



Travis County Commissioners Court Agenda Request

Meeting Date: December 16, 2014

Prepared By: Steve Manilla **Phone #:** (512) 854-9429

Division Director/Manager: N/A

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

Sponsoring Court Member: Commissioner Davis, Precinct One

AGENDA LANGUAGE: Consider and take appropriate action on issues regarding the public-private-partnership terms and conditions for 2011 Bond Program Projects Wildhorse Connector and FM973-Blake Manor Road Connector, in Precinct One.

BACKGROUND/SUMMARY OF REQUEST:

The Wildhorse and FM973-Blake Manor Connector Road projects were approved by the voters in the 2011 Bond Referendum. These project will provide much needed capacity and connectivity in an area expected to experience phenomenal growth as large developments such as Wildhorse, Whisper Valley, Indian Hills, and Eastwood begin building thousands of residential structures and millions of square feet of commercial space (see attachment A). Both projects were selected to be Public-Private-Partnerships (PPP). As such, they are to have executed Participation Agreements by December 31, 2014 (See attachment B). Typical PPP Agreements require the Developer Partner to donate all right-of-way and pay 50% of the cost of engineering and construction costs. The Developer Partners for both projects are seeking funding for their share of the costs through public improvement districts (PIDs) to be created with the City of Austin and the City of Manor. Toward that end, the developers have been in negotiaions with the City of Austin for several months but it appears that the PIDs may not be approved until mid 2015. For these reasons, the Developer Partners are unable to execute a Participation Agreement by the deadline.

The Developer Partners have requested that the Commissioners Court consider this and other issues so they know the Court's views on them. The following issues will require Court approval:

- a) Securing the private party's financial commitment at an early date will be a key milestone on which bond funding is conditioned. The original timeframe for securing private funding will change from on-or-about December 31, 2014 to on-or-about September 1, 2015.
- b) The Wildhorse Connector project is now entirely within full purpose City of Austin. The Guidelines for PPP's state, "A candidate project is expected to include city

participation if any part of it is inside the city limits..." (see attachment C). Annexation occurred after the November 2011 bond referendum was approved by voters. The Developer is currently working towards a financing agreement that will divide the project costs equally among the City, the Developer, and the County. In the event this financing agreement does not materialize, the Developer will seek conventional financing for its 50% share of project costs and the Developer requests a waiver of the requirement to include City participation if the City rejects the PID proposal.

STAFF RECOMMENDATIONS:

Staff recommends giving the Developer Partners a deadline for executing the Participation Agreement of September 1, 2015 because these projects will provide additional capacity and critical linkage for the area roadway network. Failure to complete the projects will result in unacceptable levels of service and reduced safety on a roadway network comprised of rural county roads that were not built to modern standards.

Staff recommends a waiver of the requirement for city funding if the city rejects requests to cost share because the project area was annexed after the 2011 bond referendum was approved by voters.

ISSUES AND OPPORTUNITIES:

Extending the project timeframe is necessary if the project is to be completed. However, if the Developer is unable to execute an agreement on-or-about September 1, 2015, and an assessment of the progress towards achieving an executed agreement is unsatisfactory, TNR will recommend reallocating the County's funds to other projects.

During 2014 TNR staff contacted the City of Austin Public Works and the City of Austin's Transportation Departments with requests to cost share on these projects. In both cases, the City was unable to commit to cost sharing due to the lack of authorized bond funding. TNR will approach those agencies again as the September deadline nears to determine if their position changes, particularly if the Developer is unsuccessful in obtaining additional funding from other sources.

FISCAL IMPACT AND SOURCE OF FUNDING:

Voters approved \$8,687,800 for the Wildhorse and \$8,658,100 for the FM973 to Blake Manor Connectors, respectively. These funds are intended to cover the County's 50% costshare for the projects. The Developer is negotiating a Public Improvement District with the City of Austin, the proceeds from which allow the Developer and City to split the costs equally three ways. This would reduce the County's original 50% share to a 1/3 share. The Developer has advised that the proposed PID will be unable to cover the County's cost share too because the Wildhorse project is subject to a city tax and must remain competitive in the

marketplace with the PID assessments. The assessments will be capped at \$0.25 per \$100 which is not adequate to fund the County's share in addition to other needs such as the City and Developer shares. The County has voter authorization to cover its share of the costs and the City does not.

ATTACHMENTS/EXHIBITS:

Area Map
 2011 Bond Order (Excerpt)
 2011 PPP Guidelines

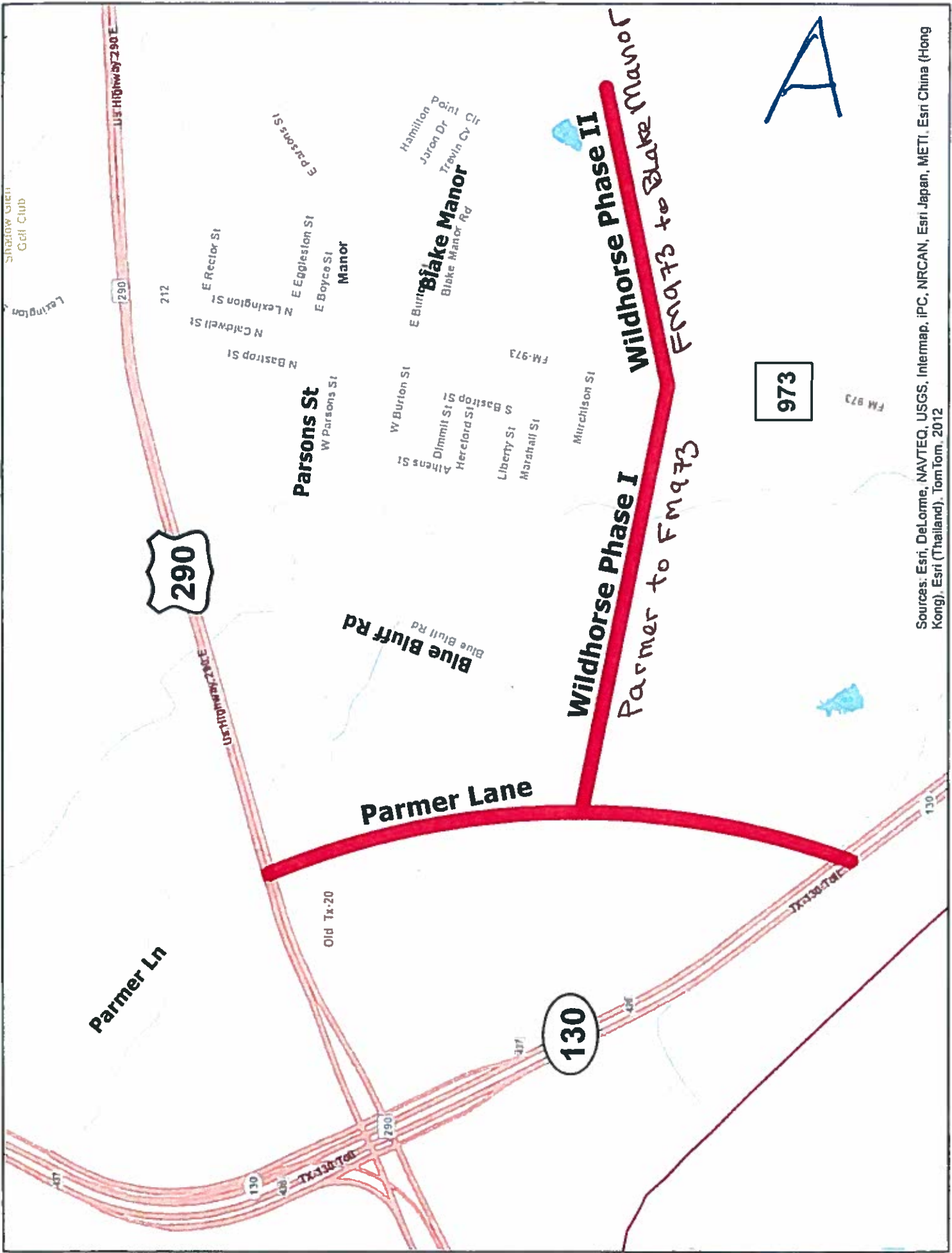
REQUIRED AUTHORIZATIONS:

Cynthia McDonald	Financial Manager	TNR	(512) 854-4239
Steven M. Manilla	County Executive	TNR	(512) 854-9429
Jessica Rio	Asst Director	PBO	(512) 854-4455
Tom Nuckols	Asst Cnty Attny	County Attorney's Office	(512) 854-9262
Nicki Riley	County Auditor	Auditor	(512) 854-3227

CC:

Morgan Cotten	Public Works Director	TNR	(512) 854-9434
Steve Sun	Asst Public Works Director	TNR	44660

: :
3101 - Public Works/CIP -



290

130

973

Wildhorse Phase I
Parmer to FM 973

Wildhorse Phase II
FM 973 to Blake Manor

Parmer Lane

Blue Bluff Rd

Parsons St

Blake Manor

Sources: Esri, DeLorme, NAVTEQ, USGS, Intermap, iPC, NRCAN, Esri Japan, METI, Esri China (Hong Kong), Esri (Thailand), TomTom, 2012

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5(a), without regard to precinct, and, upon the ending of all projects identified in this Section 5(a), for any other purpose authorized pursuant to BOND PROPOSITION NO. 1.

COMMISSIONERS' PRECINCTS NO. 1 AND NO. 4\$3,333,000

- Road Reconstruction

COMMISSIONERS' PRECINCTS NO. 1, NO. 2, NO. 3 AND NO. 4\$4,987,279

- Bike Safety Projects
- Substandard Roads

(b) With respect to the bonds described in BOND PROPOSITION NO. 1, the Commissioners Court hereby covenants and agrees with the voters at said election that \$92,234,109 of the authorized amount of such bonds shall be allocated to the following projects in the following amounts:

→ • FM 973 to Blake-Manor Road Connector	\$ 8,744,681
• Rowe Lane	\$ 1,625,393
• Blake-Manor Road	\$13,823,062
• US 290 – Circle Drive Intersection	\$ 899,910
→ • Wildhorse Connector – Parmer Ext. to FM 973	\$ 8,774,678
• Slaughter Lane East	\$ 7,221,500
• Tuscany South	\$ 3,610,750
• William Cannon Drive	\$ 9,553,489
• Wells Branch Parkway	\$ 7,786,999
• Weiss Lane	\$ 7,478,141
• Bee Creek Road	\$ 9,520,159
• Taylor Lane-Braker Lane Ext. to Blake Manor Road	\$ 8,512,482
• Flint Rock Road – RR 620 to Serene Hills Drive	\$ 4,127,365
• Lost Creek Sidewalks	\$ 555,500

provided, that the Commissioners Court further agrees not to expend the amounts relating to a specific project listed in this Section 5(b) until such time as a written agreement (each, a "Participation Agreement") relating to such project that complies with the requirements of the County's Guidelines for County Participation in Public/Private Partnerships for Arterial Roadway Construction, adopted August 9, 2011, and as may be amended from time to time (the "Guidelines"), has been approved, executed and delivered by the County. In the event that a Participation Agreement complying with the Guidelines has not been approved, executed and delivered by the County with respect to any project listed in this Section 5(b) on or before December 31, 2014, or such other date as may be determined by the Commissioners Court, the amounts allocated to such project may be reallocated in such amount as shall be determined by the Commissioners Court at the time of such reallocation.

I, Dana DeBeauvoir, County Clerk, Travis County, Texas, do hereby certify that this is a true and correct copy as same appears of record in my office. Witness my hand and seal of office on



Dana DeBeauvoir, County Clerk
By Deputy:

NOV 16 2011
G. PORTER

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**2011 TRAVIS COUNTY GENERAL OBLIGATION BONDS:
GUIDELINES FOR PUBLIC/PRIVATE PARTNERSHIPS
FOR TRANSPORTATION PROJECTS**

Overview

In a public/private partnership, a private party may contract for the engineering and construction of a road segment and be reimbursed by the County for a share of the costs; or the County may contract for the engineering and construction of the road segment and pay for a share of the costs with funds contributed by a private party.

Milestones

County bond funding for each project will be conditioned on that project meeting certain milestones. If a project fails to make progress towards completion according to the milestones, the County may withdraw funding and re-direct it to another project.

Land Ownership & Security for Private Share of Costs

Private parties are expected to arrange for the donation to the County of all property interests required for the project, including rights-of-way and easements for slopes, sight distances, stormwater, etc. Therefore, private parties should own, control, or be able to acquire all the land within a project's limits. In a limited number or unique cases, the County may be willing to use eminent domain to acquire outparcels, provided the private parties bear the ultimate cost.

Also, the private share of project funding must be secured by a cash deposit, bond, letter of credit, public improvement district assessment, special district tax or assessment, restrictive covenant, or other form of funding or security acceptable to the County in its discretion.

Securing right-of-way and the private party's financial commitment at an early date will be two of the key milestones on which bond funding is conditioned. This ensures that the County will be able to proceed with the project regardless of either a change in ownership of the land or a negative change in the financial status of the land owner.

General Criteria

- 1. All candidate projects must be arterials in the CAMPO 2035 Plan.

I, Dana DeBeauvoir, County Clerk, Travis County, Texas, do hereby certify that this is a true and correct copy as same appears of record in my office. Witness my hand and seal of office on

NOV 16 2011



Dana DeBeauvoir, County Clerk

By Deputy:

Gillian Porter
G. Porter

Exhibit D

2. All candidate projects must result in construction of a viable segment of roadway that, standing alone, is fully functional and usable by the public even if no subsequent segment is added in the future.
3. County bond funding may not be used to pay for the portion of a project that a land owner is obligated to pay for or build as a requirement of being granted development entitlements for the land.
4. Projects must not result in additional traffic loads being directed onto existing road segments that are substandard.
5. The County will consider the phased construction of multi-lane projects. However, the first phase must result in at least two lanes being completed for the full length of the ultimate project. Also, requirements for securing the private share of the project cost may be more stringent for phased projects.
6. The County will pay no more than half of all engineering and construction costs. Construction costs will include bridges, utility relocation, road-related storm water detention and water quality ponds, landscaping, and pedestrian and bicycle facilities. The County will pay up to 80% of the cost of bridges and box culverts if County design standards require them to be 100 feet or longer, measured along the centerline of the road.
7. The County will define the project engineering design standards; define and approve the scope and terms of the engineering contracts, including the amount and coverage of professional errors and omissions insurance; and review and approve the engineering construction plans and specifications.
8. If a private party contracts for engineering and construction, procurement processes substantially similar to the County's procurement processes must be followed. The project engineer must be selected based on qualifications rather than low bid. The construction contractor must be selected based on a competitive bidding process. The County's goals for Historically Underutilized Businesses must be met in for both engineering and construction procurement. Final selection of the project engineer and construction contractor are subject to County approval.
9. A candidate project is expected to include city participation if any part of it is inside the city limits, an area included in a three year municipal annexation, an area subject to an annexation agreement, or a "near-term annexation areas" of the City of Austin under §30-1-21(5), Austin/Travis County Subdivision Regulations. City funding should be roughly proportional to the relative portion of the road segment that is in any one of these areas. The cost of any unique features or design requirements that result from special city requirements must be born entirely by the city or the private party. Written commitments from a city will be required prior to the Commissioners Court vote to call the bond election.

I, Dana DeBeauvoir, County Clerk, Travis County,
Texas, do hereby certify that this is a true and
correct copy as same appears of record in my office.
Witness my hand and seal of office on

NOV 16 2011



Dana DeBeauvoir, County Clerk
By Deputy:

Callen Porter
C. Porter