

# Item 10



## Travis County Commissioners Court Agenda Request

**Meeting Date:** April 2, 2013

**Prepared By/Phone Number:** Bonnie Floyd

**Elected/Appointed Official/Dept. Head:** Cyd Grimes

**Commissioners Court Sponsor:** Judge Biscoe

APPROVE MODIFICATION NO. 1 TO CONTRACT NO. 4400001262, NORTHWEST HELICOPTERS, LLC, FOR A FIRE SUPPRESSION AND DISASTER RELIEF HELICOPTER.

**Purchasing Recommendation and Comments:** Purchasing concurs concur with department and recommends approval of requested action. This procurement action meets the compliance requirements as outlined by the statutes.

The Commissioners Court awarded a contract to Northwest Helicopters, LLC on December 11, 2012, for a Fire Suppression and Disaster Relief Helicopter, Special Tools and Spares. The contracted delivery date is April 3, 2012.

Northwest Helicopter notified *STAR Flight* in March that they are having difficulty obtaining equipment specified by Travis County for satellite communications and tracking equipment from OuterLink. OuterLink is the current equipment and service provider for the current *STAR Flight* fleet. Due to the timing of the delivery, the contractor is not able to complete its performance and deliver the aircraft by April 3, 2013.

This modification will extend the delivery date of both the aircraft and special tools and spares until April 24, 2013. Section 5.9 of the contract states that delays in performance beyond the control of the Contractor including failure or delay of Contractor's sources of supplies are considered excusable delays.

The special tools and spare parts are not needed before the aircraft is delivered and can more economically be shipped with the aircraft. For this reason, staff recommends extension of the delivery date for these as well even though the Contractor could perform that portion of the contract before April 3.

AGENDA REQUEST DEADLINE: All agenda requests and supporting materials must be submitted as a pdf to [agenda@co.travis.tx.us](mailto:agenda@co.travis.tx.us) by Tuesdays at 5:00 p.m. for the next week's meeting.



1000 85<sup>th</sup> Avenue SE · Olympia, WA 98501 · 360-754-7200 · Fax 360-754-1761 · [www.nwhelicopters.com](http://www.nwhelicopters.com)

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March 19, 2013

Casey Ping  
Travis County Purchasing Office  
700 Lavaca Street, Suite 800  
Austin, TX 78701

***Re: Delayed Helicopter Delivery, Contract No. 4400001262***

Dear Casey,

This letter is to inform you that we will not make the April 3rd delivery date for the Bell UH-1H helicopter for reasons beyond our control.

The reason for the delay is the non performance and delivery delays from a vendor named Outerlink. This item was a contractual item required in the bid by the county and the vendor has not been able to supply the item. This item was ordered by us over 10 weeks ago. This has currently caused us a delay of 2-3 weeks. As of today, we do not have a delivery date from the vendor.

For the above reason we are requesting relief from any liquidated damages and that this be an excusable delay. As soon as we are able to determine a vendor delivery date for the needed component, we can establish a new date.

Thank you for your time and if you have any questions I can be reached at 360-754-7200 x111 or [breynolds@nwhelicopters.com](mailto:breynolds@nwhelicopters.com).

Regards,

Brian Reynolds  
CEO



Travis County  
**STAR Flight**



7800 Old Manor Road  
Austin, TX 78724  
[www.starflightrescue.org](http://www.starflightrescue.org)

Dispatch 1-800-531-STAR  
Administration (512) 854-6464  
Fax (512) 854-6466

**To:** Travis County Commissioners Court  
**Through:** Danny Hobby, County Executive, Emergency Services  
**From:** Casey Ping, Program Director, **STAR Flight**  
**Date:** March 19, 2013  
**Subject:** Aircraft Delivery Delay

During the FY13 budget process the Department requested and Commissioners Court approved funding for a disaster response/firefighting helicopter. On December 11, 2012 the Commissioner Court approved a purchase contract with Northwest Helicopters for a UH-1H Plus aircraft. The contracted delivery date is April 3, 2013.

Approximately 2 weeks ago Northwest Helicopters advised the Department that they were having difficulty obtaining Travis County specified satellite communications and tracking equipment from OuterLink. OuterLink is the current equipment and service provider for the **STAR Flight** fleet. During the Heli-EXPO Conference (March 5-7<sup>th</sup>), Department personnel met with OuterLink management and believed the issue was being addressed.

On March 18, 2013, Northwest Helicopters advised the Department that they had just received the wiring harness from OuterLink and that this would cause a completion and delivery delay.

From the purchase contract with Northwest Helicopters:

5.9 Excusable Delays. Contractor is not responsible for any failure to perform or delay in performance due, in whole or in part, to "excusable delays." An "excusable delay" is any failure to perform or delay in performance that is due to causes beyond Contractor's control including, but not limited to, acts of God, fire, explosion, acts of the public enemy, war, insurrection, sabotage, labor disputes, failure or delays in transportation despite Contractor's diligent attempts to provide alternate transportation, equipment or machinery breakdown up to but not to exceed ten (10) business days, failure or delay of Contractor's sources of supplies, acts, orders or priorities (where compliance is mandatory) of any government, state, or political subdivision or agency thereof or judicial action.

5.11 Request For Extension. Contractor shall supply, as soon as such information is available, any reasonable proofs that are required by County to make a decision on any Contractor request for extension of time for delivery. The Commissioners Court shall examine the request and any documents supplied by the Contractor and determine whether Contractor is entitled to an extension, and the duration of any extension. Contractor shall be notified of County's decision in writing. County's decision shall be final.

OuterLink has confirmed shipment of the remaining components to Northwest Helicopters with delivery of March 20, 2013. This should allow full completion of the Travis County aircraft.



Travis County  
**STAR Flight**



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Northwest Helicopters is working diligently to deliver Travis County aircraft as soon as possible. They are aware of our desire to have this aircraft as soon as possible based on the on-going drought and threat of wildfire. The Department recommends extending the delivery date to April 24<sup>th</sup>, 2013 without penalties as result of this delay.

Please let me know if additional information or assistance is needed in this matter.

**MODIFICATION OF CONTRACT NUMBER: 4400001262 Fire Suppression Helicopter Pg 1 OF 1 PAGES**

ISSUED BY: PURCHASING OFFICE 314 W. 11TH ST., RM 400 AUSTIN, TX 78701	Asst. PURCHASING AGENT: <b>Bonnie Floyd</b> TEL. NO: (512) 854-9700 FAX NO: (512) 854-9185	DATE PREPARED: 3-19-13
ISSUED TO: Northwest Helicopters LLC 1000 85 <sup>th</sup> Ave. SE Olympia WA 87501	MODIFICATION NO.:  1	EXECUTED DATE OF ORIGINAL CONTRACT: <b>12-11-2012</b>
ORIGINAL CONTRACT TERM DATES: _____		CURRENT CONTRACT TERM DATES: _____

**FOR TRAVIS COUNTY INTERNAL USE ONLY:**

Original Contract Amount: \$ \_\_\_\_\_ Current Modified Amount \$ \_\_\_\_\_

**DESCRIPTION OF CHANGES:** Except as provided herein, all terms, conditions, and provisions of the document referenced above as heretofore modified, remain unchanged and in full force and effect.

**Recitals**

Travis County ("County") and Northwest Helicopters LLC ("Contractor") entered into a contract that provided for delivery of an Aircraft with special tools and spares for it no later than April 3, 2013 (sections 5.1 and 5.2). The contract further provided that delays in performance beyond the control of the Contractor including failure or delay of Contractor's sources of supplies are excusable delays (section 5.9). In the contract, County specifically required the installation of satellite communications and tracking equipment from OuterLink. Although Contractor ordered this equipment timely, the vendor was unable to supply this equipment until March 18 due to delays by the manufacturer. Contractor notified County of this issue in early March and had been diligently trying to obtain delivery. Due to the timing of the delivery, Contractor is unable to complete its performance and deliver the Aircraft by April 3, 2013. Contractor anticipates that completion of its performance will require an extension of 21 days and has requested a modification of sections 5.1 and 5.2 for that purpose.

**Agreement**

1. County acknowledges that the delay in delivery of the Aircraft is an excusable delay under section 5.9 of the contract and hereby extends the time for delivery as noted in the revised sections 5.1 and 5.2 below:

5.1 Timing of Delivery of Aircraft Contractor shall deliver one Aircraft no later than April 24, 2013. If acceptance and delivery of Aircraft under this Contract is being excusably delayed as described in 5.9, County shall extend the time for acceptance and delivery of the Aircraft by the number of days of delay determined to be caused by excusable delay.

5.2 Timing of Delivery of Special Tools and Spares Contractor shall deliver the special tools and spares listed in Attachment B no later than delivery of the first Aircraft but in no case later than April 24, 2013 unless delivery of Aircraft under section 5.1 of this Contract is being excusably delayed as described in 5.9 unless the tools or spares are backordered by the Contractor's vendor.

**Note to Vendor:**

- Complete and execute (sign) your portion of the signature block section below for all copies and return all signed copies to Travis County.
- DO NOT execute and return to Travis County. Retain for your records.

LEGAL BUSINESS NAME: _____	<input type="checkbox"/> DBA
BY: _____ SIGNATURE	<input type="checkbox"/> CORPORATION
BY: _____ PRINT NAME	<input type="checkbox"/> OTHER
TITLE: _____ ITS DULY AUTHORIZED AGENT	DATE: _____

TRAVIS COUNTY, TEXAS	DATE: _____
BY: _____ CYD V. GRIMES, C.P.M., TRAVIS COUNTY PURCHASING AGENT	

TRAVIS COUNTY, TEXAS	DATE: _____
BY: _____ SAMUEL T. BISCOE, TRAVIS COUNTY JUDGE	