

February 6, 2017

On motion by COMMISSIONER PCT. 4, JOSEPH PALACIOS, seconded by COMMISSIONER PCT. 1, DAVID FUENTES, the Court made a UNANIMOUS vote of approval.

Vote: 3 - 0 - Unanimously

2. **AI-58379**
- a. Requesting exemption from competitive procurement requirements under the Texas Local Government Code, Section 262.024(a)(7)(a) proprietary software in connection with On-line Research Services for Hidalgo County;
 - b. Requesting approval of agreement(s) if applicable for "On-line Research Services" with Lexis Nexis including but not limited to the following Hidalgo County department(s):
 1. District Clerk
 2. District Judges
 3. Constable Pct 1
 4. Constable Pct. 3

Martha Salazar requested no action on Item.23.A.2.A and B.

Court took no action on Item.23.A.2.A and B.

3. **AI-58267**
- A. Requesting approval to declare the items listed in Exhibit "A" (attached herein), office furniture, equipment, vehicles, and boats as "Surplus" for the purpose of sale through online auction scheduled for 2-17-2017 thru 03-03-2017 in accordance with Texas Local Government Code 263.152 (a)(1); AND, in the event "NO BIDS" received on either auction date,
 - B. Requesting authority to publish advertisement for the auction of surplus scheduled for 2-17-2017 including but not limited to Seized, Abandoned and Unclaimed Property or additional and/or necessary auctions.

Martha Salazar requested no action on Item.23.A.3.A. and B.

Court took no action on Item.23.A.3.A. and B.

Court proceeded to Item.23.B.1.

4. **AI-58401**
- A. Acceptance of Quote #0001409 from HART InterCivic, awarded vendor, through BuyBoard Coop. Program Contract #460-14 Voting Equipment [as approved by state of Texas Certification Process] including the Contract document [reviewed/approved as to form by HC-DA/Civil Section] with authority to purchase same through a submitted Electronic Requisition and processed Purchase Order System in the amount of \$5,491,500.00 [with details on both the Contract document and/with attached Quote herein] and approval to have County Judge to execute HART Interactive Contract Documents and subject to compliance with form 1295 and any other statutory/policy requirements, if and when applicable;

Valde Guerra advised that four individuals signed up under Open Forum regarding this item.

Judge Garcia commented that his reason for previously tabling the item was due to the possibility of the state getting involved in the process and the county being able to purchase the machines at a cheaper price. However, according to the judge, they inquired into it and at the moment the State of Texas is facing some deficit and will not be helping counties in the purchase of voting machines.

Commissioner Palacios requested Pepe Caso, Chief Administrator for Precinct 4, to read a summary of bills regarding the matter.

Caso informed that they accounted with the help from a legislative intern to assist with findings of the HB 199, SB 230 and HB 1452. According to the chief administrator, SB 230 essentially removes the cap on the amount of counties on which county wide polling can take place. Also, HB 1452 calls for a mandatory study on cyber attacks to election machines. As per Caso, SB 405 would have the most impact on any decision, as it calls for mandatory print receipts along with any voting cast on electronic machines. Caso affirmed to Commissioner Palacios that these are bills that have just being introduced.

As stated by Pepe Caso, on January 6, 2017, The Department of Home Land Security designated election machines as critical infrastructure.

Valde Guerra restated, that the Open Forum and Public Participation Form are one in the same. The public participation form is use to document the subject matter that an individual wants to bring up to the court. On the other hand, the open forum is to discuss issues that may or may not be on the agenda.

Court permitted open forum individuals to speak first.

1) Jim Barnes stated that in Hidalgo County there has been no indication that election machines have been tempered with. However, paper ballots have been questioned and have been the topic of law suits for invalidated election. Barnes favored the HART machines by stating that every electronic vote has a pedigree, serial number and where it's cast from. As an election judge, Barnes assured that HART machines are easier to manage and are in compliance with the state and federal regulations. He requested approval to buy the machines.

2) Mel Sanders affirmed his position to approve the HART machines. Sanders argued that as an election judge, he sees that having paper ballots will only increase the need for more poll watchers and further training. Assuring that most election judges do not favor paper ballots.

3) Grace Rivera informed that she has worked as an election judge at the elections annex and reminded the court that the average age of an elections judge is 65 years old. If they decide on paper ballots, it will take tremendous amount of time to count the ballots. She petitioned the court to consider the amount of work it will take the poll workers and election judges to count paper ballots.

4) Fern McClaugherty declared that paper ballots are easier to temper with. She requested the court to approve the resolution that was previously signed. Once more, restating that these machines are not connected to the internet and any cheating can be done at any other time. McClaugherty, reminded the court that there were several workshops to test both machines and HART proved to be the best of the two and hardest to be tempered with.

Furthermore, McClaugherty disclosed to the court that she received an e-mail stating objection, however the most relevant statement in the e-mail is towards Yvonne Ramon, Elections Administrator. McClaugherty, pointed out that the administrator's name was mentioned fourteen times. In any case, the O.W.L. member made clear that this is not about the elections administrator; it is about the court selecting the best machine for the county. McClaugherty requested the court to purchase the HART machines and do the right thing for the voters of Hidalgo County.

5) Mike Carrera argued that if the court approves the HART machines, they'll be rushing into making a decision. Stating that he is not for nor against the machines; disputed that technology changes rapidly. Carrera advised the court to wait until the end of legislature to find out more about the outcome.

6) Leslie Gower informed that she spoke with former Secretary of State Carlos Casco, Travis County Executive Director, Nueces County, Brazos County, Collin County and legislators. According to Gower, Casco disclosed that the machines purchased in 2004 were based on standards put together from that year. She discussed that buying machines now, based on the current standards does not make sense. She suggested waiting until the state is able to organize contracts with vendors and perhaps obtain a cheaper price. On the other hand, she noted that paper ballots and mail ballots are completely different. Assuring that paper ballots are more secure because there're watchers at the polling stations.

7) Nathan Schwarz announced he has worked as a central county judge, ballot board member, elections judge, poll watchers and data analysts for several county elections. Schwarz implied that HART machines are an option to satisfy the elections administrator desires to have voting centers. Additionally, claiming that Yvonne Ramon refused to pay to poll workers to escort the bags containing PEB cards and CF cards. Further, declaring that Ramon does not provide access to the EL 155 and EL 155 U.

8) Abel Prado communicated that in lieu of the state not being able to assist with the purchase of the voting machines, it makes the situation even more important because there's the need to save money. He stressed the importance of SB 405 which can affect the way elections are conducted. Noting that paper and mail ballots are completely different. Prado affirmed that committing fraud with paper ballots would take hours in order to persuade an election. Additionally, Prado claimed that Stephanie R. witnessed four instances of voting intimidation, has failed a complaint.

Commissioner Flores stated his inclination to wait on making a decision until the legislature is completely done.

Commissioner Cantu questioned the longevity of the current machines. With regards, Mike Sosa stated that based on his professional experience the machines can last about a month or so. The machines were bought in 2005 and the life expectancy is about 10 years; about 700 machines are used for general elections. Sosa explained that the PEB cards can't be cleared anymore and there are no new parts. The newest machines at hand were bought refurbished in 2012.

Sosa explained to the court that if the current machines are utilize for the next general election they could see problems with the PEB cards because it won't clear correctly the first time, possibly showing a different election. Additionally, HART will give the county money and destroy the machines.

Arturo Guajardo, Jr., Hidalgo County Clerk and Vice Chairman of the Elections Commission, notified he too asked similar questions to Yvonne Ramon regarding the life expectancy and performance of the current machines. As per Guajardo, Ramon disclosed serious concerns. He reminded the court that the last election cycle was challenged and questioned the results, creating several law suits. As the elections commission, they set a series of workshops to test both machines side by side. Judge Garcia specified that the two machines placed side by side were from ES&S and HART. The county clerk emphasized that these two are the only machines in the State of Texas that are certified. Honorable Guajardo affirmed that the elections committee voted unanimously in favor of the HART machines.

Judge Garcia disclosed that the elections committee is composed of himself, Arturo Guajardo, Jr. Hidalgo County Clerk, Pablo Villarreal, Tax-Assessor & Collector, Democratic Chair and Republican Chair.

Commissioner Palacios questioned the potential outcome of the SB 405.

In reference, Felice Liston stated that the HART system is an electronic system as well as paper system, much like Verity. When the electronic HART system was developed and designed it was 100% electronic. However, a few years later HART developed a piece that could be added to the system to provide voter verifier audit trail or paper trail. Liston commented that if SB 405 passes through the current legislature session, they'll do the same. However, the Verity electronic system already allows for a paper trail record to be printed after the vote is cast by the elections department.

Commissioner Palacios noted that he was concern over having the ability to print a paper ballot if needed.

Guajardo, Vice Chairman of the Elections Commission, informed the court that the process was done over the course of a year, through out the process they also worked to identify the funding. Once more, restating that they held workshops for the public and election judges and received feedback from both. Guajardo affirmed that Yvonne Ramon was open throughout the entire process. Additionally, cautioning the court about running the next election with the current machines.

Judge Garcia articulated that they have gone through the process, compared both machines, the elections board voted unanimously to approve the HART machines and it appears by all indication that the people who actually tested the machines agree that HART machines are more practical.

Commissioner Palacios asked Felice Liston about the future cost to keep up with the legislature demands. Liston informed that when they added the paper trail piece to the current Verity system, it cost about \$1,000 per system.

Commissioner Fuentes questioned Liston about staying in compliance with future demands and regulations. With regards, Liston reminded the court that HART InterCivic has been in the elections industry since 1912. Liston stated that

in order to stay in business the company is required to be certified at the state and federal level, whether be law or election code; she guaranteed that the Verity system will continue to meet all requirements. Regarding future costs, she advised that they wouldn't know the cost until an specific requirement is pass by the state legislature and time frame being required for all voting systems across Texas.

On motion by COMMISSIONER PCT. 2, EDUARDO "EDDIE" CANTU, seconded by COMMISSIONER PCT. 4, JOSEPH PALACIOS, the Court made a UNANIMOUS vote of approval.

Vote: 5 - 0 -Unanimously

B. Pursuant to TxLGC 263.152(a)(2), approval to declare "Surplus" all ES&S Ivotronic Voting Equipment, Accessories, Software and authority for HC [upon the anniversary of renewals] issuing written notices of non-renewing maintenance and support agreements [as detailed on schedule attached hereto] with actual "trade-in" of the items to HART InterCivic [with corresponding credit of \$750K] with transfer of all equipment as agreed upon by both HART Interactive & Hidalgo County [through Elections Dept.] and pursuant to contract terms/conditions;

Description	Duration / End Date	Qty.	Deadline to mail Termination Letter
Ivotronic Voting Machines	2/1/2016 - 1/31/2017	267 Plus 650 Machines	12/31/2016
Ivotronic Voting Machines	5/1/2016 - 4/30/2017	70 Voting Machines	3/30/2017
Unity Software Renewal License	7/1/2016 - 6/30/2017	1 Software License	5/30/2017
Unity ERM Software Renewal License	9/1/2016 - 8/31/2017	1 Software License	7/31/2017
Ivotronic Voting Machines	8/1/2016 - 7/31/2017	464 Voting Machines	6/30/2017

On motion by COMMISSIONER PCT. 3, JOE M. FLORES, seconded by COMMISSIONER PCT. 2, EDUARDO "EDDIE" CANTU, the Court made a UNANIMOUS vote of approval.

Vote: 5 - 0 - Unanimously

Court proceeded to Item.7.A.

B. Pct. 1

1. AI-58254 a. Recommendation by project engineer, Sames Engineering & Surveying to award the Base Bid to the responsible vendor M.J.A. Construction - submitting the lowest and best bid meeting all specifications for FEMA project "Paving & Drainage Improvements-Las Nubes Dr., Marlen St., Lott Rd., & Old River Rd." in the amount as listed below:

RFB: 2016-401-12-28-YZV	
	AMOUNT
Las Nubes Drive	\$ 36,815.00
Marlen Street	\$ 78,605.10
Lott Road	\$239,826.75
Old River Road	\$201,221.65
TOTAL BASE BID	\$556,468.50

b. Pursuant to TX Local Government Code 262.031 and in the interest of expediting a project's progress, requesting authority/ approval for the Precinct Commissioner or designee: David Suarez, Chief Administrator to execute change orders that involve ...'an increase or decrease in cost of \$50,000.00 or LESS and in no event to exceed the Change Order's statutory limits...'. The original contract price may not be decreased by 18% or more without the consent of the contractor".

Martha Salazar requested no action on Item.23.B.1.A and B.

Court took no action on Item.23.B.1.A and B.

2. AI-58397 Pct. #1 requests approval to exercise [pursuant to Article 3.3 (5)-Termination of Agreement #08-227-02-09 between Hidalgo County and TEDSI Infrastructure Group to provide general engineering services for: Mile 6 West Road Improvements & between SH 107 & Mile 9 North and includes authority to send the required (30) day termination notice with an effective day of February 6, 2017.

On motion by COMMISSIONER PCT. 1, DAVID FUENTES, seconded by COMMISSIONER PCT. 4, JOSEPH PALACIOS, the Court made a UNANIMOUS vote of approval.

Vote: 3 - 0 - Unanimously