

## COUNTY FAIRGROUNDS PROJECT LATE, OVER BUDGET AND OF QUESTIONABLE BENEFIT

On September 14, 2021, upon request from Judge Bray and Commissioner Liesmann, SLS Partnership, Inc. presented a fee structure and proposal to develop a concept plan to replace the Exhibit Hall at the County Fairgrounds and consult on the management of the project. The concepts were approved and detailed design work began.

On April 26, 2022 SLS updated the Commissioners Court on the Fairgrounds project when it confirmed that the project could be done for **\$800,000**. In the same meeting a search for financing of the Fairgrounds project along with a future EMS #1 facility and heliport to be located at Round Mountain were discussed. It was agreed that the two projects should be funded together and that Certificates of Obligation would be the preferred funding instrument to spread payments over a longer term. SLS was engaged to do design and project management for the EMS #1 / Star Flight project.

**SLS Partnership, Inc.** (SLS) is an Architectural firm located in **Kerrville, Texas**. They were originally engaged following a July 13, 2021 proposal by Commissioner Weir and Judge Bray to again expand the South Annex in Blanco after just 3 years and to consider Renovation of the Old Jail in Johnson City. Tommy Weir was given authority to find an Architect for professional services to develop concept plans for both facilities. On August 10<sup>th</sup> Judge Bray said, "We have, I am going to say, been blessed because they are likeable people" when he announced that Commissioner Tommy Weir had found SLS.

On August 10, 2021 SLS presented concept plans for both facilities. The proposal was accepted and SLS was engaged to provide the County with Architectural services as needed.

More on SLS, the South Annex and Old Jail Projects in a future article.

**Certificates of Obligation:** Texas state law usually requires local governments to get voters' approval before issuing debt which will be repaid from property taxes levied on the public. Issuing Certificates of Obligation is an exception to this rule; CO's may be used to fund public works without voter approval.

Using CO's allows local officials to burden taxpayers with **long-term**, tax-funded debt and can also be used to fund multiple projects with a single CO, causing public confusion.

Three months later the Commissioners Court authorized \$3.5 million funding by issuing a Certificate of Obligation (CO) which did not require a vote of the public. Not only was the funding established for the Fairgrounds project, but also the new Round Mountain EMS #1 facility and heliport for Travis County's Star Flight operation.

During the design phase of the Fairgrounds project SLS worked with the county and expanded the project beyond just the Exhibit Hall to include additional improvements in phases described as Phase 1, 2A, 2B, and 3. The additional design features included replacing the outside dance floor and adding a new concession stand. It was also determined that funds remaining from the previous year's financing (2021 Tax Note) along with the Coronavirus State and Local Fiscal Recovery Funds (SLFRF) would be used along with the new financing for the projects.

**Tax Note:** **Short-term** debt issued by a state or local government to raise money for a public project. It is secured by projected future tax collections.

The County determined that the Fairgrounds project was eligible for SLFRF funding due to the impact the pandemic had on travel, tourism, and the hospitality businesses.

[Q: Was an economic analysis performed showing the impacts to the county, local businesses, or the public to justify and meet the requirements for use of SLFRF funds?]

On December 6, 2022 Judge Bray signed a contract with Kendnel Kasper Construction Company for the Fairgrounds project. Part of the justification for awarding the contract to KKC was that they would be able to capitalize on the close proximity to the Old Jail project which had been contracted to KKC in September 2022. It was believed that savings could be achieved by KKC’s sharing of construction crews between the two projects.

The contract included \$2,741,202.86 for Phase 1, 2A, and 2B (new Exhibit Hall and new outside dance floor). It also included an optional Phase 3 for a new concession stand for an additional \$1,078,561.21. **The total KKC contract was \$3,819,764.07.**

**Kendnel Kasper Construction, Inc. (KKC)** is a General contractor located in **Kerrville, Texas**. KKC had previously been awarded the contract for the Renovation of the Old Jail in Johnson City, which was designed by SLS. The Old Jail rehabilitation is nearing completion at the time of this article. A future update will discuss the Rehabilitation of the Old Jail.

The contract specified a start date of January 4, 2023 and a completion date of August 15, 2023. The completion date did not apply to the optional concession stand work (phase 3) because it had not yet been authorized to begin. Also stipulated was a liquidated damages clause of \$500 / day for each day the project extended beyond the completion date. The completion date was established to ensure that the project would be completed by the opening of the Blanco County Fair on August 15, 2023.

The Fairgrounds work began with SLS providing administration functions as part of their Professional Services agreement ensuring compliance with all specifications, certification of progress payments, and arranging for additional services incidental to the work performed by KKC. Change orders approved to the KKC contract and additional services outside the KKC scope of work increased the anticipated project cost. The work outside the KKC contract included a wastewater system design, electrical service, drainage design, a handicap ramp, and a geotechnical study and sub-grade design to support the new structures. In an effort to hold down the cash outlay, it was decided to use county resources to facilitate the demolition of the old exhibit hall. I have not attempted to include county labor and equipment costs in my analysis.

On March 28, 2023 the county decided to move forward with the concession stand phase of the Fairgrounds project. At that time they extended the completion date for the entire project to September 2, 2023 while Judge Bray stated “the contractor believes we can meet the deadline and have the concession stand built in time for the fair and rodeo”. The addition of the concession stand would add workload for both SLS and KKC whose participation in county projects had continued to grow. Although the proximity to those projects was earlier deemed an advantage, the overall workload appears to have slowed progress on all projects.

**KKC simultaneous County jobs:**

- Old Jail rehabilitation - \$1.55 mil. - 9/13/22
- Fairgrounds - \$3.8 mil. - 12/6/22
- EMS #1 / Star Flight - \$4.4 mil. - 4/26/23

### **Change in Management Oversight:**

During the March 28 Commissioners Court meeting Judge Bray said, “I think the commissioners are considering the idea of taking a more direct role in some of these projects or having somebody, having a Blanco County component, take a more direct role in some of these projects in an effort to cost save and be efficient.”

[Q: Was there discussion between the Commissioners and Judge Bray, outside the open meeting required by statute, that led to the project oversight change?]

While deliberating over the decision, Commissioner Liesmann and Judge Bray entered into a discussion with Kimberlyn Galifaro of KKC as follows:

**Chris Liesmann Q:** “Do you feel that Kendnel Kasper will work directly with Blanco County, project management wise and taking on the roles of the projects?”

**KKC Ans:** “Yes sir, If that’s what we’re asked to do we would do that for you.” ... “It's just establishing a communication chain between us and the county and then us and the architect or the county and architect whatever y'all would prefer at that point.”

**Judge Bray Q:** “Can we save money?”

**KKC Ans:** “From ours, it would be the same on our side. I don’t know what the fee would be on the other.”

**Judge Bray:** “You have been on multiple projects...You’re highly regarded as a trusted partner...You enjoy a bit of credibility and a bit of appreciation...It appears even though you’re a contractor and your job is to make money, it appears you have our interest in mind”

Following that discussion the Commissioner’s Court decided to cease use of SLS for project management oversight responsibilities and utilize them only to resolve questions regarding the SLS designs. In order to “save money”, they assigned Commissioner Liesmann to perform oversight functions on the Fairgrounds project and the upcoming EMS #1 / Star Flight project and Commissioner Weir to oversee the Old Jail rehabilitation.

The role of the Architect (SLS) as defined in Article 9 of the contract included the following:

“**Section 9.2** The Architect will visit the site at intervals appropriate to the stage of construction to become generally familiar with the progress and quality of the Work.”

“**Section 9.4** Based on the Architect’s observations and evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor.”

“**Section 9.5** The Architect has authority to reject Work that does not conform to the Contract Documents.”

“**Section 9.9** The Architect’s duties, responsibilities, and limits of authority as described in the Contract Document shall not be changed without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.”

No representative from SLS was present during the March 28 meeting. The Assistant County Attorney has advised that no written communication exists obtaining consent of all parties and explaining, with clarity, the changes in duties, responsibilities and authority of each party per Section 9.9.

**SLS simultaneous County jobs:**

- Old Jail rehabilitation - design and oversight
- Fairgrounds - design and oversight
- EMS #1 / Star Flight - design and oversight
- Johnson City Courthouse Roof / Cupola - evaluation & design - 9/14/21

[Q: Why was SLS not included in the discussion regarding the reduction of their responsibility and why was it not communicated in writing as required by the contract?]

The costs associated with the SLS oversight function had apparently been higher than the county anticipated and eliminating SLS’s involvement was expected to stem the tide on project cost overruns. SLS payments for all Fairgrounds project work from the initial concept drawings until their services ended was approximately \$267,549, raising the **total projected Fairgrounds cost to over \$4,300,000.**

The KKC promise to cooperate with the county by saying “If that’s what we’re asked to do we would do that for you”, did little to clarify responsibilities and expand their role beyond those commitments already made in Article 8.3 of the contract.

**“Section 8.3** Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences, and procedure, and for coordinating all portions of the work”.

The KKC representative was correct when she stated “it would be the same on our side”. No clarification of the division of responsibility between the County and KKC was ever provided. The responsibility for the quality control of all aspects of the work had not been clarified. The contract required that the Architect “certify” progressive payments for work based on site visits required in Section 9.2. Quality of much of the work can only be verified prior to being obscured by later construction activities (example: plumbing, electrical, fastenings, etc. within foundations or walls cannot be inspected once enclosed).

Also during the March 28th meeting, project funding for all the county projects was discussed. Judge Bray stated, “As you know, the bids on the Starflight facility have come in so high that even the money that we have in the bank won't cover it at current -- as it is currently.” Commissioner Liesmann followed by saying, “So my opinion is the facilities that we're talking about, and we can start with the fairgrounds and the exhibit hall and the concession stand, all these projects have been coming in over budget but these are projects that we feel at the county level that they're going to benefit our county and our constituents and our staff. Star Flight as well.” He later said, “we're going to improve the lifestyle here in Blanco County and I think that we ought to go ahead and reach out to our financial advisor and try to get the financing available to go ahead and build these.” Steve Perry, the County's financial advisor, again discussed funding options to support the anticipated cost increases.

As work progressed, KKC submitted monthly applications for partial payment that required certification prior to payment by the county. All project costs including SLS's previous Fairgrounds work and all contractor costs had clearly exceeded the county's expectations and the addition of the EMS #1 / Star Flight project again revealed a shortage of funding. In addition to the 2021 Tax Note, the SLSRF and the \$3.5 million CO financing which had previously been authorized in July 2022, additional funding was needed. On June 27, 2023 Steve Perry reported the funding options and the Commissioners Court authorized issuance of another series of Certificates of Obligation for an additional \$3.75 million.

Throughout the summer of 2023, work continued toward the opening of the County Fair. During the July 25th Commissioners Court meeting Judge Bray again declared “the Fairgrounds are coming on line this coming month”. When the fair opened on August 15 the new Exhibit Hall was not used for fair exhibits, which has been a staple of the event for many years. Instead, the Blanco County Fair & Rodeo Assoc. held a reception for VIP's in the new Exhibit Hall. I am sure all those attending in the beautiful air conditioned facility had a great time while the rest of the fair-goers had to use porta-potties on that hot summer day. The new sewer lines were not yet connected and the new public restrooms would have overloaded the existing lines. Likewise the new concession stand was not completed.

As the work continued the cost continued to rise and the oversight of the project, since the county took over the administrative functions, seems to have been much simpler but perhaps less effective. Each application for payment was required to be certified to ensure the work was performed as required by the contract and to specifications. The certification was supposed to be supported by periodic site visits to ensure the quality of the work. When asked for all inspection records, the county provided only one inspection report from HouseMaster® home inspectors.<sup>1</sup>

[Q: Why were periodic inspections to ensure conformance with specifications and the quality of work not documented prior to certification of partial payments?]

The HouseMaster inspection report form (dated January 26, 2024) indicates that it provides “information regarding the general condition of a residence at the time of the inspection”. The inspection report clearly notes that the inspector is required to inspect “only those components and conditions that are present, visible, and accessible”. It also states ” **This inspection IS NOT:**

---

<sup>1</sup> HouseMaster® Home Inspections. Done Right. Guaranteed.™ a neighborly® company - HouseMaster is a home inspection company offering services to home buyers and sellers: <https://housemaster.com>

- a technically exhaustive inspection of the structure, its systems, or its components and may not reveal all deficiencies;
- an inspection to verify compliance with any building codes;
- an inspection to verify compliance with manufacturer’s installation instructions for any system or component and DOES NOT imply insurability or warrant-ability of the structure or its components.”

The inspection noted nine “deficiencies“ related to Grading and Drainage; Roof Covering Materials; Walls (exterior); Porches; Heating Equipment; Duct Systems, Chases and Vents; Plumbing Supply; and Drains, Waste and Vents. All of the deficiencies appeared to be minor; however each called for corrective action.

As I noted earlier, defects in workmanship or materials during construction cannot be detected with just a visual inspection after walls are enclosed, concrete is poured covering reinforcement, or footings are poured obscuring depth, etc.

Although Commissioner Liesmann undoubtedly visited the work site during construction, there is no evidence that he conducted detailed inspections during his visits. No notes, messages, or correspondence reflecting any inspections prior to invoice certification were provided upon my request. Apparently the March 28 discussion relieving SLS of their duties left uncertainty as to who would assume the quality control responsibilities. Therefore, KKC was responsible for material selection, construction, and inspection. This appears to be the familiar analogy of the fox guarding the hen house.

Section 12.5.2 of the contract requires that the contractor advise the Architect when the work is substantially complete. The Architect is then responsible to conduct an inspection and issue a Certificate of Substantial Completion, establishing the date of completion. Upon my request for a copy of the Certificate of Completion I was advised that “there is no certificate”. I was referred to each application for payment that reflects the percentage of completion for each task. However there is no date associated with each entry on the form. Only the date the document was submitted is shown.

[Q: Why wasn’t a Certificate of Substantial Completion documenting the actual completion date as required by the contract issued?]

The application for payment dated February 6, 2024 is the first to show all tasks at 100% included in phase 1, 2A, & 2B. The entire project, including phase 3, the concession stand, is shown as complete on the March 26, 2024 application for payment.

The planned completion date was August 15, 2023 and the extension due to the concession stand phase moved the date to September 2, 2023. If the original date is applied to the calculation of the liquidated damages for phases 1, 2, 2A at \$500 / day, then the penalty for late completion should be \$87,500. If the extended completion date due to addition of the concession stand is applied from September 2, 2023 through March 26, 2024, then the penalty is \$103,000. No late completion penalty was enforced by the county.

[Q: Why wasn’t a late completion penalty assessed after the extensive delay?]

The Fairgrounds project cost the Blanco County taxpayers in excess of \$4,379,248. The project, originally estimated at \$800,000 experienced excessive scope creep, inflationary costs, and lax project management oversight.

There has never been a grand opening or even an announcement that the Fairgrounds project is complete so the public can see how their dollars have been spent.

## Summary:

The project took over two and one-half (2-1/2) years to complete. The scope grew significantly to include the new concession stand and replacement of the outside dance floor. The Commissioners Court decision to

proceed with the KKC contract in December of 2021, when inflation was at a peak, was not well considered. CO's with a reasonable rate had been obtained and those funds would be available at a later date when needed. The SLFRF funds would not expire until December 2024. Some delay and re-bidding to allow construction costs to return toward pre Covid levels when inflation softened would have been wise.

This project, although the final product may meet all the requirements of the identified stakeholders, was not well managed from start to finish resulting in extreme cost overruns, delayed completion, and perhaps future structural issues not yet seen. Although external factors may have contributed to the cost and delay failures, proper planning could have mitigated some of the issues.

For projects of this size there should be a project planning and execution process that would help control costs and ensure the timely completion of a project that meets the objectives. The county has an auditor whose responsibility is limited to accounting records and data for budget formulation. However, a Construction Audit is more wide ranging and should be utilized in projects of this nature. Such an audit would:

- Establish a planning process to ensure a project has clear goals that match organizational strategies and funding. (Cost benefit analysis; utilization goals, etc.)
- Identify and monitor risks and opportunities (economic factors, labor & material availability, etc.)
- Ensure project inspections and compliance with contract terms, laws, codes, policies, etc.
- Verify documentation of all procurement processes, invoices, and contractor and employee compliance.

This project did not have clear project goals with identified benefits for the County, the public, and the Blanco County Fair and Rodeo Association. A cost-benefit analysis alone will not likely justify a project of this nature and the public good must therefore be considered. However, as the project commenced there did not appear to be any effort to cost justify the Exhibit Hall or the additional phases of the project. The only justification given was that the projects are “going to benefit our county and our constituents and staff” and “we’re going to improve the lifestyle here in Blanco County“. In this case, as costs rose substantially the commissioners took no action to stay within previously identified financial constraints. They just sought more financing.

The role of the Architect in the construction contract established some of the protections needed to achieve overall project success. After eliminating the project management function provided by SLS it is not clear that quality control measures were put in place and followed.

[Q: Were responsible County officials familiar with the terms of the contract? Changes of oversight responsibilities, periodic inspections, a Certificate of Substantial Completion, and liquidated damages for late completion were all enumerated in the contract, yet none were adequately followed.]

## Specific Concerns:

- Since Commissioner Weir introduced SLS, from Kerrville, it became the County's preferred Architect. SLS has designed and managed all or part of five major projects.
- Since SLS was established as Architect, all but one construction contract has been awarded to KKC. Commissioner Weir strongly advocated for KKC to be awarded the only other project, the South Annex expansion project, even though KKC was not the low bidder.  
[Q: Is it coincidental that Commissioner Weir's selected Architect (SLS) and KKC, both from Kerrville, have been awarded all but one project since SLS's introduction?]
- SLS's preliminary cost estimate and construction timeline were substantially understated.
- Without accurate project estimates the county could not adequately plan financing before authorizing the project, leading to continual adjustments to debt obligations and taxpayer cost.
- SLS and KKC both appear to have contracted for more work than they could manage within the timeline allocated for the projects.
- When the SLS oversight function was eliminated, a clear quality control process including documentation of inspections and the certification of applications for payments was not established.
- Application of the liquidated damages clause was not implemented despite late completion.

- No public process or marketing plan has been publicly announced to fully utilize the facilities and perhaps defray some of the costs over time.  
[Q: How many days per year will the facilities need to be used to justify the expense? Are the facilities available for use by Blanco County citizens and organizations? Is there a process to reserve the facilities? Who is responsible for maintenance costs, operating expenses, insurance costs, etc.?.?]
- Budgeting and financing decisions reflect a disregard for cost to taxpayers. When financing is established to meet the costs, rather than costs controlled to stay within a plan, there is no limiting factor.

The Fairgrounds project was originally conceived and planned for a cost of \$800,000 and it has cost Blanco County taxpayers over **\$4,379,248** without public input or voter approval.

-----END-----

NOTES:

- 1) Underlining in the text of this article is the authors effort to emphasize specific terms contained in documents referenced.
- 2) Bracketed [text] reflects the author's thoughts and unanswered questions.
- 3) All financial figures are based on invoices provided by Blanco County.
- 4) Project expense details are accurate but total costs may be understated due to the complexity of county funding sources (Tax Notes, multiple Certificates of Obligation, SLFRF), procurement processes, internal accounting formats, and the author's limited access to all county data.