. Gonzalez*
LIZ Q. GONZALEZ
COUNTY CLERK, HAYS COUNTY, TEXAS



120-675-99-022.5101_300 Retirement	3,050	1	3,051
120-675-99-022.5160_600 Life Insurance	43	3	46
		<u>217,356</u>	<u>(217,356)</u>

*Amend for actual and projections due to restructure of organization.

GENERAL FUND (001):

Agenda Item #21:

			<u>(Revenue)</u>	
001-000-000.4636	Sale of Real Property	0	1,180,000	1,180,000
001-814-97-401.5600	DS Ranch Park-contributio	0	1,180,000	1,180,000

*Partial amendment for Interlocal Funding Agreement related to Park Improvements.

**THIRD INTERLOCAL AGREEMENT BETWEEN THE CITY OF DRIPPING SPRINGS,
TEXAS AND HAYS COUNTY, TEXAS FOR THE IMPROVEMENT OF DRIPPING SPRINGS
RANCH PARK, FORMERLY KNOWN AS HARRISON RANCH PARK, A PUBLIC
PROPERTY OWNED BY THE CITY OF DRIPPING SPRINGS, TEXAS**

This Agreement is made and entered into by Hays County, a political subdivision of the State of Texas ("County") and the City of Dripping Springs, Texas, a general law municipality ("City") under the authority of Chapter 791, of the Texas Government Code.

For and in consideration of the mutual agreements herein exchanged, County and City hereby contract as follows:

I. Purpose and Legal Authority.

- 1.1 The purpose of this Agreement is to provide for the design, ~~bidding~~, and construction of various ~~park~~ improvements at the Dripping Springs Ranch Park property, formerly known as the Harrison Ranch Park property, used for park, recreation and/or conservation purposes owned by the City. The Property is located within the corporate limits of the City of Dripping Springs. Legal descriptions of the Property are attached hereto as Exhibit "C." Improvements to the Project are described in Exhibit "A", attached hereto and incorporated herein by reference and referred in this Agreement as "the Project." The proposed location of the Project improvements is depicted on the Site Plan attached as Exhibit "B." As more specifically provided herein, ~~the County is providing Bond Funds and~~ the City, on an as-needed basis, is accommodating facilities needs that would normally be a County responsibility via the Hays County Civic Center for a designated period of time.
- 1.2 The City and County, 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 parks and recreation.
- 1.3 The County's obligations under this Agreement include, after the performance of certain conditions precedent as cited in Section VI of this Agreement, the funding of construction

costs for facilities that Ranch Park will provide to the County and its citizenry. By and through this Agreement, as more particularly specified elsewhere in the Agreement, Ranch Park will generally serve the recreational needs of the County, some of which have previously been served by a County-owned facility, the HAYS COUNTY CIVIC CENTER. The County's funding toward Ranch Park will enhance Ranch Park's utility as a public park and recreation area for the use and enjoyment of County citizens.

- 1.4 All of the duties and obligations of the County and the City under this Agreement shall be performed from lawfully available current revenues.
- 1.5 This Agreement has been approved by the Hays County Commissioner's Court and the Dripping Springs City Council as required by §791.011 of the Texas Government Code.

II. Term of Agreement; Expenditure.

- 2.1 This Agreement is made for a term beginning on the 30th day of April 2013 and shall remain in effect for a period of twelve (12) calendar years.
- 2.2 The City shall expend funding it has received from sources other than the County prior to expending County funds. Within (30) days of final payment to the contractor(s) for construction costs, any monies provided under this agreement and not expended by the City for the purposes described herein shall be returned to the County.

III. City's Duties – General

- 3.1 City staff shall prepare bid documents and construction contract(s) (whether one or more, the "Construction Contract"), and shall award competitively bid contract(s) for construction and improvement of the Project as applicable.
- 3.2 In consideration of County's obligations under this Agreement, City shall:
- a. Lease Ranch Park's facilities to the County for use by it or certain third parties and for the time periods specifically provided in Exhibit "D". Such accommodations shall be provided in accordance with the standard terms and conditions then in effect that are generally applied to Ranch Park users; provided

however, that such accommodations shall be provided at a substantially similar cost to that of the Hays County Civic Center as of December 1, 2012 for the duration of one year after the execution of this Interlocal Agreement. However, those parties which are preceded by an asterisk (“*”) in Exhibit “D” shall be provided such accommodations free of charge for the full term of this Agreement, and those parties which are preceded by a double asterisk (“**”) in Exhibit “D” shall be provided the arena area free of charge for the full term of this Agreement. All uses provided via this Interlocal Agreement pursuant to this Section and Exhibit “D” shall be made on a space-available basis. The City shall take all steps reasonably necessary to ensure that space is available for those entities listed in Exhibit “D,” but shall not be required to move reservations previously made by other third parties.

- b. In any Construction Contract executed for improvement of the Project, require payment and performance bonds, insurance, and all other terms and conditions that the City normally includes in a ~~public park~~ construction contract and in accordance with all applicable federal and state laws and city ordinances;
- c. In any Construction Contract executed for improvement of the Project, require five percent (5%) retainage by the City on each payment to the Contractor;
- d. In any Construction Contract executed for improvement of the Project, provide that neither Hays County, Texas nor the City of Dripping Springs, Texas shall control the method or means of performance of the work by the Contractor and any subcontractors; and
- f.e. In any Construction Contract executed for improvement of the Project, state that Contractor is an independent contractor of The City of Dripping Springs, Texas.

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3.3 Following the award of any Construction Contract, City staff will oversee execution of the contract documents and provide a notice to proceed to the Contractor only after any and all contingencies contained in the contract documents have been met.

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3.4 In consideration of the County's obligations under this Agreement, City shall acknowledge County contributions to Ranch Park by including reference to Hays County on public signage and public literature that promotes and/or serves Ranch Park.

3.5 City shall operate Ranch Park as a public facility for the use and benefit of Hays County residents, with reasonable limitations on the time, place, and manner of the public's use.

3.6 City shall be solely responsible for costs related to the operation and maintenance of Ranch Park. County shall not be responsible for any costs related to operation and maintenance of Ranch Park.

IV. City's Duties – Construction Phase of the Project.

4.1 The City shall monitor any Contractor's compliance with all terms and conditions of the Construction Contract. City staff shall notify Contractor, in writing of any deficiencies or defaults.

4.2 The City shall inspect the work done by any Contractor to verify the delivery of materials and completion of work as represented in each payment draw.

4.3 City staff shall review and approve payment draw requests and supporting documentation.

4.4 For all payment draws except the final payment draw submitted by Contractor, City shall promptly pay the Contractor directly after its approval of the payment draws, less a 5% retainage and less any other amounts authorized to be withheld under the construction agreement. For the final payment draw submitted by Contractor, City shall make final payment to Contractor only after release of retainage is authorized by the City.

4.5 If the Project changes substantially from that described in Exhibit "A," City shall contact County Judge in writing. Substantial changes to the Project must be reviewed and approved by the County Commissioners Court. If changes are not approved, City shall:

- (1) proceed with original Project as described in Exhibit "A"; or
- (2) refund to County the estimated funds allocated to the portion of the Project that has changed.

4.6 Sixty (60) days after the beginning date of this agreement cited in Section 2.1, above, the City shall submit all records of expenditures related to the Project incurred at that time.

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V. County's Rights and Duties.

5.1 Subject to the conditions precedent cited in Article VI of this Agreement, County shall pay City an amount not to exceed One Million, Eight Hundred Thousand Dollars in United States currency (\$1,800,000.00 USD), which are lawfully available current funds, for the construction of the Project, One Million dollars (\$1,000,000 USD) of which is to be paid in lump sum within fifteen (15) business days of the beginning date of this Agreement cited in Section 2.1, above. The additional Eight Hundred Thousand dollars (\$800,000 USD) shall be paid within ninety (90) days of the beginning date of this agreement cited in Section 2, above.

5.2 County shall, upon ten (10) days' written notice to City, have a right to inspect all receipts, invoices, proofs of purchase, and records of expenditures related to the Project. County's rights under this Section shall extend until three (3) years after the termination date cited in Section 2.1, above. The County may utilize the records provided under this section to ensure any monies provided under this agreement have been expended by the City for the purposes described herein.

5.3 Subject to the conditions in Article IV, Section 4.6 of this Agreement, County shall reserve the right to be reimbursed the estimated funds allocated to the portion of the Project that is subject to change.

VI. Conditions Precedent.

- 6.1 This Agreement shall become effective and binding on the City and the County upon approval by the Hays County Commissioners Court and the Dripping Springs City Council.
- 6.2 Public Dedication of Park Improvements. The City hereby presents evidence to the County that a) the Property associated with the Project is burdened with a public dedication in perpetuity, or its equivalent, that runs with the land and grants a right of access to the public, with reasonable limitations on the time, place, and manner of the public's use ("Public Dedication").

VII. Amendments.

- 7.1 This Agreement can be amended only by written approval of both the Hays County Commissioners Court and the Dripping Springs City Council.

VIII. Authorization to Sign.

- 8.1 Judge Bert Cobb, M.D., Hays County Judge, is authorized to sign this Agreement on behalf of Hays County, Texas. Todd Purcell, Mayor, is authorized to sign this Agreement on behalf of the City of Dripping Springs, Texas.

IX. Representations.

- 9.1 City and County each make the following representations to each other as inducements to enter into this Agreement:
- a. That it has the legal authority to enter into this Agreement for the purposes stated herein and to perform the obligations it has undertaken hereunder;
 - b. That the meetings at which this Agreement and any amendments were approved were held in accordance with the Texas Open Meetings Act, Chapter 551, Texas Government Code;
 - c. That it has been represented by legal counsel and has had legal counsel available to it for consultation prior to entering into this Agreement;

- d. That the officer who signed this Agreement has the legal authority to sign documents on its behalf;
- e. That before this Agreement was approved, its governing body had already identified and its staff had already segregated sufficient lawfully available current funds for performance of all of its obligations under this Agreement even if such performance extends beyond the fiscal year in which this Agreement was approved and executed.

X. Severability.

- 10.1 If any clause, sentence, paragraph or article of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, such determination shall not be deemed to impair, invalidate, or nullify the remainder of this Agreement if the Agreement can be given effect without the invalid portion. To this extent, the provisions of this Agreement are declared to be severable.

XI. Entire Agreement.

- 11.1 This Agreement contains the entire agreement between the parties respecting the subject matter hereof, and supersedes all prior understandings and agreements between the parties regarding the specific improvements contemplated in this Agreement. This Agreement may not be modified or amended except by written agreement duly executed by City and County and approved in the manner provided in Section VII above.

XII. Interpretation

- 12.1 The parties acknowledge and confirm that this Agreement has been entered into pursuant to the authority granted under the Interlocal Cooperation Act, which is codified as Chapter 791 of the Texas Government Code. All terms and provisions hereof are to be construed and interpreted consistently with that Act. This Agreement shall not be more strictly construed against either City or County.

XIII. Applicable Law and Venue

13.1 This Agreement shall be construed in accordance with the laws of the State of Texas. All obligations hereunder are performable in Hays County, Texas, and venue for any action arising hereunder shall be in Hays County, Texas.

EXECUTED IN DUPLICATE ORIGINALS THIS _____ DAY OF _____ 2010.

CITY OF DRIPPING SPRINGS, TEXAS

HAYS COUNTY, TEXAS

GINGER FAUGHT
DEPUTY CITY ADMINISTRATOR

JUDGE BERT COBB, M.D.
HAYS COUNTY JUDGE

ATTEST:

ATTEST:

JO ANN TOUCHSTONE
CITY SECRETARY

LIZ GONZALEZ
HAYS COUNTY CLERK

Exhibit A
The Project

Exhibit B
Project Site Plan

Exhibit C
The Property (Legal Descriptions)

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Exhibit D
Identified Lessors for a 12-Year Term

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Pursuant to Section 3.2(a), the following entities shall be granted free-of-charge use for a period not to exceed the terms described below. Those entities marked with a single asterisk (“*”) shall have the ability to use the entire facility funded by this Interlocal Agreement. Those entities marked with a double asterisk (“**”) shall have the ability to use the arena area within the facility funded by this Interlocal Agreement. The annual periods cited below are not transferable, and shall expire at the end of each calendar year.

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1. *Hays County Livestock Exposition, Inc., or its affiliates
 - A period or periods not to exceed three (3) weeks out of any calendar year, which is typically during the months of January and October.

2. *Hays County, Texas, and the following social service agencies, which traditionally receive funds under the County’s Fiscal Year Budget:
 - Community Emergency Response Team (CERT)
 - Hays County Area Food Bank
 - Hays-Caldwell Women’s Center
 - Greater San Marcos Youth Shelter
 - CASA of Central Texas
 - Big Brothers Big Sisters
 - The County, itself, is granted a period not to exceed four (4) days per year. The social service entities are each granted a period not to exceed one (1) day per year.

3. *Texas Agri Life Extension
 - A period not to exceed three (3) days per year.

4. **Hays County 4-H Horse Project
 - A period not to exceed three (3) days per year, and not to exceed twenty (20) Monday evenings per year.

5. **Hays County 4-H Fancy Feathers
 - A period not exceed two (2) days per year.

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Pursuant to Section 3.2(a), the following entities shall be granted the published per diem rate charged for the Hays County Civic Center (as of December 1, 2012) for one (1) year after execution of the Interlocal Agreement between Hays County and the City of Dripping Springs, after which these entities shall be charged the published rates of the City of Dripping Springs.

6. LULAC - Chapter 4876 (not to exceed two (2) days per year at County rate)
7. LULAC – Chapter 654 (not to exceed three (3) days per year at County rate)
8. Hays County Cattle Barons (not to exceed two (2) days per year at County rate)
9. Texas Senior Pro Rodeo (not to exceed two (2) days per year at County rate)
10. Rodeo-4-Jesus (not to exceed thirty (30) Tuesday nights per year at County rate)
11. Rotary Club of San Marcos (not to exceed one (1) day per year at County rate)