



Travis County Commissioners Court Agenda Request

Meeting Date: July 31, 2012

Prepared By/Phone Number: Sarah Scott/854-6885

Elected/Appointed Official/Dept. Head: Danny Hobby

Commissioners Court Sponsor: County Judge Samuel T. Biscoe

AGENDA LANGUAGE:

CONSIDER AND TAKE APPROPRIATE ACTION REGARDING A THREE MONTH AGREEMENT BETWEEN TRAVIS COUNTY AND AKIDA HOLDING, LLC FOR EXPERIMENTAL USE OF AIROCIDE TECHNOLOGY TO CONTROL ODORS.

BACKGROUND/SUMMARY OF REQUEST AND ATTACHMENTS:

This Agreement is with a company that has developed a promising technology called AiroCide that may be able to eliminate odors and airborne microorganisms, which might be useful to the Travis County Medical Examiner's Office. County will provide access to the Medical Examiner's Office for the purposes of installing, monitoring, updating, repairing, or removing the AiroCide technology, as necessary.

STAFF RECOMMENDATIONS:

TCMEO management staff and Emergency Services recommend approval of this Agreement. The Agreement was drafted by the County Attorney's Office.

ISSUES AND OPPORTUNITIES:

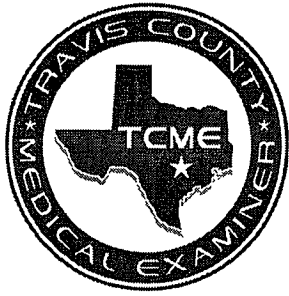
See attached cover letter and attached Agreement.

FISCAL IMPACT AND SOURCE OF FUNDING:

There will be no fiscal impact.

REQUIRED AUTHORIZATIONS:

Daniel Bradford, County Attorney's Office, 854-9513



**TRAVIS COUNTY OFFICE
OF THE MEDICAL EXAMINER**

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Diplomate of American Board of Pathology
CHIEF MEDICAL EXAMINER

SATISH CHUNDRU, DC
Diplomate of American Board of Pathology
DEPUTY CHIEF MEDICAL EXAMINER


KENDALL CROWNS, MI
Diplomate of American Board of Pathology
DEPUTY MEDICAL EXAMINER

LEISHA WOOD, MI
Diplomate of American Board of Pathology
DEPUTY MEDICAL EXAMINER

VICKIE WILLOUGHBY, DC
Diplomate of American Board of Pathology
DEPUTY MEDICAL EXAMINER

TO: Travis County Commissioners Court

VIA: David Dolinak, M.D., Chief Medical Examiner

FROM: Danny Hobby, County Executive, Emergency Services 

DATE: July 24, 2012

IN RE: Three Month Agreement between Akida Holding, LLC, and Travis County for Trial Use of AiroCide Technology at the Travis County Medical Examiner's Office to Control Odors

Recently, representatives from Akida Holding, LLC ("Contractor"), approached the Travis County Medical Examiner's Office (TCMEO) to determine if the TCMEO was interested in deploying its trademarked AiroCide Technology to control odors in the room used to autopsy decomposed bodies. The AiroCide device is a wall-mounted unit that may be able to eliminate or minimize odors and airborne microorganisms.

The office was interested in advancing technology that could control the noxious odors generated by decomposed bodies, inasmuch as the odors can escape the confines of the decomposition area and cause fetid odors to enter into other working areas of the building as well as areas to which the public is exposed.

The technical material submitted by the contractor was reviewed by the Chief and Deputy Chief Medical Examiners and the device was determined not to be harmful to human health in any way. The office was amenable to a three month period of trial use.

An Agreement for the three month trial use of the AiroCide device was drafted by the County Law Department. The Agreement would be between Travis County and Akida Holding, LLC. The contractor would take full responsibility for the installation, monitoring, repair, and removal of the device, and for the restoration of the area of installation to its prior condition. The Agreement also provides that the contractor will undergo a background check; will indemnify the County for any damages; will maintain strict confidentiality concerning medical examiner cases; will not promote the technology using the name of the office without the written

permission of the Chief Medical Examiner; and will not charge a fee for any aspect of trial use of the device. The Agreement also provides that the TCMEO is not in any way obligated to purchase the device at the end of the trial period. A copy of the Agreement is included along with this memo.

The odor controlling device would be installed at the Travis County Medical Examiner's Office as soon as would be conveniently possible following Court approval of the contract.

For further information, call Sarah Scott, Chief Administrative Officer at the Travis County Medical Examiner's Office at 854-6855.

AGREEMENT

This Agreement is made by **Travis County, Texas**, through its Medical Examiner's Office ("County"), and **Akida Holdings, LLC** ("Contractor").

Recitals

Contractor has developed a promising technology called AiroCide that may be able to eliminate odors and airborne microorganisms, which might be useful to the Travis County Medical Examiner's Office. Contractor seeks to test his machine in a real-world setting, which the Travis County Medical Examiner's Office provides.

Agreement

The parties agree as follows:

1. **County's Responsibilities.** County will provide Contractor with access to the Travis County Medical Examiner's Office for the purposes of installing, monitoring, updating, repairing, or removing the AiroCide technology, as necessary. Access will not be unreasonably withheld but will be granted at the Travis County Medical Examiner's or his designee's sole discretion.
2. **Contractor's Responsibilities.**
 - A. *Applicable Rules and Regulations.* Contractor will comply with all applicable building codes and any other laws, rules, or regulations that govern installing, monitoring, updating, repairing, or removing the AiroCide technology. And Contractor will bear all costs associated with compliance, including costs associated with any violations of the applicable codes, laws, rules, or regulations.
 - B. *Status Quo Ante.* Contractor will install, monitor, update, repair, or remove the AiroCide technology at his sole expense, and will leave the area of the Travis County Medical Examiner's Office in which the AiroCide technology was located in the same condition as it was before, also at his sole expense. At termination, Contractor must remove AiroCide technology within ten days, at a time to be mutually agreed upon by the Travis County Medical Examiner or his designee and Contractor. The Travis County Medical Examiner may extend the time by which the AiroCide technology must be removed if there is no mutually agreeable time within those ten days.
3. **Background Check.** Before Contractor may take any action under this agreement, Contractor will authorize County to perform a criminal background check. If the criminal

background check is unsatisfactory to County, then County will terminate this Agreement immediately.

4. **Term and Termination.** This Agreement becomes effective after each party has signed it and has a term of three months unless terminated earlier by either party. Any party may terminate this Agreement at any time, with or without cause, upon ten days prior written notice to the other party.
5. **Independent Relationship.** This Agreement is not intended to create, nor may it be deemed or construed to create, any relationship among or between the parties other than that of independent entities contracting with each other solely for the purpose of effecting the provisions of this Agreement. Agents or employees of any party will not be deemed the employee or agent of another party.
6. **No Purchasing Obligations or Compensation.** Contractor acknowledges that County will have no obligation to purchase the AiroCide technology or related services during this Agreement's life or at its termination. Contractor further acknowledges that he will not be compensated for anything related to this Agreement, including for County's use of the AiroCide technology or for the services Contractor provides in relation to County's use of the AiroCide technology, or for any delays for whatever reason in Contractor's retrieving the AiroCide technology at this Agreement's termination.
7. **Indemnification.**
 - A. *General.* CONTRACTOR AGREES TO HOLD COUNTY, ITS OFFICERS, EMPLOYEES, AND AGENTS HARMLESS FROM AND INDEMNIFY IT AGAINST ANY AND ALL CLAIMS, ACTIONS, DAMAGES, SUITS, PROCEEDINGS, JUDGMENTS, AND LIABILITIES, INCLUDING ATTORNEY FEES, FOR PERSONAL INJURY, DEATH, OR PROPERTY DAMAGE RESULTING FROM THE ACTS OR OMISSIONS OF Contractor OR HIS AGENTS.
 - B. *Intellectual Property Indemnity.* CONTRACTOR, AT HIS OWN EXPENSE, WILL INDEMNIFY, SAVE, HOLD HARMLESS AND DEFEND COUNTY AND ITS OFFICERS, EMPLOYEES AND AGENTS AGAINST ANY AND ALL LOSSES, LIABILITIES, JUDGMENTS, AWARDS AND COSTS, INCLUDING LEGAL FEES AND EXPENSES, ARISING OUT OF OR IN CONNECTION WITH ANY ACTION OR CLAIM THAT COUNTY'S USE OR POSSESSION OF [THE MACHINE] BROUGHT AGAINST COUNTY INFRINGES OR VIOLATES ANY PATENTS, COPYRIGHTS, LICENSE OR OTHER INTELLECTUAL PROPERTY OR PROPRIETARY RIGHT, PROVIDED THAT CONTRACTOR IS IMMEDIATELY GIVEN NOTICE OF SUCH CLAIM. CONTRACTOR WILL HAVE THE RIGHT TO CONTROL THE DEFENSE OF ALL SUCH CLAIMS, LAWSUITS AND OTHER PROCEEDINGS. IN NO EVENT SHALL COUNTY SETTLE ANY SUCH CLAIM, LAWSUIT OR PROCEEDING WITHOUT CONTRACTOR'S PRIOR WRITTEN APPROVAL.
8. **Confidentiality.** Contractor will maintain strict confidentiality of all information learned during the course of preparing, installing, and removing the AiroCide technology related to information on cases, processes, or functions performed at the County. This includes

maintaining confidentiality for ten years after the end of the testing period. Through the process of installing and monitoring the performance of the installed Airocide system(s), Contractor will gain insight and knowledge as to how its systems perform in a medical examiner facility. Contractor may choose to promote, publish, and/or advertise such results in an effort to gain market acceptance for its technology. Contractor agrees not to release the name of the facility in which the testing was conducted in such materials without the prior written approval of the Chief Medical Examiner or his designee. Release of confidential information without prior approval will result in this Agreement's immediate termination.

9. **Assignment.** No party may assign this Agreement or any part of it without the other party's prior written consent.
10. **Amendment.** This Agreement may be amended only in a writing signed by both parties. And Contractor acknowledges that no County officer, agent, employee, or representative, has any authority to change the scope of this Contract or any attachments to it unless expressly granted that authority by the Commissioners Court.
11. **Use of Name.** No party may use the name, service mark, or logo of the other party without that party's prior written consent, except as required by law.
12. **Governing Law.** This Agreement shall be construed in accordance with the laws of the State of Texas, and any suit relating to this Agreement shall be in a court of appropriate jurisdiction in or for Travis County, Texas.
13. **Contractor's Intellectual Property.** County acknowledges that all ideas, concepts, know-how, documentation, diagrams, schematics, software, improvements, bug fixes, upgrades and trade secrets developed by Contractor (alone or jointly with County) in connection with the AiroCide technology will remain Contractor's exclusive property.
 - A. *Proprietary Information.* County agrees to keep in confidence and protect Contractor's Proprietary Information from disclosure to third parties and to restrict the use of such information to uses expressly permitted under this Agreement. County will take all reasonable steps to ensure that the trade secrets and proprietary data contained in or in relation to the AiroCide technology are not disclosed, copied, duplicated, misappropriated or used in any manner not expressly permitted by the terms of this Agreement or in a manner that Contractor agrees to in writing.
 - B. *Texas Public Information Act.* Nevertheless, disclosure of any information obtained by County in connection with this Agreement will be subject to the provisions of the Texas Public Information Act and all legal authorities relating to it, including but not limited to opinions, decisions and letter rulings issued by the Texas Attorney General's Office or Texas court of law.
 - C. *Employees.* County agrees to inform its officers, employees, and agents of their obligations under this section to ensure that such obligations are met.
14. **Severability.** If any portion of this Agreement is ruled invalid by a court of competent jurisdiction, the remainder of it will remain valid and binding.

15. Interpretation.

- A. *Headings.* The headings at the beginning of this Agreement's various provisions have been included only to make it easier to locate the subject matter covered by that section or subsection and are not to be used in construing this Agreement.
- B. *Gender.* Words of any gender in this agreement are construed to include any other gender and words in either number are construed to include the other unless the context in the agreement clearly requires otherwise.

16. **Notice.** Any notice required or permitted to be given under this contract by one party to the other must be in writing and must be addressed as specified below. Notice will be deemed to have been received if the party giving notice personally delivers the notice to the appropriate address, 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.

- A. *County Address.* Honorable Samuel T. Biscoe (or his successor in office); County Judge; P.O. Box 1748; Austin, Texas 78767.
- B. *Contractor Address.* Rhett Delaney, Akida Holdings LLC, 13500 Sutton Park Dr. South, Suite 501, Jacksonville, Florida 32224.

17. **Duplicate Originals.** This document is executed in duplicate originals.

18. **Entire Agreement.** This agreement represents the entire agreement between the parties and supersedes all prior representations, agreements, statements, and understandings relating to its subject matter, whether oral or in writing

Contractor:

Akida Holdings LLC

By: 

Date: 7/16/12

Printed Name: David Kight, COO

Travis County

By: _____

Samuel T. Biscoe, County Judge

Date: _____

By: 

David Dolinak, MD

Chief Medical Examiner

Travis County Medical Examiner's Office

Date: 7/8/12