



Travis County Commissioners Court Agenda Request

Meeting Date: October 2, 2012

Prepared By/Phone Number: Danny Hobby/854-4416

Elected/Appointed Official/Dept. Head: Danny Hobby

Commissioners Court Sponsor: County Judge Samuel T. Biscoe

AGENDA LANGUAGE:

CONSIDER AND TAKE APPROPRIATE ACTION REGARDING AN INTERLOCAL AGREEMENT BETWEEN TRAVIS COUNTY AND CITY OF AUSTIN RELATED TO FUNDS AVAILABLE FROM CAPITAL AREA OF GOVERNMENTS (CAPCOG) UNDER RULE 251.3 OF THE TEXAS HEALTH AND SAFETY CODE.

BACKGROUND/SUMMARY OF REQUEST AND ATTACHMENTS:

Under 251.3 of the Texas Health and Safety Code, CAPCOG returns unused 9-1-1 revenue to Travis County to help purchase 9-1-1 related services and equipment. These funds come to the County every two years. In previous funding cycles, the funds have been used to construct the Combined Transportation, Emergency, and Communications (CTECC) 9-1-1 Backup Center, and to support 9-1-1 call-taking systems at CTECC. On January 31, 2012, Travis County received \$513,872.00, which is the reason for this request. From this total, the Court has already allowed the disbursement of \$59,194.00 for the Lakeway Police Department Public Safety Answering Point. This request is to allow the disbursement of the remaining funding of \$454,678.00 to be used in 2013 to accommodate remote access by agencies dispatched by the Austin Fire Department (AFD) to allow them to retrieve their call record data from AFD's record management system. Funds will also be used to continue building out new 9-1-1 telephony and radio voice recording systems at the Combined Transportation Emergency Communications Center (CTECC) and the CTECC Back-up Center, to further enhance capacity and resiliency of these systems. The City of Austin will receive payment of these funds within 30 days of final execution of this interlocal agreement.

STAFF RECOMMENDATIONS:

Emergency Services recommends approval of this interlocal agreement.

ISSUES AND OPPORTUNITIES:

This request is important for the timely replacement and maintenance of equipment at CTECC which provides vital 9-1-1 service to our residents in Travis County. 251.3 was developed for the purpose of assisting with operational expenditures at CTECC and for our public safety agencies. To have this revenue stream has proven to save our general fund dollars over the years we have received it.

FISCAL IMPACT AND SOURCE OF FUNDING:

There is no fiscal impact since we have received the funds from CAPCOG.

REQUIRED AUTHORIZATIONS:

Barbara Wilson, County Attorney's Office, 854-9567

Kapp Schwebke, Auditor's Office, 854-6628

Bill Derryberry, PBO. 854-4741

Marvin, Brice, Purchasing Office, 854-9765

Christine Lego, Emergency Services, 854-4855

Toby Fariss, Emergency Services, 854-4762

INTERLOCAL COOPERATION AGREEMENT
FOR USE OF REVENUE RETURNED UNDER RULE 251.3
BETWEEN THE CITY OF AUSTIN AND TRAVIS COUNTY

This Agreement is made by the following parties:

Travis County, a political subdivision of Texas ("County"), and

City of Austin, a home rule municipality in Texas, ("City"), and

collectively referred to as the "Parties" or individually referred to as a "Party".

RECITALS

Travis County is a member of Capital Area Council Of Governments ("CAPCOG"). Pursuant to Rule 251.3, the Commissioner on State Emergency Communications Rule for the Largest County ("CSEC Rule"), CAPCOG must return certain funds to County. County must use these funds for the sole purpose of reimbursing and funding eligible 9-1-1 system operation and network expenditures in compliance with that rule.

The purpose of this agreement is to provide the City funds for the purchase of 9-1-1 system related equipment, maintenance, services, and training to support the Combined Transportation, Emergency and Communications Center public safety answering point operations.

Both County and City are authorized pursuant to TEX. GOV'T CODE ANN., Chapter. 791, to enter into an Interlocal Cooperation Agreement for the purpose described in this agreement, to which both City and County benefit.

AGREEMENT

NOW, THEREFORE, County and City agree to the following terms and conditions:

1 Term.

1.1 Contingent Term. This agreement is contingent upon both the continuation of and the existence of Rule 251.3, the CSEC Rule. If this Rule is changed or amended so that funding is not provided to County for any reason, this agreement is automatically terminated.

1.2 Term. This agreement commences on October 1, 2012, and ends on September 30, 2013, unless terminated or amended ("Contract Year"). The Agreement is effective on the date that it is signed by the last party ("Effective Date").

2 City Responsibilities.

2.1 During the Contract Year, City shall use the funds provided under this agreement for purchases only in compliance with the expenditures described in Attachment A to support the Combined Transportation, Emergency and Communications Center public safety answering point operations.

2.2 Notice of Completed Expenditures. Within sixty (60) days of the date of the City's last purchase made under this agreement, City shall provide County with a description of City expenditures made with the funds received from County as stated in this agreement.

2.3 Purchase of Equipment, Services, and Training. City shall request funding for purchase of communications equipment, facilities, and services directly related to 9-1-1 emergency response that supports the Combined Transportation, Emergency and Communications Center public safety answering points operations.

2.4 Current Revenue Payments. City shall pay for all costs incurred with current revenue funds that consist of the County's one-time transfer of \$454,678 to the City.

2.5 Compliance with Laws. City shall comply with all applicable laws, rules and regulations in the performance of this agreement.

3 County Responsibilities.

3.1 Notice of Limitations. If funds are available for funding or reimbursement of City purchases, County may notify City of return of any revenue under Rule 251.3.

3.2 Determination of Funding. County has determined the types of expenditures that would most benefit the 9-1-1 system, the total amount of funding available for the City's 911-related purchases in the Contract Year, and this is described in Attachment A. County has also considered the notices received from the City to fund expenditures that comply with Rule 251.3 for the Contract Year.

3.3 Current Revenue Payments. Within 30 days after the Effective Date of this Agreement, County shall make a one-time transfer of \$454,678 from current revenue funds to the City for 911-related purchases and expenditures described in Attachment A.

3.4 Compliance with Laws. County shall comply with all applicable laws, rules and regulations in the performance of this agreement.

4 Liability. County is not liable for any claims, damages or attorney's fees of every kind for injury to or death of any person and for damages to or loss of property arising in whole or in part, directly as a result of this agreement.

5 Retention, Accessibility and Audit of Records.

5.1 City Retention. City shall maintain all records and documentation for all 911-related purchases made under this agreement in a readily available state and location for three (3) years after the agreement term in which City last received funds or until all audit and litigation matters that either Party has brought to the attention of the other Party are resolved, whichever is longer.

5.2 County Access. Subject to reasonable notice, City shall give County, or its duly authorized representatives, access to and the right to examine all records, and other papers related to 911-related purchases made under this agreement, at reasonable times and for reasonable periods. These rights to access continue as long as these records are retained by City.

5.3 County Audit. County has the right to conduct a financial audit of the City's performance of this agreement at County's expense. City agrees to permit County, or its authorized representatives, to audit City's records that relate to this agreement and to obtain any document, materials or information necessary to facilitate this audit.

6. Limit on County Agents. No agent, official, employee, or representative of County has the authority to amend or assign this agreement or waive violations of it unless expressly granted this specific authority by the Commissioners Court.

7 County Right to Contract: Other Entities. County may contract with other entities to provide for the use of other revenue returned pursuant to Rule 251.3.

8 Breach. The failure of either party to comply with the terms and conditions of this agreement is a breach of this agreement.

9 Mediation. When mediation is acceptable to both parties in resolving a dispute arising under this agreement, the parties agree to use a mutually agreeable mediator, or a person appointed by a court of competent jurisdiction, for mediation as described in the TEX. CIV. PRAC. AND REM. CODE ANN., §154.023. Unless both parties are satisfied with the result of the mediation, the mediation will not constitute a final and binding resolution of the dispute. The parties may agree, in writing, to waive the confidentiality requirement of certain records and communications of the mediation stated in TEX. CIV. PRAC. AND REM. CODE ANN., §154.073.

10 Termination.

10.1 County Termination. County may terminate this agreement for one or more of the following reasons at any time in compliance with 10.2.

10.1.1 City has failed to use the funds provided in compliance with this agreement and Rule 251.3,

10.1.2 City has failed to comply with any term or condition of this agreement, or

10.1.3 County has failed to receive any funds pursuant to Rule 251.3.

10.2 Procedure. At least twenty (20) days before the effective date of termination, County must notify City in compliance with Section 15 below of the decision to terminate this agreement, the existence and nature of the breach, and the effective date of termination. City may avoid termination of this agreement pursuant to 10.1 if City cures the breach to the satisfaction of County within twenty (20) days of receipt of this notice. This time to cure may be extended, at the sole discretion of County, as long as the City diligently continues to work toward completion of the cure. If the breach is not cured to the satisfaction of County prior to the effective date of termination or any extension of the date allowed by County in writing, the City is in default and the participation of the City is automatically terminated on that date.

10.3 City Termination. City may terminate this agreement at any time in compliance with 10.4 if County has failed to comply with any term or condition of this agreement:

10.4 Procedure. At least twenty (20) days before the date of termination, City must notify County in compliance with Section 15 below of the decision to terminate this agreement, the reasons for termination, and the effective date of termination. County may avoid termination of this agreement if County corrects the causes of the reasons for termination stated in the notice to the satisfaction of the City prior to the effective date of termination.

10.5 Mutual Termination. Either party has the right to terminate this agreement when both parties agree, in writing, that the continuation of the activities under this agreement would not produce beneficial results commensurate with the further expenditure of funds and what conditions of termination will apply, including the effective date of termination.

11 Non-Waiver and Reservation of Remedies.

11.1 Non-Waiver. Any act of forbearance by either party to enforce any provision of this agreement must not be construed as a modification of this agreement or as a waiver of any breach or default of the other party which then exists or may subsequently exist. The failure of either party to exercise any right or privilege granted in this agreement must not be construed as a waiver of that right or privilege. In this agreement, County and City do not waive any immunity or defense that would otherwise be available to them against claims arising in the exercise of their governmental powers and functions.

11.2 Reservation of Rights and Remedies. All rights of both parties under this agreement are specifically reserved. Any payment, act or omission by a party must not impair or prejudice any remedy or right of that party under this agreement. Any right or

remedy stated in this agreement must not preclude the exercise of any other right or remedy under this agreement at law or at equity, nor must any action taken in the exercise of any right or remedy be deemed a waiver of any other rights or remedies.

12 Entire Agreement.

12.1 Attachment. Attachment A- 911 related Equipment, Maintenance, Services, and Training is made a part of this contract.

12.2 Agreement All Inclusive. All oral and written agreements between the parties to this agreement relating to the subject matter of this agreement that were made prior to the execution of this agreement have been reduced to writing and are contained in this document.

13 Assignability. Neither party may assign any of the rights or duties created by this agreement without the prior written approval of the other party. It is acknowledged by City that no officer, agency, employee or representative of County has any authority to grant such assignment unless expressly granted that authority by the Commissioners Court.

14 Amendments.

14.1 Amendment of Agreement. Any change to the provisions of this Agreement must be made in writing and signed by both parties: County and City. It is acknowledged by City that no officer, agency, employee or representative of County has any authority to change the provisions of this agreement unless expressly granted that authority by Commissioners Court.

14.2 City Request. City must submit all requests for changes to this agreement to County Executive, Emergency Services. The County Executive, Emergency Services must present the City's requests to Commissioners Court for consideration.

14.3 County Request. County must submit all requests for changes to this agreement to the City Wireless Communication Services Manager. Depending on the nature of the agreement change, the City Wireless Communication Services Manager will present County's requests to either the City Manager or the City Council for consideration.

15 Notices.

15.1 Method of Notice. Any notice required or permitted to be given under this agreement by one party to the other must be in writing and must be given and is deemed to have been given immediately if delivered in person to the address set forth in 15.2 or 15.3 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 specified in 15.2 or 15.3.

15.2 Address of County. The address of County for all purposes under this contract must be:

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

With copies to (registered or certified mail is not required):

Honorable David Escamilla (or his successor in office)
Travis County Attorney
P. O. Box 1748
Austin, Texas 78767-1748
File No. 260.254.11

and

Danny Hobby (or his successor)
County Executive, Emergency Services
P. O. Box 1748
Austin, Texas 78767-1748

15.3 Address of City. The address of the City for all purposes under this agreement and for all notices hereunder must be:

Stephen Elkins
Chief Information Officer
City of Austin
CTM Riverside
1124 South IH-35, Suite 300, Austin, TX 78704

And

Chuck Brotherton
Wireless Communication Services Manager
Wireless Communication Services Division
City of Austin
1006 Smith Road, Austin, TX 78721

15.4 Change of Address. Each party may change the address for notice to it by giving notice of the change in accordance with the provisions of 15.1.

16 Interpretation of Contract.

16.1 Third Party Rights Not Created. This agreement is not intended and shall not be construed to create any rights or remedies in any person or legal entity that is not a party to it and neither County nor City is waiving any defense or immunity to which it is entitled against any person or legal entity that is not a party to it.

16.2 Law. This agreement is governed by the laws of Texas and is performable in Travis County, Texas.

16.3 Severability. If any portion of this agreement is ruled invalid by a court of competent jurisdiction, the remainder of the agreement must be construed as if that portion were not included in the agreement and the remainder must remain valid and binding.

16.4 Definitions. In this Agreement,

16.4.1 City Council "City Council" means the City Council of the City of Austin.

16.4.2 Commissioners Court. "Commissioners Court" means the Travis County Commissioners Court.

16.4.3 Contract Year. "Contract Year" means the 12-month term of this agreement that begins on October 1, 2012 and ends on September 30, 2013.

16.4.4 Day. "Day" means calendar day.

16.4.5 Equipment. "Equipment" means the radios, pagers, console equipment, computer hardware and software and other communications equipment described in Attachment A and operated by City.

16.5 Computation of Time. When any period of time is stated in this agreement, the time must be computed to exclude the first day and include the last day of the period. If the last day of any period falls on a Saturday, Sunday or a day that either County or City has declared a holiday for its employees, these days must be omitted from the computation.

16.6 Number and Gender. Words of any gender in this agreement must be construed to include any other gender and words in either number must be construed to include the other unless the context in the agreement clearly requires otherwise.

16.7 Headings. The headings at the beginning of the various provisions of this agreement 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.

17 Legal Authority.

17.1 City Signors. The person or persons signing this agreement on behalf of City, or representing themselves as signing this agreement on behalf of City, do hereby warrant and guarantee that he, she or they have been duly authorized by City to sign this agreement on behalf of City and to bind City validly and legally to all terms, performances, and provisions in this agreement.

16.2 County Signors. The person or persons signing this agreement on behalf of County, or representing themselves as signing this agreement on behalf of County, do hereby warrant and guarantee that he, she or they have been duly authorized by County to sign this agreement on behalf of County and to bind County validly and legally to all terms, performances, and provisions in this agreement.

17 Duplicate Originals.

17.1 This document is executed in duplicate originals.

TRAVIS COUNTY

By:

Samuel T. Biscoe, County Judge
Travis County, Texas

Date: _____

CITY OF AUSTIN

By:

Marc A. Ott
City Manager

Date: _____

**City and County
Interlocal Cooperation Agreement**

Attachment A – Equipment

The Equipment, Maintenance, Services, and Training that the City is authorized to purchase under this Agreement during the Contact Year, includes but is not limited to the following:

- 1. Computer-aided Dispatch and Records Management Hardware, Software, and Services for Travis County, Travis County Emergency Services Districts, and CTECC Dispatching Agencies.**
- 2. 9-1-1 Emergency Telephony and Radio Recording Systems Enhancement and Redundancy for CTECC and 9-1-1 Backup Center: Equipment, Services, and Training.**

The total funding available for City under this Agreement during Contract year for 911-related purchases is \$454,678.00.

| Agency | Equipment, Facilities, Services | Price Each | Qty | Subtotal | Total |
|---------------|--|-------------------|------------|-----------------|--------------|
| CITY | ESD CAD Records Access, equipment and services, | \$45,000 | | \$45,000 | \$45,000 |
| CITY | NICE 9-1-1 and Radio Recording Enhancement and Redundancy for CTECC and 9-1-1 Backup Center, equipment, services, training | \$409,678 | | \$409,678 | \$409,678 |
| TOTAL | | | | | \$454,678 |