




# Travis County Commissioners Court Agenda Request

**Meeting Date:** January 24, 2012

**Prepared By:** John Carr **Phone #:** 854-4772

**Director/Manager:** Roger A. El Khoury, M.S., P.E., Director, FMD 

**Department Head:** Steven M. Manilla, P.E., County Executive-TNR

**Sponsoring Court Members:** County Judge Samuel T. Biscoe

**AGENDA LANGUAGE:** Consider and take appropriate action on license agreement to use the "Old County Jail" in the Heman Marion Sweatt Courthouse to film an independent music video production on January 28-29, 2012.

## **BACKGROUND/SUMMARY OF REQUEST:**

Facilities Management Department (FMD) received a request from Mr. Paul Grubb, Producer with Keasbey Meadow Productions, LLC, to obtain permission to use the Old Jail as the upper floors of the Heman Marion Sweatt Courthouse. FMD and Ms Aldredge with the County Attorney's office collaborated on the appropriate license agreement to provide the requested access. The license agreement will provide for two days of filming in the Old Jail. The filming of the music video will occur on the weekend of January 28-29, 2012. The video company will hire off duty FMD security guards or off duty Sheriff's deputies to be with their crew during the entire time they are in the facility.

## **STAFF RECOMMENDATIONS:**

Facilities Management Department (FMD) recommends approval of the license agreement attached which will allow the video company to use the vacant 6<sup>th</sup> and 7<sup>th</sup> floors of the HMS Courthouse.

## **ISSUES AND OPPORTUNITIES:**

Mr. Grubb has signed the license agreement and provided the required proof of insurance coverage. Mr. Grubb has also provide a check in the amount of \$200. Ms. Peg Leidtke, Director of Court Management with the Civil District Courts is aware of the requested use and concurs with the recommendation to approve the license agreement. There are no financial or legal issues that would impact approval of these replacement agreements.

**FISCAL IMPACT AND SOURCE OF FUNDING:**

\$200 revenue in administrative fees for the license agreement.

**ATTACHMENTS/EXHIBITS:**

License Agreement

**REQUIRED AUTHORIZATIONS:**

Steve Manilla	County Executive	TNR	854-9429
Tenley Aldredge	Assistant County Attorney	County Attorney	854-9415

CC:

Peg Leidtke	Director, Courts Mgt	Civil District Courts	854-9364
Lt Robert Mills	Courthouse Security	TCSO	854-9770

9520 – Facilities - 0101

## **LICENSE AGREEMENT**

STATE OF TEXAS           §  
  §  
COUNTY OF TRAVIS       §

This License Agreement (this "Agreement") is made and entered into by and between Travis County, Texas, a political subdivision of the State of Texas ("County") and Kearsby Meadow Productions, LLC, a Texas limited liability company ("Licensee").

### WITNESSETH

THAT WHEREAS, County is the owner of the Heman Marion Sweatt Courthouse located at 1000 Guadalupe Street, Austin, Texas (the "Property"); and

WHEREAS, Licensee desires to enter and use the Property in connection with an independent music video production in and on that portion of the Property known as the "Old County Jail," and County desires to allow Licensee use of the Property for such purpose; and

WHEREAS, Licensee fully understands both the historical significance and the security considerations of the Property and intends to fully cooperate and take whatever steps are necessary to minimize all impacts upon the Property during Licensee's use and to restore said Property to its original condition after Licensee has completed filming.

NOW, THEREFORE, County and Licensee, in consideration of the mutual promises herein expressed and the compensation herein agreed to be paid, covenant and agree to and with each other as follows:

#### **1.0 GRANT OF LICENSE**

1.1 County hereby grants a license to Licensee, its employees, agents, independent producers, contractors, and suppliers to enter, use and by means of film, video, tape or any other method, photograph and record the following specified areas of the Property in connection with the production of an independent music video for Harrison Brown, a local (Austin) blues artist (the "License"): (i) the upper two floors of the Property, known as the "Old County Jail," together with all necessary adjacent hallways and common areas.

1.2 Such production, and all exhibition, distribution, advertising, and exploitation products or services created or produced in connection therewith, shall be the sole property of Licensee, without exception and in perpetuity, and may be exploited in all media and markets and in all forms, whether known, unknown, or

hereafter created. The License includes the right to bring onto the Property and to utilize thereon personnel, personal property, materials and equipment, including but not limited to props and temporary sets during the term of the License.

1.3 Licensee agrees to make no structural changes to any portion of the Property licensed hereunder. However, the License allows for superficial preparation to be made to the Property to facilitate Licensee's storyline and production needs as well as the right to use special effects in furtherance of the storyline. Licensee agrees to leave the Property in the same and as good a condition as when it was received, normal wear and tear excepted, as determined by existing County policy.

1.4 Licensee agrees to take all reasonable measures to minimize noise and any other type of interference with or disruption of normal courthouse business for the duration of the license term, if applicable. Licensee's disregard of courthouse staff requests to reduce the amount of noise or other disturbance caused by Licensee's activities may be grounds for revocation of the License. In addition, Licensee agrees to take particular care with respect to the disconnected drains located in the licensed area, and agrees not to place any liquids or other substances in the drains or to permit any liquids or other substances to be placed therein.

1.5 Licensee acknowledges and agrees that permission to use the County Property for the purposes described herein may be immediately revoked if the motion picture named above contains any content that, in the opinion of the Travis County Commissioners Court, or any of their designated representatives, is obscene, offensive, defamatory, harassing, malicious or that would reflect adversely on the reputation and dignity of Travis County.

1.6 Licensee acknowledges and agrees that Licensee shall be solely responsible at all times for the actions and the safety of those persons utilizing the Property under this Agreement, including, without limitation, protecting such persons from injury or death and protecting County's property and the property of such persons from loss or damage.

## 2.0 TERM OF LICENSE

2.1 The License is granted for the following dates and hours: Saturday and Sunday, January 28-29, 2012, beginning at approximately 7:00 a.m. and terminating at approximately 10:00 p.m.; provided, however, such term is subject to postponement and/or rescheduling due to any cause or reason beyond the control of Licensee or as determined to be necessary or convenient by County.

### 3.0 PAYMENT TO COUNTY

3.1 In consideration of the License granted hereunder, Licensee shall pay to Travis County the amount of TWO HUNDRED AND NO/100 (\$200.00) to cover County's administrative, utilities and related costs.

3.2 In addition, Licensee shall provide, at its own additional expense, and if appropriate given the License scope, traffic control, garbage removal, and security personnel through the employment of the necessary number of off-duty Travis County Sheriff's officers or FMD security personnel (or other qualified security personnel if approved in advance by the Travis County Facilities Management Director) to be present in the licensed areas during Licensee's use of the Property as reasonably necessary to ensure the safety and integrity of the persons and property brought onto the Property for the purposes authorized under this Agreement.

3.3 Licensee shall pay County the sum set forth in this Section 3.0 within ten (10) days of execution of this Agreement. If there are any expenses incurred by County above the expenses set forth herein, County shall invoice Licensee for the actual costs so incurred, and Licensee shall remit payment to County for the invoice amounts within thirty (30) days of receipt of invoice(s).

### 4.0 SMOKING

4.1 THERE SHALL BE NO SMOKING IN THE COURTHOUSE AT ANY TIME. LICENSEE AGREES NOT TO USE ANY EQUIPMENT OR MATERIAL THAT IS INTENDED TO PRODUCE AN OPEN FLAME.

### 5.0 PERMITS

5.1 Licensee shall be solely responsible for the costs and the securing of any permits required by the City of Austin or other local governmental entities for use of the Property under this Agreement.

5.2 LICENSEE ACKNOWLEDGES AND AGREES THAT HAVING BEEN GIVEN THE OPPORTUNITY TO INSPECT THE PROPERTY PRIOR TO EXECUTION OF THIS AGREEMENT, LICENSEE IS RELYING SOLELY ON ITS OWN INVESTIGATION OF THE PROPERTY AND NOT ON ANY INFORMATION PROVIDED OR TO BE PROVIDED BY COUNTY. LICENSEE AGREES TO ACCEPT THE PROPERTY "AS-IS" AND WITH ALL FAULTS AND WAIVES ALL OBJECTIONS OR CLAIMS IN THIS REGARD AGAINST COUNTY (INCLUDING BUT NOT LIMITED TO ANY RIGHT OR CLAIM OF CONTRIBUTION) ARISING FROM OR RELATED TO THE PROPERTY OR TO ANY HAZARDOUS MATERIALS ON THE PROPERTY. COUNTY WILL NOT BE LIABLE OR BOUND IN ANY MANNER BY ANY VERBAL OR WRITTEN STATEMENTS, REPRESENTATIONS OR INFORMATION PERTAINING TO THE PROPERTY, OR THE OPERATION THEREOF FURNISHED BY ANY REAL ESTATE BROKER, AGENT, EMPLOYEE,

SERVANT OR OTHER PERSON. LICENSEE FURTHER ACKNOWLEDGES AND AGREES THAT TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE USE OF THE PROPERTY AS PROVIDED FOR HEREIN IS MADE ON AN "AS-IS" CONDITION AND BASIS WITH ALL FAULTS. IT IS UNDERSTOOD AND AGREED THAT THE CONSIDERATION FOR THE USE OF THE PROPERTY HAS BEEN NEGOTIATED TO REFLECT THAT ALL OF THE PROPERTY IS LICENSED BY COUNTY AND ACCEPTED BY LICENSEE IN THE "AS-IS" CONDITION. THIS ACCEPTANCE BY THE LICENSEE SHALL BE AN ACKNOWLEDGMENT THAT THERE IS NO LANDLORD/TENANT RELATIONSHIP ESTABLISHED BETWEEN COUNTY AND LICENSEE. LICENSEE HAS NO EXPECTATION OF WARRANTIES AS TO USE OR HABITABILITY OF THE PROPERTY.

## 6.0 USE AND REPAIRS

6.1 Licensee shall not use the Property for any purpose other than that set forth herein. Further, Licensee shall repair or replace any damage to the Property caused by Licensee.

## 7.0 CONTROL OF TRAVIS COUNTY

7.1 Licensee shall at all times obey the direction and commands of the Travis County Sheriff and the Executive Manager of the Travis County Administrative Operations Department, or their designated representatives, while on or in the vicinity of the Property.

7.2 Any disregard of the directions, restrictions, rules or regulations referenced in this Section 7 shall be grounds for immediate revocation of the License granted hereunder.

## 8.0 INDEMNIFICATION

8.1 LICENSEE AGREES TO AND SHALL INDEMNIFY, SAVE AND HOLD HARMLESS, AND DEFEND COUNTY, ITS AGENTS, OFFICIALS AND EMPLOYEES FROM ANY AND ALL NEGLIGENCE, LIABILITY, LOSS, COSTS, CLAIMS, INCLUDING ATTORNEYS FEES, OR EXPENSES OF WHATEVER TYPE OR NATURE FOR PERSONAL INJURY, DEATH, OR PROPERTY DAMAGE, ARISING IN WHOLE OR IN PART OUT OF ANY AND ALL ACTS OF COMMISSION OR OMISSION OF LICENSEE, ITS AGENTS OR EMPLOYEES, ARISING OUT OF IN CONNECTION WITH THIS AGREEMENT OR LICENSEE'S USE OF THE PROPERTY FOR WHICH A CLAIM, INCLUDING ATTORNEYS FEES, DEMAND, SUIT OR OTHER ACTION IS MADE OR BROUGHT BY ANY PERSON, FIRM, CORPORATION, OR OTHER ENTITY AGAINST LICENSEE OR COUNTY.

8.2 Licensee shall not discharge, leak, or emit, or permit to be discharged, leaked, or emitted, any material into the atmosphere, ground, sewer system, or any body of water, if that material (as is reasonably determined by County, or any governmental authority) does or may pollute or contaminate the same, or may

adversely affect (i) health, welfare, or safety of persons, whether located on the Property or elsewhere, or (ii) the condition, use or enjoyment of the building or any other real or personal property. Licensee shall immediately notify County of any release of any Hazardous Material on or near the Property whether or not such release is in a quantity that would otherwise be reportable to a public agency and shall also comply with the notification requirements of any applicable state, local, or federal law or regulation.

## 9.0 INSURANCE

9.1 Without in any way limiting the liability of Licensee or its obligations under this Agreement, Licensee agrees to maintain during the term of the License Commercial General Liability Insurance with combined minimum bodily injury and property damage limits of \$600,000 per occurrence and \$1,000,000 in the aggregate, with Travis County named as an additional insured. Licensee has provided County with a certificate from its carrier evidencing such insurance, which certificate is attached hereto as **Exhibit "A"** and made a part hereof.

## 10.0 NON-ASSIGNMENT OF RIGHTS

10.1 Licensee may not assign this Agreement or any portion or right thereof without the prior written consent of County; provided, however, Licensee shall have the right to grant, assign and transfer all or any part of its right, title and interest in the film production, in whole or in part, including all copyrights, rights of publicity, trademarks and all other legal interests and rights.

## 11.0 AMENDMENTS

11.1 This Agreement may be amended only by written instrument signed by both County and Licensee. **IT IS EXPRESSLY ACKNOWLEDGED BY LICENSEE THAT NO OFFICER, AGENT, REPRESENTATIVE OR EMPLOYEE OF TRAVIS COUNTY HAS ANY AUTHORITY, EITHER EXPRESS OR IMPLIED, TO MODIFY OR AMEND THE TERMS OF THIS AGREEMENT UNLESS EXPRESSLY GRANTED THAT SPECIFIC AUTHORITY BY THE COMMISSIONERS COURT OF TRAVIS COUNTY.**

## 12.0 SAFETY

12.1 County reserves the right to prohibit persons from driving on, entering or otherwise using the Property at any time safety may be a concern.

## 13.0 NON-WAIVER AND RESERVATION OF RIGHTS

13.1 No act or omission by Licensor may constitute or be construed as a waiver of any breach or default of Licensee which then exists or may subsequently exist. The

failure of either party to exercise any right or privilege granted in this Agreement shall not be construed as a waiver of that right or privilege.

13.2 All rights of Licensor under this Agreement are specifically reserved and any act or omission shall not impair or prejudice any remedy or right of Licensor under it. Any right or remedy stated in this Agreement shall not preclude the exercise of any other right or remedy under this Agreement, the law or at equity, nor shall any action taken in the exercise of any right or remedy be deemed a waiver of any other rights or remedies.

#### 14.0 VENUE AND CHOICE OF LAW

14.1 The obligations and undertakings of each of the parties to this Agreement are performable in Travis County, Texas, and this Agreement shall be governed by and construed in accordance with the laws of the State of Texas. Venue for any dispute arising out of this Agreement will lie in the appropriate court of Travis County, Texas.

#### 15.0 NOTICES

15.1 Written Notice. Any notice required or permitted to be given under this Agreement by one Party to the other shall be in writing and shall be given and deemed to have been given immediately if delivered in person to the address set forth in this section for the Party to whom the notice is given, or on the third day following mailing if placed in the United States Mail, postage prepaid, by registered or certified mail with return receipt requested, addressed to the Party at the address hereinafter specified.

15.2 Licensee Address. The address of Licensee for all purposes under this Agreement shall be:

Paul Grubb  
Producer  
Keasbey Meadow Productions, LLC  
807 Keasbey Street  
Austin, TX 78751  
(512) 569-4087

15.3 Licensor Address. The address of Licensor for all purposes and all notices under this Agreement shall be:

Honorable Samuel T. Biscoe (or successor in office)  
Travis County Judge  
P.O. Box 1748  
Austin, Texas 78767



15.4 Change of Address. Each Party may change the address for notice to it by giving notice of the change in compliance with this Section.

## 16.0 MEDIATION

16.1 When mediation is acceptable to both parties in resolving a dispute arising under this Agreement, the parties agree to use a mutually agreed upon mediator, or a person appointed by a court of competent jurisdiction, for mediation as described in Section 154.023 of the Texas Civil Practice and Remedies Code. Unless both parties are satisfied with the result of the mediation, the mediation will not constitute a final and binding resolution of the dispute. All communications within the scope of the mediation shall remain confidential as described in §154.073 of the Texas Civil Practice and Remedies Code, unless both parties agree, in writing, to waive the confidentiality.

## 17.0 SEVERABILITY

17.1 If any portion or portions of this Agreement are ruled invalid, illegal, or unenforceable in any respect by a court of competent jurisdiction, the remainder of it shall remain valid and binding.

## 18.0 ENTIRETY OF AGREEMENT

18.1 This Agreement represents the sole, entire and integrated Agreement between County and Licensee with respect to the subject matter herein and supersedes all prior negotiations, representatives, or agreements either oral or written.

[signatures on next page]

IN WITNESS WHEREOF, Licensor and Licensee have duly executed this Agreement effective as of the later date set forth below (the "Effective Date").

TRAVIS COUNTY, TEXAS

By: \_\_\_\_\_

Samuel T. Biscoe  
Travis County Judge

Date: \_\_\_\_\_

LICENSEE:

KEASBEY MEADOWS PRODUCTIONS, LLC

By: Paul Galt

Title: owner

Date: 1/9/12

**Exhibit A  
Insurance Certificate  
(attached)**