

**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**

Ratify the execution of the General and Closing Certificate of Hays County, Texas.

**ITEM TYPE**

CONSENT

**MEETING DATE**

July 23, 2013

**AMOUNT REQUIRED**

**LINE ITEM NUMBER**

**AUDITOR USE ONLY**

**AUDITOR COMMENTS:**

**PURCHASING GUIDELINES FOLLOWED:** N/A

**AUDITOR REVIEW:** N/A

**REQUESTED BY**

Cobb

**SPONSOR**

COBB

**CO-SPONSOR**

N/A

**SUMMARY**

The General and Closing Certificate is related to West Travis County Public Utility Agency Revenue and Refunding Bonds, Series 2013 in Hays County.

FILED: **07 23 13**  
HAYS COUNTY COMMISSIONERS' COURT  
Resolution # 29165 VOL V PG 197



**GENERAL AND CLOSING CERTIFICATE OF HAYS COUNTY, TEXAS**

STATE OF TEXAS  
COUNTY OF HAYS

§  
§

We, the undersigned County Judge and County Clerk of the Hays County, Texas (the “County”), do hereby make and execute this certificate for the benefit of the Attorney General of the State of Texas and all other persons interested in the WEST TRAVIS COUNTY PUBLIC UTILITY AGENCY REVENUE AND REFUNDING BONDS, SERIES 2013, dated August 1, 2013 (the “Bonds”), now in the process of issuance, as follows. Capitalized terms used herein and not otherwise defined shall have the meanings assigned to such terms in the resolution of the West Travis County Public Utility Agency (the “PUA”) authorizing issuance of the Bonds (the “Bond Resolution”) or in the Agreement (as defined in the Bond Resolution).

(1) From December 1, 2011 through the date hereof, the following individuals were the duly elected and qualified Commissioners Court of the County holding the offices opposite their names:

|                          |                          |
|--------------------------|--------------------------|
| Bert Cobb                | County Judge             |
| Debbie Gonzales Ingalsbe | Commissioner, Precinct 1 |
| Mark Jones               | Commissioner, Precinct 2 |
| Will Conley              | Commissioner, Precinct 3 |
| Ray Whisenant, Jr.       | Commissioner, Precinct 4 |

(2) From December 1, 2011, to the date hereof, Liz Gonzalez has been the duly elected and qualified County Clerk of the County.

(3) The County is not in default as to any covenant, condition or obligation under the Agreement.

(4) Attached hereto as Exhibit A is a true and correct copy of the concurrent order authorizing creation of the PUA adopted by the Commissioners Court of the County on December 21, 2011. Such order has not been rescinded, modified or amended and is in full force and effect as of the date hereof.

(5) Attached hereto as Exhibit B is a true and correct copy of the Order authorizing execution of the Agreement adopted at a meeting of the Commissioners Court, duly called and held on April 17, 2012, at which meeting a quorum of the Commissioners Court of the County was present and participating. The Agreement has not been rescinded, modified, or amended and is in full force and effect as of the date hereof.

(6) Appearing below are the true and correct signatures of the persons holding the offices of County Judge and County Clerk. By his signature hereon, the County Judge certifies that the signature of the County Clerk appearing hereon is her genuine signature and by her signature hereon, the County Clerk certifies that the signature of the County Judge appearing hereon is her genuine signature.

(7) No litigation or proceeding against the County is pending or, to my knowledge, threatened in any court or administrative body nor is there a basis for litigation which would (a) contest the title of the present members of the governing body of the County and officers of the County to their respective offices, (b) contest the due organization and valid existence of the County, (c) adversely affect or contest the validity, due authorization, execution or performance of the Agreement, or (d) attempt to limit, enjoin or otherwise restrict or prevent the County from functioning and collecting revenues, including revenues for the purpose of making payments, and other income or the anticipated receipt of revenues of the Participant's System.

(8) The Annual Financial Report of the County contained in the Official Statement fairly and accurately presents an accurate account of the financial condition of the County as of the dates and for the periods therein set forth, and there has not been a material adverse change in such financial condition of the County since September 30, 2012, the latest date as of which such audited financial information for the County is available.

(9) Except as may otherwise be described in the Official Statement, the County is in compliance with its continuing disclosure undertaking as contained in the Agreement.

(10) All meetings of the Commissioners Court in connection with the Bonds and the Agreement have been open to the public and notice of the time, place and subject of each such meeting was given as required by Chapter 551, Texas Government Code, as amended.

(11) Upon the approval of the Bonds and the Agreement by the Attorney General of the State of Texas, he is authorized to date this Certificate as of the date of such approval. If any litigation should develop, or if any other event should occur which should make this Certificate inaccurate before the Attorney General's approval of the Bonds and the Agreement, we will notify the Attorney General at once by both telephone and facsimile transmission. With this assurance, the Attorney General is entitled to rely on the accuracy of this Certificate at the time of approval of the Bonds and the Agreement unless we advise him otherwise.

SIGNED AND SEALED this July 16, 2013.

HAYS COUNTY, TEXAS



County Judge

County Clerk

(SEAL)

**Exhibit A**

**Concurrent Order**



HAYS COUNTY COMMISSIONERS' COURT MINUTES



VOLUME U PG 756

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DECEMBER 21, 2011

STATE OF TEXAS \*  
COUNTY OF HAYS \*

ON THIS THE 21<sup>ST</sup> DAY OF DECEMBER A.D., 2011, THE COMMISSIONERS' COURT OF HAYS COUNTY, TEXAS, MET IN SPECIAL 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 |
| ROSE ROBINSON            | DEPUTY COUNTY CLERK  |

AND THE FOLLOWING PROCEEDINGS WERE HAD, THAT IS:

Judge Cobb called the meeting to order.

28674 RESOLUTION OF THE COMMISSIONERS COURT, ADOPTING A "CONCURRENT ORDINANCE" PURSUANT TO CHAPTER 572 OF THE TEXAS LOCAL GOVERNMENT CODE WHICH CREATES A REGIONAL PUBLIC UTILITY AGENCY ("PUA") IN COLLABORATION WITH THE CITY OF BEE CAVE AND WEST TRAVIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 5; APPROVING THE DIRECTORS OF SAID PUA; AND AUTHORIZING THE COUNTY JUDGE TO EXECUTE AN INTERLOCAL AGREEMENT BETWEEN THE PARTIES TO SAID PUA

Bob Bass and Randy Wilburn spoke of the production and provision of water. Jim Allen spoke. The City of Bee Caves, Hays County, and MUD No.5 are public entities whose citizens are currently served with water service, wastewater service, or both by the portion of the LCRA Water and Wastewater System known as the West Travis County and Wastewater System. The PUA can serve as a vehicle and instrument to acquire the West Travis County System and can acquire on behalf of some or all of the sponsoring local governments, and local communities that participate by contract or inter-local agreement to preserve local control of the West Travis System. The PUA will be governed by a board of directors appointed by each entity. The PUA will not have authority to create any debt of financial obligation for or on behalf of any of the members and of any sponsoring local government unless an entity voluntarily enters into a separate of approval for that purpose. This MOU will expire automatically on January 17, 2012. A motion was made by Commissioner Whisenant, seconded by Commissioner Conley that the Commissioners Court, adopting a "concurrent ordinance" pursuant to chapter 572 of the Texas Local Government Code which creates a Regional Public Utility Agency ("PUA") in collaboration with the City of Bee Cave and West Travis County Municipal Utility District No. 5; approving the directors of said PUA; and authorizing the County judge to execute an Interlocal Agreement between the parties to said PUA. All voting "Aye". MOTION PASSED

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

I, LIZ Q. 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 DECEMBER 21, 2011.



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





**CONCURRENT ORDINANCE CREATING  
THE WEST TRAVIS COUNTY PUBLIC UTILITY AGENCY**

**Whereas**, the City of Bee Cave, Texas (the "City"), Hays County (the "County"), and West Travis County Municipal Utility District No. 5 (the "District") are participating in a coalition of local governments and communities of interest in response to the Lower Colorado River Authority ("LCRA") effort to transfer, sell and convey the local water and wastewater utilities, systems and facilities that provide water service, wastewater service, or both to various local governments and communities (the "LCRA Water and Wastewater Systems");

**Whereas**, the coalition of local governments and communities has formed the Coalition of Central Texas Utilities Development Corporation (the "UDC"), which corporation has submitted its indicative bid to the LCRA for acquisition of the LCRA Water and Wastewater Systems;

**Whereas**, it is the goal and purpose of the UDC to acquire the LCRA Water and Wastewater Systems, but then to further transfer and convey various portions of the LCRA Water and Wastewater Systems to the various coalition members and other third parties who desire to acquire such portions of the LCRA Water and Wastewater System;

**Whereas**, "Public Entities" are authorized pursuant to Texas Local Government Code Chapter 572 to join together to create a public utility agency to engage in the collection, transportation, treatment, or disposal of sewage or the conservation, storage, transportation, treatment, or distribution of water and may join together as cotenants or co-owners to plan, finance, acquire, construct, own, operate, or maintain water and wastewater facilities;

**Whereas**, the City, the County, and the District are Public Entities whose citizens are currently served with water service, wastewater service, or both by the portion of the LCRA Water and Wastewater System known as the West Travis County Water and Wastewater System ("West Travis County System") and whose boundaries and facilities are described in Attachment "A," which is attached hereto and incorporated herein by reference;

**Whereas**, the City, the County, and the District believe that it is in the best interest of the citizens served by the West Travis County System to acquire, or to provide for acquisition, of the West Travis County System so that the West Travis County System is owned and managed by public entities that are elected by the citizens who receive the water and/or wastewater service;

**Whereas**, the PUA can serve as a vehicle and instrument to acquire the West Travis County System and can acquire on behalf of some or all of the sponsoring local governments, and local communities that participate by contract or inter-local agreement to preserve local control of the West Travis County System; and

**Whereas**, the PUA has published notice as required by law;

**Whereas**, the PUA will be governed by a board of directors appointed by the sponsoring local governments named herein, and will not have authority to create any debt or financial obligation for or on behalf of any of the members and of any sponsoring local government until such time as each participating entity enters into a separate agreement or approval for such purpose;

**NOW, THEREFORE, BE IT RESOLVED BY THE HAYS COUNTY COMMISSIONERS COURT THAT:**

**Section 1. Finding of Facts.** The above and foregoing recitals are incorporated herein as findings of fact.

**Section 2. Acceptance of Application.** The West Travis County Public Utility Agency is hereby created and approved.

**Section 3. Agency Rules.** The Agency may adopt and enforce rules reasonably required to exercise all of the Agency's powers granted under Chapter 572 of the Texas Local Government Code or as otherwise authorized by law and to implement this order. Unless otherwise indicated by this Order or Ordinance, or by Agency Rules duly adopted by the Board, matters shall be resolved by a majority vote of the Board present. A proposal to alter, amend, or repeal Agency Rules related to the organization or procedures of the Directors shall be made by the affirmative vote of a 2/3 majority of the entire Board. However, any proposed change or amendment regarding the appointment method, number, or term of Directors shall require an Amendment to this Order or Ordinance as described in Section 11 below.

**Section 4. Initial Directors.** The following directors are hereby named as the initial directors of the West Travis County Utility Agency.

|         |   |
|---------|---|
| Place 1 | Ray Whisenant, Jr., representing Hays County;         |
| Place 2 | Mike Murphy, representing the City of Bee Cave; and   |
| Place 3 | Larry Fox, representing West Travis County MUD No. 5. |

**Section 5. Number of Directors.** All powers of the Agency shall be vested in the Board of Directors (the "Board"). The Board shall initially consist of three (3) places. The Board shall consist of one Director for each participating Public Entity named herein. Directors of the Agency for Places 1, 2, and 3 shall be appointed by each participating public entity, respectively. Each Director shall have one vote in all matters presented to or considered by the Board.

After creation of the Agency, two (2) additional places may be created by an affirmative vote of each of the Public Entities that appointed the three (3) Initial Directors. Appointment of the two (2) additional Directors to fill the additional places shall be performed simultaneously. The first of the two (2) additional Directors (Place 4) shall reside in Hays County and shall be recommended by the County. The second of the two (2) additional Directors (Place 5) shall reside in Travis County and shall be recommended by the City. The two (2) additional places shall be considered duly appointed as Directors at the time the last of each of the Public Entities that appointed one of the original three (3) Directors affirms their appointment.



**Section 6. Term of Directors.** The terms of the Initial Directors shall last until the end of the fiscal year ending September 30, 2016. The initial term of any director appointed to Places 4 and 5 shall last until the end of the fiscal year ending September 30, 2014. Thereafter, the term of office of each Director shall be four years, and the term for each Director position shall begin on the date a Director is first appointed to the position. Any Director may be removed from office at any time, with or without cause, by the Public Entity that appointed such Director. In the event two (2) additional persons have been appointed as Directors of the Board pursuant to Section 5, above, either of those Directors may be removed by an affirmative vote of the Local Government that recommended the additional Director. A replacement shall be appointed by the method cited in Section 5, above.

If any of the following persons of a Public Entity are not serving as a member of the Board, he or she, or their designee shall be entitled to serve as an ex-officio, non-voting member of the Board: (1) the Hays County Judge; (2) the City of Bee Cave City Administrator; or (3) the President of West Travis County MUD No. 5.

Any person designated as an ex-officio member of the Board is entitled to notice of, and to attend, meetings of the Board.

**Section 7. Open Meetings.** It is hereby officially found and determined that the meeting at which this resolution is adopted was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, *Ch. 551, Tex. Gov't. Code.*

**Section 8. General Powers and Authority.** The Agency is formed pursuant to the provisions of Chapter 572 of the Texas Local Government Code (the "Act") to assist and act on behalf of the Public Entities and to engage in activities in the furtherance of the purposes of its creation, and it shall have and may exercise all of the rights, powers, privileges, authority and functions given to Public Entities under Subchapter C of the Act, together with all the other powers, privileges, authority and functions given by State law. The Agency is organized and created by the City of Bee Cave (the "City"), Hays County, Texas (the "County"), and West Travis County Municipal Utility District No. 5 (the "District") (collectively, the "Public Entities"). The term "Public Entities" shall have the meaning given in Subchapter C of the Act, and the defined term "Public Entities" shall mean and include the three above named Public Entities and each additional Public Entity that becomes a member of the Agency.

**Section 9. Additional Powers and Authority.** The Agency shall have all other powers of a like or different nature not prohibited by law that are available to governmental entities in Texas and which are necessary or useful to enable the Agency to perform the purposes for which it is created, including the power to issue bonds, notes, or other obligations, and otherwise exercise its borrowing power to accomplish the purposes set forth above; provided the Agency shall not issue bonds, notes, or any debt obligation, or by contract undertake a financial obligation, that will not to be funded by funds available, or revenues of the purchased water and wastewater utilities, systems, and facilities purchases, or by binding contractual commitments made by Public Entities and legal entities to purchase increments or portions of the water and wastewater utilities, systems and facilities that are purchased.

**Section 10. Governmental Body.** The Agency is created as a Public Entity pursuant to the Act and shall be a governmental unit within the meaning of Subdivision (2), Sec. 101.001, Tex. Civ. Prac. & Rem. Code. The operations of the Agency are governmental and not proprietary functions for purposes of the Texas Tort Claims Act, Sec. 101.001 et seq., Tex. Civ. Prac. & Rem. Code.

**Section 11. Amendment.** Amendment to any provision within this Order or Ordinance requires each Public Entity to adopt a concurrent Order or Ordinance that includes the amendment.

**Section 12. Fiscal Year.** The fiscal year of the Agency shall begin October 1st of each year; provided the first fiscal year shall begin upon the effective date of the Agency, and end September 30, 2012.

**Section 13. Effective Date.** This Order or Ordinance shall take effect immediately upon adoption and the Effective Date for creation of the PUA shall be the date that the last public entity named herein shall approve of an Order or Ordinance substantially identical to this Order or Ordinance.

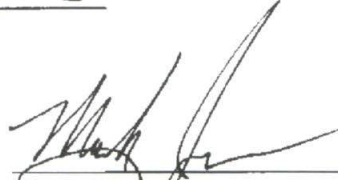
PASSED AND ADOPTED this the 21<sup>st</sup> day of December 2011.



**Bert Cobb**  
Hays County Judge



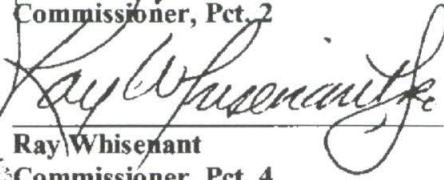
**Debbie Gonzales Ingalsbe**  
Commissioner, Pct. 1



**Mark Jones**  
Commissioner, Pct. 2



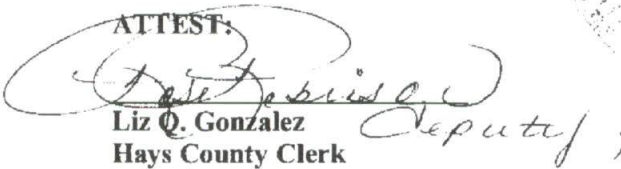
**Will Conley**  
Commissioner, Pct. 3



**Ray Whisenant**  
Commissioner, Pct. 4



ATTEST:



**Liz Q. Gonzalez**  
Hays County Clerk

**Exhibit B**

**Order Authorizing Agreement**



ORDER 2012-\_\_\_

**ORDER APPROVING ACQUISITION, WATER SUPPLY, WASTEWATER TREATMENT AND CONDITIONAL PURCHASE AGREEMENT AMONG HAYS COUNTY, TEXAS, CITY OF BEE CAVE, TEXAS, WEST TRAVIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 5 AND WEST TRAVIS COUNTY PUBLIC UTILITY AGENCY; CREATING A WATER SYSTEM; AND MAKING OTHER PROVISIONS INCIDENT THERETO**

WHEREAS, the Commissioners Court of Hays County, Texas (the "County"), and the governing bodies of the City of Bee Cave, Texas, and West Travis County Municipal Utility District No. 5 (collectively, the "Participants") have created the West Travis County Public Utility Agency (the "PUA") as their constituted authority, instrumentality and agent to plan, finance, acquire, construct, own, operate, or maintain facilities necessary for the collection, transportation, treatment, and disposal of sewage and the conservation, storage, transportation, treatment, and distribution of water for the Participants pursuant to Chapter 572, Texas Local Government Code, as amended (the "PUA Act"); and

WHEREAS, the Participants expect to pursue legislative changes to the PUA Act for the purpose of enabling the PUA to serve end users directly, with the goal of creating a combined utility system owned and operating by the PUA and providing water supply and wastewater treatment services from the PUA directly to the current customers of the Participants; and

WHEREAS, the Participants are entering into the Acquisition, Water Supply, Wastewater Treatment and Conditional Purchase Agreement (the "Agreement") with the PUA to provide for, with respect to the County, water supply services to the County and its customers until such time as such legislative changes to the PUA Act are accomplished, with the intent that at such time all outstanding Bonds (as defined in the Agreement) of the PUA will be paid in full and the Agreement will terminate;

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

Section 1. Approval and Execution of Agreement. In accordance with Section 562.016, Texas Local Government Code, as amended, the Commissioners Court of the County hereby approves the Agreement, in substantially the form attached hereto as Exhibit A, and authorizes the County Judge and County Clerk to execute and deliver the Agreement on behalf of the County. The County Judge is hereby authorized to make or approve such revisions, additions, deletions, and variations to the Agreement as, in the judgment of the County Judge, may be necessary or convenient to carry out or assist in carrying out the purposes of this Order; provided, however, that any changes to such documents resulting in substantive amendments to the terms and conditions of the Agreement shall be subject to the prior approval of the Commissioners Court.

Section 2. Creation and Maintenance of Water System. In accordance with Section 562.016, Texas Local Government Code, as amended, the Commissioners Court of the County

hereby creates a water system composed of the facilities identified in Exhibit B-5 to the Agreement and finds that the creation and maintenance of such system is in the best interests of the County.

Section 3. Further Proceedings. The County Judge, County Clerk and other appropriate officials of the County are hereby authorized and directed to do any and all things necessary and/or convenient to carry out the terms of this Order.

Section 4. Open Meeting. It is hereby found, determined and declared that a sufficient written notice of the date, hour, place and subject of the meeting of the Commissioners Court at which this Order was adopted was posted at a place convenient and readily accessible at all times to the general public at the location and for the time required by law preceding this meeting, as required by the Open Meetings Law, Chapter 551, Texas Government Code and that this meeting has been open to the public as required by law at all times during which this Order and the subject matter thereof has been discussed, considered and formally acted upon. The Commissioners Court further ratifies, approves and confirms such written notice and the contents and posting thereof.

Section 5. Repealer. All orders, resolutions and ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 6. Effective Date. This Order shall be in force and effect from and after its passage on the date shown below.

[SIGNATURE PAGE FOLLOWS]

PASSED AND APPROVED this June 17, 2012.

Frank Cross

County Judge

ATTEST:

[Signature]  
County Clerk Deputy

