



Travis County Commissioners Court Agenda Request

Meeting Date: December 20, 2013

Prepared By/Phone Number: Michael Long/854 4850; Marvin Brice/854 9765

Elected/Appointed Official/Dept. Head: Cyd Grimes

Commissioners Court Sponsor: Judge Biscoe

Agenda Language: Approve Interlocal Agreement with Lake Travis Fire and Rescue for Wildfire Mitigation Services

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

Balcones Canyonlands Preserve currently has dead trees and vegetation that pose a serious risk to public safety. The large areas of dead trees pose a wildfire hazard if near ignition sources. Wildfires could also negatively impact endangered species on preserve land.

Lake Travis Fire and Rescue will provide the labor, material and equipment necessary to perform wildfire mitigation services on a as needed basis.

- **Contract Expenditures:** Within the last ___ months \$0.00 has been spent against this contract/requirement.
- **Contract-Related Information:**
 - Award Amount: As needed
 - Contract Type: Interlocal Agreement
 - Contract Period: December 23, 2013 – December 22, 2014
- **Contract Modification Information: N/A**
 - Modification Amount:
 - Modification Type:
 - Modification Period:

➤ **Solicitation-Related Information: N/A**

Solicitations Sent:

Responses Received:

HUB Information:

% HUB Subcontractor:

➤ **Special Contract Considerations: N/A**

Award has been protested; interested parties have been notified.

Award is not to the lowest bidder; interested parties have been notified.

Comments:

➤ **Funding Information:**

SAP Shopping Cart #: N/A

Funding Account(s): 1490120115/511610

Funds Reservation No. 300000718

Comments:

Mike
12.11.13
MB



TRANSPORTATION AND NATURAL RESOURCES
STEVEN M. MANILLA, P.E., COUNTY EXECUTIVE

700 Lavaca, 5th Floor
Travis County Administration Building
P. O. Box 1748
Austin, Texas 78767
(512) 854-9383
FAX (512) 854-4697

RECEIVED
TRAVIS COUNTY
PURCHASING
OFFICE
2013 DEC 10 PM 4:00

December 9, 2013

MEMORANDUM

TO: Cyd Grimes, County Purchasing Agent
Carol B. [unclear]
FROM: Steven M. Manilla, P.E., County Executive
SUBJECT: Interlocal Agreement for Wildfire Mitigation Services

Attached for your review and preparation for Court approval is a draft of an Interlocal Agreement between Travis County and Lake Travis Fire and Rescue for Wildfire Mitigation Services.

Currently, there are several areas in the BCP Preserve with dead trees and vegetation that pose a serious risk to public safety. Large areas of dead trees left standing may pose a wildfire hazard if near ignitions sources. Wildfires could also negatively impact endangered species on preserve land. Lake Travis Fire and Rescue will provide the labor, material and equipment necessary to perform wildfire mitigation services on an as needed basis.

Cost Center: 1490120115 Commitment Item: 511610 Budget: \$87,600

The funds have been reserved on Funds Reservation 300000718.

If you have any questions regarding this matter, please contact Mickey Roberts at (512)854-6613.

cc: Jon White, TNR
Wendy Connally, TNR
Bill Simper, TNR
Christopher Gilmore, County Attorney's Office
Christina Jensen, TNR

**INTERLOCAL COOPERATION AGREEMENT
FOR WILDFIRE MITIGATION SERVICES**

This Interlocal Cooperation Agreement (this "Agreement") is made and entered into by and between Travis County, a political subdivision of the State of Texas (the "County"), and Travis County Emergency Services District Number 6, also known as Lake Travis Fire and Rescue ("LTFR"), (collectively, the "Parties"), pursuant to the authority granted and in compliance with Tex. Const. Art. III, Sec. 64, and The Interlocal Cooperation Act, Chapter 791, Tex. Gov't Code Ann.

WHEREAS, the County manages parks, preserves, and other lands within Travis County;

WHEREAS, prolonged drought conditions in Central Texas have increased fuel loads and the risk of devastating wildfires within the County;

WHEREAS, the County desires to have wildfire mitigation services, including prescriptive tree trimming and fuel management, performed at various parks, preserves, and other lands managed by the County;

WHEREAS, the LTFR has the necessary staff and equipment to perform wildfire mitigation services for the County; and

WHEREAS, the County and LTFR desire to enter into this Agreement to provide for such services;

NOW, THEREFORE, in consideration of the covenants and payments set forth herein, the amount and sufficiency of which are hereby acknowledged, the County and LTFR mutually agree as follows:

SECTION 1. SCOPE OF SERVICES; REQUEST FOR SERVICES

A. Upon the County's request, LTFR agrees to furnish all personnel, labor, material, and equipment necessary to perform wildfire mitigation services, including prescriptive tree trimming and pruning services (the "Services") on County-managed lands in accordance with the terms and conditions of this Agreement.

B. County's Agent. The County Executive of the Travis County Transportation and Natural Resources Department, or his designee (the "County Executive") is hereby designated as the County's agent for the performance of services pursuant to this Agreement.

C. Request for Service. The County Executive may initiate services under this Agreement by submitting a request to LTFR. For each request, the County Executive will

identify the area within County-managed land that requires Services, describe the nature and extent of the Services to be performed, and the time within which the County desires the Services requested to be started and to be completed.

D. Within ten working days after receiving a request from the County Executive, LTFR will provide the County Executive a schedule for the performance of the Services, including the time within which Services will begin and be completed, and an itemized statement of the costs and expenses for requested Services.

E. Upon receipt of a schedule and itemized cost statement from LTFR and approval by the County Executive of the schedule and itemized cost, the Travis County Purchasing Office will prepare a purchase order that:

- (1) identifies the location and the nature and extent of the Services to be performed,
- (2) sets forth the schedule for the performance of the Services, including the time within which Services will begin and be completed, and
- (3) contains the itemized statement from LTFR of the costs and expenses for the requested Services to be performed under that purchase order.

G. LTFR will not perform any Services under this Agreement unless and until it receives a purchase order signed by the Travis County Purchasing Agent or her designated representative.

H. The terms and conditions contained in this Agreement prevail over different or contrary terms in any purchase order.

I. Nothing in this Agreement requires the County to have Services performed by LTFR.

SECTION 2. COMPENSATION

A. The County will compensate LTFR for performance of the Services in accordance with each purchase order submitted by the Travis County Purchasing Agent or her designee.

B. On or before the fifteenth day of the month following a month in which LTFR performs Services for the County, LTFR will send the County a correct and complete itemized invoice as more fully described below.

C. The County will make payment by check or by warrant upon satisfactory completion of the Services and submission of a correct and complete invoice to the Travis County Auditor's Office, with copies to the Travis County Purchasing Agent and the County, at the addresses listed below:

Travis County Auditor's Office
P.O. Box 1748
Austin, Texas 78767

Ms. Cyd V. Grimes, C.P.M., CPPO (or her successor)
Travis County Purchasing Agent
P.O. Box 1748
Austin, Texas 78767

Mr. Steven M. Manilla, P.E. (or his successor)
County Executive
Travis County Transportation and Natural Resources Department
P.O. Box 1748
Austin, Texas 78767

D. In order to be considered "correct and complete," an invoice must include at least the following information:

- (1) name, address, and telephone number of LTFR and similar information in the event payment is to be made to a different address;
- (2) the Agreement and purchase order number;
- (3) identification of items and services provided as outlined in the purchase order;
- (4) quantity or quantities, applicable unit prices, total prices, and total amount, including date(s) of performance, and the amount of time, materials, and supplies, and all authorized expenses expended in performance of the Services; and
- (5) any additional payment information which may be called for by this Agreement.

E. The County will pay LTFR at the address shown on its invoice the amount due within 30 days after receipt of a correct and complete invoice as defined above. Interest on delinquent accounts will be governed by Chapter 2251 of the Texas Government Code.

F. At its option and expense, the County may conduct an audit of LTFR's time sheets and materials invoices for work performed under this Agreement to verify that the charges made are justifiable, are calculated in accordance with generally accepted accounting principles, and are consistent with LTFR's standard accounting methods.

G. The County's obligations are payable solely from current funds appropriated and available for the purpose of this purchase. Lack of funds will render this Agreement null and void to the extent that such funds are not appropriated and available. The County agrees that it will not request Services for which funds have not been appropriated or are not available.

SECTION 3. TERM

A. The term of this Agreement shall commence upon execution by both parties and

shall remain in effect for a period of one (1) year, unless sooner terminated by either party as provided herein (the "Initial Term").

B. This Agreement shall automatically renew upon expiration of the Initial Term for terms of one (1) year thereafter for an additional five (5) years; provided, however, either party may terminate this Agreement by giving sixty (60) days prior written notice to the other party.

C. Either Party may terminate this Agreement for convenience upon 30 days prior written notice to the other Party. Upon notice of termination of this Agreement for convenience, LTFR must immediately discontinue Services except for that work required to be completed as necessary to effectively conclude the Services previously commenced. LTFR will be compensated for all Services performed, and material and equipment furnished, in accordance with the terms and conditions of this Agreement.

SECTION 4. STANDARDS AND INSPECTIONS

LTFR must perform all Services in a good and workmanlike manner in accordance with the purchase order specifications and applicable industry standards and codes. The County has the right of inspection at all reasonable times during the performance of the Services and prior to acceptance of the Services. In the event that such inspection reveals that such Services have not been performed in accordance with the above standards, LTFR must either re-perform such Services at no cost to the County, or refund to the County all amounts paid by the County for such Services.

SECTION 5. INDEPENDENT ENTITIES; ACKNOWLEDGMENT OF RESPONSIBILITIES

A. Independent Entities. The Parties expressly acknowledge and agree that LTFR and the County are independent entities and each assumes all the rights, obligations, and liabilities applicable to it as an independent entity. No employee of LTFR will be considered an employee, agent, or representative of the County or gain any rights against the County pursuant to the County's personnel policies. No employee of the County will be considered an employee, agent, or representative of LTFR or gain any rights against LTFR pursuant to LTFR's personnel policies. The relationship of the County and LTFR under this Agreement is not and must not be construed or interpreted to be a joint enterprise or joint venture. Neither Party has the authority to make any statements, representations, or commitments of any kind on behalf of the other Party or to take any action which will be binding on the other Party.

B. Limits of Liability. LTFR is not liable for any claims, damages, or attorney fees arising from the negligent or illegal acts of the County or the County's employees or agents in relation to this Agreement. The County is not liable for any claims, damages, or attorney fees arising from the negligent or illegal acts of LTFR or the LTFR's employees or agents in relation to this Agreement.

C. Shared Liability. If both the County and LTFR are liable for any claims, damages, or attorney fees arising from the negligent or illegal acts of LTFR and the County in relation

to this Agreement, LTFR and the County are individually liable for the portion of the claims, damages, and attorney fees attributable to each that arise from their negligent or illegal acts or those of their respective employees and agents as determined by a court adjudicating the matter or as agreed in any settlement.

D. Claims Notification. If any claim, or other action, including proceedings before an administrative agency, is made or brought by any person, firm, corporation, or other entity against LTFR or the County; the Party against whom the claim or other action is made must give written notice to the other Party of the claim, or other action within 3 working days after being notified of it or the threat of it. The notice must include the name and address of the person, firm, corporation, or other entity that made or threatened to make a claim, or that instituted or threatened to institute any type of action or proceeding; the basis of the claim, action or proceeding; the court or administrative tribunal, if any, where the claim, action, or proceeding was instituted; and the name or names of any person against whom this claim is being made or threatened. This written notice must be given in the manner provided in Section 6 of this Agreement. Except as otherwise directed, the Party against whom the claim has been made must furnish to the other Party copies of all pertinent papers received by that Party with respect to these claims or actions.

SECTION 6. NOTICES

Correspondence, notices, and invoices must be in writing and mailed, e-mailed, telefaxed, or delivered to the other Party as follows, or at such other address as a Party may from time to time designate in writing, except that LTFR will send invoices in accordance with Section 2.C. above. All notices, correspondence, and invoices are effective upon receipt.

To the County

Ms. Cyd Grimes, C.P.M., CPPO (or her successor)
Travis County Purchasing Agent
P.O. Box 1748
Austin, Texas 78767-1748

Copies to:

Mr. Steven M. Manilla, P.E. (or his successor)
County Executive
Travis County Transportation and Natural Resources Department
P.O. Box 1748
Austin, Texas 78767-1748

To LTFR

Lt. Brandon Blount
Fire Inspector/Arson Investigator
Prevention Division

Travis County Emergency Services No. 6
P.O. Box 340196
Austin, Texas 78734

Copies to:

Mr. Jim De Witt
Chief Financial Officer
Travis County Emergency Services No. 6
P.O. Box 340196
Austin, Texas 78734

SECTION 7. MISCELLANEOUS

- A. **Entire Agreement.** This Agreement constitutes the entire understanding of the Parties relating to the subject matter hereof; there must be no modification or waiver hereof except in writing, signed by the Party to be bound thereby. **NO OFFICIAL, REPRESENTATIVE, EMPLOYEE, OR AGENT OF THE COUNTY HAS ANY AUTHORITY TO MODIFY OR AMEND THIS AGREEMENT EXCEPT PURSUANT TO SPECIFIC AUTHORITY TO DO SO GRANTED BY THE COMMISSIONERS COURT OF THE COUNTY.**
- B. **Successors.** This Agreement will be binding upon and inure to the benefit of the Parties and their respective heirs, successors, and assigns; however, neither Party may assign this Agreement or subcontract the performance of Services, in whole or in part, without the prior written consent of the other Party.
- C. **Waiver.** No failure or delay on the part of a Party to exercise any right or remedy will operate as a waiver of such right or remedy, nor will any single or partial exercise of any right or remedy preclude any further or other exercise of any such right or remedy. All rights and remedies under this Agreement are cumulative and must not be deemed exclusive of any other rights or remedies provided by law.
- D. **Severability.** If any section or part of this Agreement is declared invalid by any Court of competent jurisdiction, such decree will not affect the remainder of this Agreement, and such will remain in full force and effect with the deletion of the part declared invalid.
- E. **Law and Venue.** The Parties agree and intend that all disputes which may arise from, out of, under or respecting the terms and conditions of this Agreement, or concerning the rights or obligations of the Parties, or respecting any performance or failure of performance by either Party, will be governed by the laws of the State of Texas. The parties further agree and intend that venue will be proper and will lie exclusively in Travis County, Texas.
- F. **Dispute Resolution.** When mediation is acceptable to both Parties in resolving a dispute arising under this Agreement, the Parties agree to use a mutually agreed upon mediator or someone appointed by a court of competent jurisdiction for mediation as described in Section 154.023 of the Texas Civil Practice and Remedies Code. Unless

both Parties are satisfied with the result of the mediation, the mediation will not constitute a final and binding resolution of the dispute. All communications within the scope of the mediation will remain confidential as described in §154.073 of the Texas Civil Practice and Remedies Code, unless both Parties agree, in writing, to waive the confidentiality.

G. Computation of Time. When any period of time is referred to in this Agreement or in any purchase order prepared and executed under this Agreement, it will be computed to exclude the first and include the last day of the period. If the last day of any period falls on a Saturday, Sunday, or a day made a legal holiday by the County or LTFR, that day will be omitted from the computation.

H. Third Party Rights Not Created. This Agreement is not intended to and must not be construed to create any rights or remedies in any person or legal entity that is not a party to it and the Parties are not waiving any defense or immunity to which they are entitled against any person or legal entity that is not a party to this Agreement.

I. Reservation of Rights and Remedies. All rights of both Parties under this agreement are specifically reserved. Any reimbursement, installment, payment, act, or omission by a Party will not impair or prejudice any remedy or right of that Party under this Agreement. Any right or remedy stated in this Agreement does not preclude the exercise of any other right or remedy under this Agreement, the law or in equity, and any action taken in the exercise of any right or remedy must not be deemed a waiver of any other rights or remedies.

J. Taxpayer Identification Number. LTFR will provide the County with an Internal Revenue Form W-9 Request for its Taxpayer Identification Number. and Certification that is completed in compliance with the Internal Revenue Code and its rules and regulations and a statement of entity status in a form satisfactory to the County Auditor before any funds are payable under this Agreement.

K. Definition of "Working Day." In this Agreement, "working day" means a calendar day that is not a Saturday, Sunday, or holiday designated by Travis County.

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the later date set forth below.

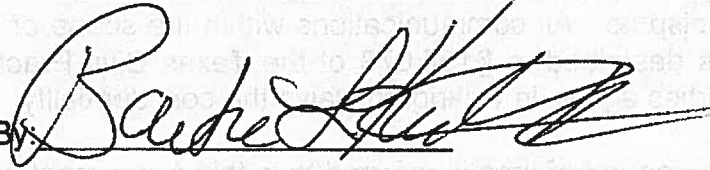
TRAVIS COUNTY, TEXAS

By: _____

Samuel T. Biscoe
Travis County Judge

Date: _____

LAKE TRAVIS FIRE AND RESCUE

BY: 

Barker F. Keith II
Travis County Emergency Services District No. 6 Board President

Date: 11/27/2013

Witnessed and attested to before me on this day of November, 2013, at Austin, Texas, that the above-named person is the person who executed the foregoing instrument and that he is the person who executed the foregoing instrument and that he is the person who executed the foregoing instrument.

I, the undersigned, a Notary Public in and for the State of Texas, do hereby certify that the foregoing instrument was executed by the person whose name is subscribed to the same, and that he is the person who executed the same.

My commission expires on the 31st day of December, 2014.

Notary Public in and for the State of Texas

Witnessed and attested to before me on this day of November, 2013, at Austin, Texas, that the above-named person is the person who executed the foregoing instrument and that he is the person who executed the foregoing instrument and that he is the person who executed the foregoing instrument.

TRAVIS COUNTY, TEXAS

By: _____
Notary Public
Travis County Judge

Date: _____